

GUIDANCE 2004-2005 – EXPANSION OF SUCCESSFUL AND POPULAR SECONDARY SCHOOLS

EXPANSION OF POPULAR AND SUCCESSFUL SCHOOLS GUIDANCE

Guidance for 2004-05 for Local Education Authorities, schools, School Organisation Committees and other bodies on incentive and support funding for the expansion of successful and popular secondary schools.

This guidance can also be accessed through the Department's website at www.teachernet.gov.uk/schoolscapital.

1. On 4 August 2003, David Miliband announced that additional funding would be available from 2004-05 to support the expansion of successful and popular secondary schools, and to ensure that where School Organisation Committees (SOCs) and Schools Adjudicators are considering proposals to expand a successful and popular secondary school, they are not prevented by lack of capital funding from agreeing to worthwhile proposals. As part of the drive to raise standards the Government wants to make it easier for popular and successful secondary schools to expand so that school places are provided where parents want them.

2. This guidance gives details of the funding available and how it may be accessed by schools, including community, foundation and voluntary controlled schools, and by local education authorities (LEAs). This funding is also available to schools in the voluntary aided sector, and further guidance for these schools is available through www.teachernet.gov.uk/vanews.

Summary

3. This funding is only available where Statutory Proposals to expand a secondary school are necessary and are approved. Successful and popular secondary schools which get approval from their LEA, their local SOC or Schools Adjudicator to Statutory Proposals to expand by a form of entry or by more than 25%, will be allocated a fixed capital sum of £500,000 to support the expansion of their buildings if they have a sixth form, and of £400,000 if they have not. These amounts are estimated to be about 25% of the typical cost of expanding facilities in a school to make it sufficient and suitable for an additional form of entry. This incentive funding is intended to encourage the step expansion of successful and popular schools, and to ensure that the new accommodation is sufficient and suitable in terms of 21st century learning and teaching needs for the additional pupils. LEAs will usually be expected to fund the balance of investment.

4. SOC and the Schools Adjudicator cannot agree to proposals to expand a school unless capital funding is available to support the expansion. To ensure that all proposals are considered on their merit, where proposals to expand a secondary school are school led, and the school does not have the balance of funding needed from its LEA or other sources, the Department will consider applications and confirm in writing that it agrees "in principle" to fund the project if statutory proposals are approved. This offer of funding is not in any way intended to prejudge or influence the decision of the SOC or the Schools Adjudicator, but will ensure that no worthwhile proposal is rejected because of lack of funding.

5. In these cases, the Department will evaluate the proposed building project, including for value for money, and consider other sources of funding to which the school might have access, in agreeing the total amount of capital funding it will offer

GUIDANCE 2004-2005 – EXPANSION OF SUCCESSFUL AND POPULAR SECONDARY SCHOOLS

to support the project. If the school's proposals are agreed, and the funding is delivered, the Department may reclaim this further funding from future allocations of capital funding to the local education authority, to ensure that authorities do not unfairly receive additional funding.

6. This funding may not be available where a school is expanding to meet growth in the local pupil population which is being funded through other programmes – for example the growth element of Basic Need, or through the Building Schools for the Future programme. This funding will not be available to relieve overcrowding in popular and successful schools - there must be evidence that the expansion is principally to provide new places in the school. This additional funding will not be available to expand grammar schools, or where a school's admission arrangements after expansion are not in line with the Department's Admissions Code of Practice. This is available on the internet at <http://www.dfes.gov.uk/sacode/>.

Definition of Successful & Popular schools

7. The Department's guidance on school organisation makes clear that there is no single definition of a successful and popular school for the purposes of expansion. It sets out a number of indicators as guidance when proposals to expand individual schools are considered by Decision Makers (i.e. LEAs, SOCs and the Schools Adjudicator), depending on circumstances. The Government has a vision of radical reform of the structure of secondary education, including, as a priority, making better use of our best schools. The wishes of parents should be taken into account in deciding which schools should expand, and that places are located where parents want them. Guidance to Decision Makers reflects this, with a strong presumption that proposals to expand successful and popular schools will be approved, provided that capital funding is available. This presumption does not include grammar schools. Further details are included in paragraphs 27 to 29 of Section 1 of the *School Organisation – Guidance on Statutory Proposals for Decision Makers* which can be accessed through www.dfes.gov.uk/schoolorg.

Uses of this Funding

8. This funding is intended for capital expenditure on secondary school buildings (including middle deemed secondary schools). It is for the remodelling of existing buildings as well as new buildings, where this offers better value in terms of full life costs. It cannot be spent on equipment, including computer equipment, unless this is incidental to, and at the margins of, the larger building project – for example, expansion to provide new classrooms which require directly associated fixtures and equipment. Expenditure on equipment must not be a major part of the expenditure funded from this programme, and should relate only to the additional numbers of pupils and workforce.

9. The definition of capital in this context is based on the current *CIPFA Code of Practice on Local Authority Accounting in Great Britain: A Statement of Recommended Practice (SORP)*. The main provisions of this are that capital:

- must not be used for general maintenance, redecoration or routine repairs;
- must not be used for the purchase of books, ICT software or training materials/services;
- is distinct from any element for routine repairs and maintenance that may be included in delegated Fair Funding budgets;

GUIDANCE 2004-2005 – EXPANSION OF SUCCESSFUL AND POPULAR SECONDARY SCHOOLS

- must not fund operating leases in respect of equipment or facilities. Finance leases are classed as borrowing, for which explicit approval from the Secretary of State must be sought;
- may not be used for the hire of temporary accommodation, unless it is part of a larger project which has a short-term requirement to re-house classes.

10. We do not require information on the details of the building project, (unless the Department is requested to fund the balance of the project, or where the LEA does not have a satisfactory Asset Management Plan), but investment should be in line with other Departmental guidance on the investment of capital funding and school buildings. This can be accessed through

www.teachernet.gov.uk/schoolbuildings. All school building projects should include consideration of:

- improving the security of pupils, staff, other users and of property;
- the needs of the school workforce;
- providing improved facilities that encourage sustainable school transport;
- sustainable investment targets and energy efficiency to comply with Part L2 *Conservation of Fuel and Power* of the Building Regulations.

Applying for funding

Incentive funding

11. This funding applies only to Statutory Proposals to expand a school which are published on or after 1 September 2003.

12. Schools, or LEAs on behalf of schools, should apply for this funding when publishing statutory notices to expand. We will require:

- Information on the proposed expansion, including the identity of the school, its current and proposed rolls, its admissions policy, and the expected timing of publishing and deciding proposals;

13. Evidence that we are not providing funding for the same growth in pupil numbers through the growth element of basic need funding. If an LEA is receiving any growth element of Basic Need funding, or from the safety valve, it will need to demonstrate that the growth at this school is not for pupils included in that funding, to avoid double funding. Applying to the Department for this funding does not remove from schools or LEAs the obligation to publish Statutory Proposals in the normal manner.

14. Proposals may be made where schools are in areas prioritised for early investment of Building Schools for the Future (BSF) funding, but we would expect expansion proposals to be included in the overall BSF strategy for the area. Where we consider that the expansion of a school will be fully funded through early BSF investment, incentive funding will not also be provided.

15. For LEA supported proposals, we will not require details of the proposed building project, except where an LEA does not have its Asset Management Plan appraised as satisfactory. In these cases we will require details of the building project sent to the LEA's territorial contact in the Buildings and Design Unit.

GUIDANCE 2004-2005 – EXPANSION OF SUCCESSFUL AND POPULAR SECONDARY SCHOOLS

16. Application forms for the incentive funding are available through www.teachernet.gov.uk/schoolscapital or from the contacts given in paragraph 21. We would normally expect LEAs to apply on behalf of schools, but schools may also apply directly.

PFI Schools

17. This funding is not available in the form of PFI credits. Additional investment in PFI schools to increase pupil capacity would probably involve renegotiation of the PFI contract. Successful and popular schools with PFI contracts which want to expand should therefore contact the Private Finance Unit to discuss the matter further.

Balance of support

18. If a successful and popular school wishes to publish Statutory Proposals to expand, but is not offered the balance of funding required for its building expansion from its LEA or other sources, it may approach the Department directly by writing or e-mailing to the Schools Capital Policy Team at the address in paragraph [21], explaining its proposals. At this stage we will only require outline details, but we suggest that schools considering an expansion project for their buildings consult the RIBA Schools Client Forum's *A Guide for School Governors: Developing School Buildings*, which is available through the RIBA website at [\[www.riba.net\]](http://www.riba.net).

19. We would then discuss details of the building project directly with the school, including plans and costings, to ensure value for money. We would inform the LEA of our discussions. We will not enter into discussions on the expansion proposals themselves, as these are matters for the SOC or the Schools Adjudicator. Where the level of support that is required is agreed, we would provide the school with a letter of comfort for the SOC or Schools Adjudicator, confirming our capital support for the project. We would also inform the LEA of our support.

Delivery of funding

20. Funding will only be firmly allocated where the SOC or the Schools Adjudicator has agreed to proposals to expand. The incentive funding of £500,000 or £400,000 will be delivered to the LEA in two equal tranches starting in the financial year following approval by the LEA, SOC or Schools Adjudicator. This should correspond in most cases to project phasing. If the school chooses to manage the project itself, the LEA should arrange for the required funding to be delivered to it.

21. Where the SOC or Schools Adjudicator has agreed to proposals which an LEA has not offered to support, we would expect the LEA nevertheless to collaborate with the school on the building project, including managing it for the school if this is appropriate. In these cases we would discuss the delivery of funding with the LEA to match the phasing of the project. Exceptionally, we could deliver funding directly to the school.

22. Where we fully fund a project which an LEA has not offered to support, we reserve the right to claim back the funding for the project, less the incentive amount, from future formulaic allocations to the LEA. This would be where the LEA might unfairly receive additional exceptional funding because of our full support for a school's expansion. We would discuss this on a case by case basis with the LEA.

GUIDANCE 2004-2005 – EXPANSION OF SUCCESSFUL AND POPULAR SECONDARY SCHOOLS

and, in cases where we were claiming back, would aim to agree phasing of this with the LEA, to minimise the disruption to planned investment projects in other schools.

Contact details

23. If you wish to discuss the **capital aspects** of this guidance further, please contact the Schools Capital Policy Team at Sanctuary Buildings, Great Smith Street, London SW1P 3BT, by phone on 020 7925 5471, or by e-mail to schools.capital@dfes.gsi.gov.uk

If, however, you wish to query **non-capital aspects or implications of this guidance**, e.g. Statutory Proposals or school organisation issues, please contact Mrs Chris Crathorne in the School Organisation Unit, Department for Education and Skills, Mowden Hall, Darlington DL3 9BG, by phone on 01325 391275, or by e-mail at chris.crathorne@dfes.gsi.gov.uk

Further information on schools capital funding can be found through www.teachernet.gov.uk/schoolscapital; and on school buildings through www.teachernet.gov.uk/schoolbuildings.

Guidance updated 17 March 2004.

School Organisation Public Guide

■ Introduction

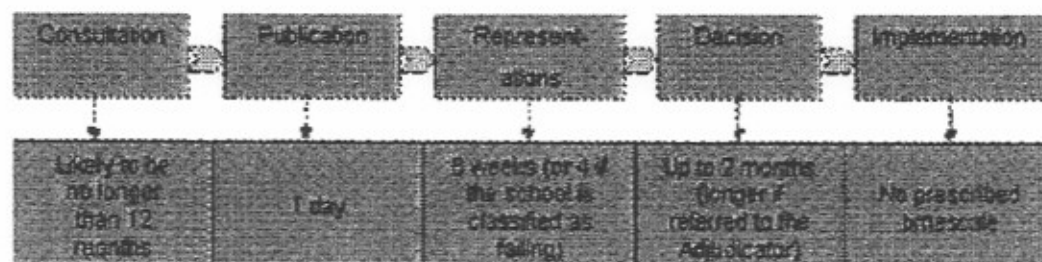
1. This guide explains how significant changes are made to maintained schools (other than special schools) such as opening a new school, adding a nursery or sixth form, enlarging a school or closing a school.
2. Changes to schools affect a range of people – pupils, parents, teachers, governors and local people etc – and need to be considered carefully. In 1999 the Government introduced new arrangements which meant that most changes are decided locally by representatives of groups involved in the provision of education. These arrangements are based on clear democratic principles which should ensure that decisions are taken fairly, based on a range of relevant factors and evidence. Some changes can be very sensitive, difficult decisions have to be taken and are not always universally popular.
3. If you have heard about changes that are planned for your local school you will want to understand how such changes are made and how you can have your say. This guide explains the process that must be followed, how you can register your concern or support for the proposals and also who takes the final decision on whether the changes can be made.

■ Making Changes to Schools

4. Changes can be made to existing schools either by the Local Education Authority or the Governing Body of the school itself depending upon the category of school and the type of change planned. A new school can be set up by the Local Education Authority or any voluntary body, church or faith group, company, trust, parents or body, provided that certain conditions are met, as explained below. Changes can only be made if statutory proposals are published and approved. More information can be found on the types of changes that require statutory proposals, and who can make them, in **School Organisation – Making Changes to Maintained Schools** in Guidance for Promoters on the Department's Website www.dfes.gov.uk/schoolorg.
5. There are procedures set out in law that must be followed by anyone wishing to make changes to schools. In most cases the final decision on whether a change can be made is taken by the Local Education Authority, a local School Organisation Committee (SOC) or a Schools Adjudicator.
6. From 1 April 2003 the Learning and Skills Council will be able to make changes to school sixth forms, and the final decision on these proposals will be made by the Secretary of State. The procedures are described at paragraph 42-44 below.
7. From 1 June 2003 there will also be a new process for creating new additional secondary schools which will require a Local Education Authority (LEA) to mount a "competition" process to enable a range of providers to put forward proposals for the new school. The new school can either be a school maintained by the Local Education Authority or an Academy. The final decision on these proposals will be taken by the Secretary of State. The procedures are described at paragraphs 36-41 below.
8. The other paragraphs in this guidance do not apply to proposals for new "additional" secondary schools or school sixth form proposals published by the LSC.

■ Process for statutory proposals

9. There are 5 statutory stages for a statutory proposal – Consultation, Publication, Representations, Decision and Implementation. The timescales for each stage are as follows.



■ The consultation process

10. Before publishing a proposal, proposers must consult all interested parties. This includes:

- any school that is part of the proposal;
- parents and teachers who may be affected by the proposal;
- neighbouring schools and LEAs that may have an interest; and
- any other interested parties (eg Dioceses, the Learning and Skills Council (LSC) or the Early Years Development and Child Care Partnership).

11. Consultation should provide sufficient information and allow enough time for people to understand and form a view of the proposed changes. It should also provide an opportunity for people to comment. This is an opportunity for you to express your views as those publishing statutory proposals must be able to show how they took into account peoples' views.

12. There is no time limit specified in law for consultation, however, a consultation exercise should allow sufficient time for people to consider the proposals and respond. It is also vital that adequate time is set aside to consider the responses to the consultation. If a new option emerges during consultation which the proposers wish to pursue, they should consult on the new option so that people can comment before proposals are published.

■ Publication

13. After considering the responses to the consultation, the proposer will decide whether or not to go ahead with the proposal and publish a statutory notice.

14. The notice must give the names of the school, or schools, for which a change is proposed, or in the case of a new school, the address of the site proposed for the new school. It should also include:

- the name of the body publishing the proposals;
- the date when the promoter would like the proposal to be implemented;
- the number of pupils to be admitted to the school (except where the proposals are to close the school);
- a clear statement explaining the procedure for submitting letters of objection, support or comments including;
- the date by which letters should be sent to the relevant LEA or SOC;
- the address of the LEA or SOC where letters should be sent.

15. Depending on the type of proposal, other additional information must be included. More information can be found in the Guidance for Promoters and Proposers in the Department's Website www.dfes.gov.uk/schoolorg.

16. The notice must be published in a local newspaper and posted at the entrances of schools named in the proposals. The notice must also be displayed at another public place in the area e.g. post office, town hall or library.

■ Representation Period

17. This is the final stage for those who wish to register their views on proposals so that they are taken into account when the final decision is taken on the proposals. Anyone may make representations (i.e. objections, support or general comments) about a proposal on any grounds.

18. The notice will give details of the deadline by which representations must be sent. This must be 6 weeks, or one month if the school is subject to special measures or has serious weaknesses. Representations must be sent to the LEA, if they published the notice, or to the SOC for proposals published by any other party

19. Where the LEA receive representations, they must send these to the SOC within one month of the end of the representation period together with their comments. If the school is subject to special measures or has serious weaknesses this is reduced to 2 weeks.

■ Who decides a proposal?

20. The LEA can decide any proposals that they publish if no letters of objection are received and the proposals are not linked to proposals that have to be decided by the SOC.

21. In all other cases, the proposals are referred to the SOC for decision. In making a decision the SOC must take into account guidance issued by the Secretary of State. The guidance sets out some key policy priorities and factors, which

Ministers believe should be considered when deciding statutory proposals for changes to local school organisation. This includes the views of all interested parties. The SOC will receive objections and comments, and the LEA's comments on these, and they should also be informed of the views expressed during consultation. More information can be found in the Guidance for Decision Makers in the Department's Website www.dfes.gov.uk/schoolorg

■ Who sits on a SOC?

22. There are up to 6 groups on a School Organisation Committee. Each group must have one and not more than seven members. The groups consist of:

- LEA - Elected councillors of the Local Authority;
- Church of England – nominations from the local CE Diocese;
- Roman Catholic Church – nominations from the local RC Diocese;
- LSC – representatives of the Learning & Skills Council;
- Schools – serving school governors appointed by the LEA. The balance of particular categories of school is determined by the proportion of pupils in each school category within the LEA area. The Schools group should also include members with some experience of SEN provision in special schools and/or mainstream schools; and
- An optional sixth group to represent the interests of the local community, e.g. minority faith groups etc.

23. If SOC members have a personal interest in the outcome of a proposal being considered by the committee he/she must declare this e.g. if the proposal directly affects a school at which he/she is a governor or which their children attend. In these circumstances the SOC member can nominate an 'alternate' to sit in their place.

■ What happens at a SOC meeting?

24. It is up to each SOC to decide whether they wish to have their meetings open to the public and if they wish to allow objectors/supporters to speak at the meetings.

25. Each of the 5 or 6 groups has a single vote and must reach a majority decision of the members within their group on their final vote. A group may abstain from voting and this does not count as a vote for or against a proposal. It is up to each SOC to determine how they collect the groups' votes.

26. The SOC can reach one of 4 decisions on the proposals:

- approval;
- rejection;
- approval with modification (e.g. the SOC may modify the date the changes take effect); or
- conditional approval in certain specific circumstances (e.g. approve the proposal subject to planning permission being granted).

27. If the SOC is unable to make a unanimous decision, the proposals must be passed to the Schools Adjudicator within 2 weeks of voting. The Committee may also defer a decision on the proposals if the groups agree to do so. The body that published the proposals can also request that the proposals be passed to the Schools Adjudicator if the SOC have not reached a decision within 2 months of the end of the representation period.

■ Who is the School Adjudicator?

28. School Adjudicators are appointed by the Secretary of State but operate independently. The Adjudicator looks afresh at the proposals, taking into account all the evidence, but like the School Organisation Committee must also have regard to the guidance issued by the Secretary of State. In some cases, the Adjudicator may choose to visit the schools concerned and hold an informal hearing in the area affected by the proposal. The Adjudicator can reach one of the 4 decisions open to the SOC. For more information about the schools adjudicator - www.schoolsadjudicator.gov.uk

■ What happens after the decision is made?

29. Once statutory proposals have been approved by the SOC or the Adjudicator there is a duty for them to be implemented.

30. If circumstances change or it would no longer be appropriate for the proposals to be put into effect, promoters may publish proposals to remove the duty to implement the first proposal. The SOC would then consider these proposals.

31. A School Organisation Committee or the Adjudicator may also modify approved statutory proposals, if requested to do so by the proposers e.g. to delay the implementation date.

■ **What if I disagree with the decision reached by the SOC or Adjudicator?**

32. There is no right of appeal. If you disagree with a decision made by an LEA, the SOC or the Adjudicator you may be able to challenge the decision by way of judicial review in the High Court if you believe that the SOC or Adjudicator has acted unlawfully. Any person wishing to challenge a decision should seek legal advice immediately because any challenge should be made without delay. Applications for judicial review should normally be made within 3 months of the decision. However, the courts have recognised that any delay caused by court proceedings may prevent decisions being made about the future education of any pupils affected by the decision and cause uncertainty. Therefore, even if a challenge is made within the usual 3 month time-limit the court may refuse the application if it believes that any delay was unreasonable.

33. It may also be possible to complain to the Local Government Ombudsman about the LEA or SOC if you believe that maladministration has occurred <http://www.lgo.org.uk/>. It may also be possible to complain to the Parliamentary Ombudsman if you believe that there has been maladministration in the way in which the School Adjudicator's office has handled a case.

■ **What is the role of the Secretary of State?**

34. The Secretary of State has no role in approving proposals except the 2 categories set out below i.e. additional secondary schools and school sixth form changes that are proposed by the LSC. He does however provide guidance to LEAs, SOC's and Schools Adjudicators on the factors they must take into account when they are considering statutory proposals, in order to ensure that they are aware of the Government's key priorities, e.g. the drive to raise standards.

35. Where there is evidence that an LEA or SOC have failed to perform a statutory responsibility, or have acted unreasonably when exercising any of their powers or performing any of their duties, the Secretary of State may investigate a complaint.

■ **New Secondary School Competitions**

36. Where an LEA decides that there is a need for a brand new additional secondary school in its area (e.g. where population is increasing in an area), before publishing any proposals of their own they will have to advertise the need for the new school. They will have to publish a notice in a local newspaper and display this at another public place in the area e.g. post office, town hall or library. The notice will invite others to put forward proposals to establish such a new school. All proposals must be sent to the LEA within 2 months.

37. The LEA must then publish a public notice which summarises all the proposals received and gives details of any proposals it wishes to make itself, and also provide access to the whole proposals to anyone who wants to see this information.

38. If anyone wishes to register views on any of the proposals (i.e. objections, support or other comments), they must submit them to the LEA by the deadline set out within the notice (i.e. 6 weeks from the date of publication).

39. The LEA must submit all the proposals (these may be proposals received by promoters and/or a proposal that it has made itself), any representations and their comments on the representations to the SOC within one week. The SOC must consider the proposals and then send the proposals and other information they received, together with their comments, to the Secretary of State within 6 weeks.

40. The final decision will be taken by the Secretary of State who will decide which, if any, of the proposals will be approved and should proceed.

41. Once a proposal has been approved by the Secretary of State it must be implemented, unless the Secretary of State decides that it does not have to be. If the Secretary of State agrees to establish an Academy he will enter into a funding agreement with the sponsor.

■ **Changes to School Sixth Forms – proposed by the LSC**

42. The LSC are able to publish proposals for the closure, opening or alteration of a school sixth form following an area inspection, or where they judge that a reorganisation of provision will raise standards of achievement, increase student participation or expand the range of educational opportunities.

43. There are 6 stages in the process – Preliminary Notice, Consultation, Final Publication, Representation, Decision and

Implementation.

44. The preliminary notice and the final notice must be published in a local newspaper and posted at the entrances of schools and displayed at another public place in the area e.g. post office, town hall or library. Consultation normally takes 2-3 months. The final published notice must give details of the deadline by which representations must be sent i.e. 2 months after publication. The LSC must submit details of the proposals, all representations to the Secretary of State within one month after the end of the objection period. Further information can be found on the DfES website <http://www.teachernet.gov.uk/management/atoz/>.

■ Where can I go for further advice?

45. Full guidance for all parties involved in statutory proposals is available on the Department's Website www.dfes.gov.uk/schoolorg
Or write to:- School Organisation Unit (SOU), Department for Education and Skills, c/o Mowden Hall, Darlington, County Durham, DL3 9BG
Or telephone: 01325 391278 or 01325 391274



Publication Date: 1/6/2003 Version: 1