

Updated Department for Education significant change guidance: what has changed?

May 2024

The Department for Education (“**DfE**”) has released new guidance replacing its previous “Making significant changes to an academy – Departmental guidance for all types of academy trust – January 2022” (the “**2022 guidance**”). The new guidance is entitled “Making significant changes to an academy – Non-statutory guidance on collaborative school place planning and making organisational changes to academies”^[1] (the “**2024 guidance**”) and has applied from 22 April 2024. Whilst the 2022 guidance focussed on the procedural steps required of an academy trust when applying for a significant change, the 2024 guidance is much broader in scope. The 2024 guidance no longer just applies to academy trusts but is stated to be of primary relevance to local authorities, academy trusts, governing bodies of foundation/VA schools, school trustees, dioceses, and other religious bodies.

The 2024 guidance is split into two parts – with a more detailed focus on place planning procedures. The first part considers the framework by which local authorities, academy trusts and schools are to work with the DfE to ensure sufficient school capacity and manage excess capacity. The 2024 guidance further emphasises local authorities’ statutory duties to ensure sufficient school places in their area, detailing how the significant change process feeds into this broader place planning process. Whilst the local authority’s sufficiency duty and the role

^[1] <https://www.gov.uk/government/publications/making-significant-changes-to-an-existing-academy>

of place planning were briefly referenced in the 2022 guidance, these are explored more comprehensively in the 2024 guidance. This part of the 2024 guidance is largely new and makes clear the importance of academy trusts and local authorities working collaboratively when considering changes to address sufficiency issues.

The second part of the 2024 guidance focusses on the steps which academy trusts need to follow when seeking a 'significant change', which similar to before is a change which may “*impact on the local school environment by creating, changing or removing the number and/or type of school places and/or where they are offered*”¹. This part of the 2024 guidance revises how a significant change is categorised and processed, removing the former fast track/business case system and introducing a new tiered system for significant change applications and assessments. The requirements for consultation in respect of significant changes has also been slightly amended.

The circumstances which constitute a significant change largely remain the same, although there are some clarifications and additions. In particular, the 2024 guidance provides that reductions in physical capacity of an academy (by more than 30 places or more) now constitute a significant change. Further, additional guidance has been included regarding changes to age range in the context of changes from three tier (lower, middle and upper) to two tier (primary and secondary) provision. The 2024 guidance also now introduces thresholds where changes to the number of planned places within an existing SEN unit and/or specialist resourced provision (“**SRP**”) are changing.

The 2024 guidance offers greater clarity on the significant change process, in particular considering how such changes have a broader impact on local provision. The key changes from the previous 2022 guidance are considered further below.

Part 1: Sufficiency framework

The main change in the 2024 guidance is the increased focus on how sufficiency and place planning are central to significant changes. The new Part 1 sets out the wider sufficiency and place planning context and how this drives significant changes. The 2024 guidance specifically lists relevant guidance documents which local authorities and academy trusts should have regard to in relation to strategic place planning. The 2024 guidance also stresses more emphatically the importance of academy trusts working collaboratively with local authorities, explicitly stating the DfE’s expectations of local authorities and academy trusts in the context of place planning. For example, academy trusts are expected to act reasonably when responding to requests to raise or lower an academy’s published admission number (“**PAN**”), are transparent with local authorities and the Regions Group

¹ Page 15, 2024 guidance

on issues relating to delivering places, inform local authorities/Regions Group on changes affecting capacity etc. Local authorities are expected to share place planning strategies with academy trusts, provide contextual information and submit views to academy trusts during significant change consultations, and provide a response which academy trusts can use to submit as part of their significant change applications etc.

Steps are also listed in the 2024 guidance as to how the pupil place planning process works, setting out a step-by-step guide to the sufficiency framework. Information is also included regarding local authority place forecasting. The 2024 guidance refers to the school capacity survey and the work being carried out to refresh Net Capacity Assessments and how this data is being used to determine place planning, as well as the DfE's expectations of academy trusts in engagement around place planning. The importance of planning and collaboration between academy trusts and local authorities is highlighted throughout. The 2024 guidance provides that local authorities are expected to share relevant information with the DfE regarding places in their area e.g. a summary of overall data on shortfalls/surplus places, proposals by planning area, reasons for shortfalls/surplus places, identification of long-term sufficiency issues etc. The Regions Group at DfE will also provide information to local authorities regarding academy trusts and wider policy so that local authorities can determine appropriate proposals.

The 2024 guidance details how the Regions Group and local authorities will discuss issues relating to place planning and local authorities' rationales for such proposals. It also focusses on how discussions should also cover strategic plans for trust growth, where academy trusts are of concern, the performance of schools, trust quality, the DfE's views on proposals for expansion/contraction of local provision, how plans align with DfE priorities, local authorities plans for managing the dedicated schools grant ("**DSG**"), and (where relevant) plans for the high needs block element of DSG (in particular, if the local authority is part of the Delivering Better Value²/Safety Valve programmes³). After such discussions, local authorities are expected to follow up with the relevant schools concerned (and diocese if relevant). The DfE may be involved if there is a disagreement regarding the local authority's plans. The 2024 guidance still stresses that the DfE is the decision maker for significant changes to academies.

A section is included in the 2024 guidance on how plans for place planning can be finalised. The 2024 guidance makes clear that if a local authority presents more than one option to provide places, if the DfE is content with all the options, the local authority can prioritise the options as it sees fit (noting though the free school presumption for new schools must be complied with). If the DfE has a preferred option for providing places, subject to some

² <https://www.dbvinsend.com/>

³ <https://www.gov.uk/government/publications/dedicated-schools-grant-very-high-deficit-intervention>

caveats, the local authority is expected to prioritise this option. The local authority and DfE will though aim to reach a consensus. If there is only one practical solution, the 2024 guidance provides that the DfE will support the local authority on this (if there are not significant quality concerns at school/trust level and, where relevant, it is in line with the Local Area Inclusion Plan). If there are concerns, the DfE may decide to put other support measures in place. If the DfE is not content with the proposal, but there is no viable alternative to provide places, the proposal can still proceed to ensure the local authority can meet the sufficiency duty. The DfE can assist in reaching a resolution where local authorities and academy trusts do not agree.

The 2024 guidance also stresses the importance of local authorities being transparent and circulating their final plans to academy trusts and other partners. The 2024 guidance emphasises that individual changes are still subject to the significant change process (detailed in Part 2 of the 2024 guidance) or the prescribed alterations process (for maintained schools)⁴.

Part 2: Making significant changes

This part of the 2024 guidance is more aligned with the scope of the previous 2022 guidance, setting out processes which academy trusts need to follow when seeking a significant change. As with the 2022 guidance, the 2024 guidance still makes clear that a failure to follow the required significant process in advance of a change being made, would constitute a breach of the funding agreement. As before, it is also noted that where a significant change is being pursued by an academy trust at the request of a local authority, the academy trust still needs to follow the significant change process. It should also be noted that most changes listed in the 2022 guidance as significant, are still classed as significant changes in the 2024 guidance (albeit some of the procedures may have changed around these).

Key changes/additions in the 2024 guidance are summarised below.

Additional school places and Ofsted rating

The 2022 guidance stated that it was expected that only academies with an overall Ofsted rating of good or outstanding, could provide additional places, but did allow that if this expectation was not met, an academy trust could submit a full business case setting out the reasons for the expansion and how education would be improved. The 2024 guidance sets out the same expectation, but caveats this to state “where possible”⁵ and makes clear that schools that do not have the required Ofsted rating should only be expanded if there are no other viable options.

⁴ <https://www.gov.uk/government/publications/school-organisation-maintained-schools>

⁵ Page 15, 2024 guidance

Material change and Independent School Standards

The 2024 guidance clarifies that if the DfE is considering a significant change which also constitutes a “material change” (as defined at section 162 of the Education Act 2002), the DfE will consider the requirements of the Independent School Standards (as they apply to academies) when assessing the change. The 2024 guidance also makes clear that academies still need to meet the Independent School Standards following the significant change.

Tiered system

The 2024 guidance now categorises significant changes according to three tiers (rather than by fast track/full business case changes):

- **Tier 1** – this applies to most significant changes and requires a Tier 1 application form to be completed. There are seven key questions academy trusts need to consider when submitting these applications⁶. If the change is proposed by a strong school in a strong trust, the local authority does not object, there is local support and, if relevant, evidence supports the need to increase/remove places, the application should be quickly approved. The Regions Group will typically determine these applications.
- **Tier 2** – this applies if risks or issues (e.g. if the local authority has raised an objection) arise with a Tier 1 application, meaning the application is moved to Tier 2. An academy trust cannot apply to start an application at Tier 2. For Tier 2 applications, the DfE will seek to address the areas of concern. The 2024 guidance stresses that an application could still proceed even if the local authority does not support the application, with applications being considered on an individual basis. At this stage, academy trusts may be asked for further details to support the application. Changes can be approved or rejected, or in a small number of cases, may be escalated to Tier 3. The Regions Group will typically determine applications which reach Tier 2.
- **Tier 3** – as well as applying to a small number of escalated Tier 2 applications, this specifically applies to the following changes:
 - gaining/changing/removing a faith designation;
 - redesignation of a Church of England academy;
 - amalgamating two or more academies;

⁶ Page 24, 2024 Guidance.

- de-amalgamating an academy; and
- any change to a University Technical College (“UTC”).

There is a separate application process for these Tier 3 applications which is more detailed and requires more rigorous assessment. The Regions Group remains the decision-maker for most Tier 3 applications, but on occasion these may be referred to the relevant advisory board or escalated for Ministerial approval.

Thresholds

As before, some significant changes are linked to certain thresholds (e.g. an increase/decrease to physical capacity will only be significant, if the change is above a certain threshold). The 2024 guidance lists those the thresholds which apply for changes to be significant⁷, as well as making clear where certain changes are below the threshold to be counted as significant⁸.

Individual below threshold changes do not require a significant change application but may still require other actions to be undertaken. For example, it is expected that academy trusts inform the relevant local authority of below threshold changes. It is also noted that such changes may also require other consents (for example relating to land transactions), and/or changes to admissions arrangements. Further, it is stressed that below threshold changes will still likely require an update to the academy’s funding agreement and academy trusts are encouraged to contact the ESFA through their enquiry form⁹ regarding this. In particular, the 2024 guidance stresses the importance of updating the funding agreement where capacity changes, and this should also be notified to the local authority.

The 2024 guidance also makes it much clearer that whilst a below threshold change on its own is not significant, such changes are considered cumulatively so if the academy trust makes a series of below threshold changes, these will be counted together, and a significant change application required once the threshold is reached. For example, an expansion to increase physical capacity will constitute a significant change if the increase is by more than 30 places in total. If capacity was to increase by 15 places that would not constitute a significant change, but if the capacity was to increase again by 20 places, cumulatively that would be above the threshold and require a significant change.

Pre-application requirements

⁷ Pages 17 to 20, 2024 guidance

⁸ Pages 20-21, 2024 guidance

⁹ https://form.education.gov.uk/service/Education_and_Skills_Funding_Agency_ESFA_enquiry_form

Although these provisions have been tidied up in the 2024 guidance, they are largely similar to the 2022 guidance e.g. the academy trust will still need to undertake financial due diligence and be satisfied of capital funding, (where relevant) secure land consents and the approval of any site trustees, ensure planning permissions are secured, (where relevant and possible) undertake admissions changes in accordance with the School Admissions Code (there is a further process if a significant change requires a variation to determined admission arrangements – see below) etc. The pre-application process also still refers to the academy trust ensuring that it complies with the public sector equality duty, although the 2024 guidance no longer specifically states that an equalities impact assessment must be undertaken.

Consultation

As per the 2022 guidance, this remains a key part of the significant change process, with all significant changes requiring public consultation. The 2022 guidance required consultation to be undertaken in advance of a significant change application, the 2024 guidance largely replicates this but does allow in exceptional cases (and with prior DfE agreement), consultation to be undertaken concurrently with the application being submitted. The 2024 guidance also now clarifies that academy trusts can group changes together and run a joint consultation, whilst being clear and transparent on each change and stating whether the change relates to, or is dependent on, the other changes. The 2024 guidance no longer refers to a four-week minimum consultation period, but instead requires a minimum of three weeks, of which two weeks is in term time (where possible).

The 2024 guidance notes that when academy trusts make their applications, they are required to include a written submission from their local authority (and other local authorities, if the academy admits pupils from neighbouring local authorities and/or shares a catchment area with other local authorities), which includes a confirmation that there is need for the places to be added, removed or altered – referencing pupil forecast data and considering the impact on other education providers. If an academy has a religious character, a written response from the faith body will be required.

Significant change process

This is now more clearly split into the following steps:

- Step 1 – application
- Step 2 – assessment
- Step 3 – decision
- Step 4 - implementation

Each step is considered in accordance with the framework for the different Tiers, although Regional Directors/Ministers have discretion to treat individual cases differently. It can also be the case (as was the position previously) that applications may be approved subject to certain conditions.

Where significant changes are approved, the 2024 guidance is more explicit that the academy trust needs to update Get Information About Schools¹⁰ and update their funding agreement via a deed of variation. If relevant, the academy trust will need to ensure updated capacity figures are reflected in the next School Capacity Survey¹¹.

Emergencies and temporary changes

The 2024 guidance notes that significant changes will typically be expected to be a permanent change. If a change is being considered on a temporary basis, this should be discussed with the DfE delivery officer first. The 2024 guidance also makes clear that in limited emergency/extenuating circumstances, significant changes may be processed quicker e.g. if there was no reasonable way the change could have been foreseen (and was not part of the local authority's pupil place plans)¹².

Specific significant changes

As noted above, most changes referred to in the 2022 guidance as being significant, are still classed as significant changes in the 2024 guidance (for example significant changes relating to satellite and transferring sites remain similar). Key amendments are set out below.

Changes to physical capacity at mainstream academies

Increases to the physical capacity of an academy by more than 30 places remains a significant change, however the 2024 Guidance now provides that a reduction of physical capacity by more than 30 places also constitutes a significant change. The 2024 guidance refers to “**Capacity**” as follows:

‘Capacity’ refers to the number of pupils that can be accommodated based on physical teaching space – i.e. net capacity (see Net Capacity Assessment (NCA) programme – GOV.UK (www.gov.uk)). As well as extending existing buildings or adding new buildings, expansion includes internal configuration – for example converting a library or unused storage space into a classroom. [...]

¹⁰ <https://www.get-information-schools.service.gov.uk/>

¹¹ <https://www.gov.uk/guidance/school-capacity-survey-guide-for-local-authorities>

¹² See pages 27 to 28 of the 2024 guidance for more detail.

Reducing capacity includes taking space out of use, repurposing teaching space into non-teaching space, and closing additional sites.

Expansion and reductions to physical capacity are explained in greater detail at page 29-30 of the 2024 guidance with reference to the DfE's Net Capacity Assessment Programme¹³.

Change of age range (including adding/removing a nursery or sixth form provision)

Previously the process for age range changes was dependent on the number of years the age range was changing by (with some changes being fast tracked), these proposals are all now classed as Tier 1 proposals. It is also now made clear that a change to age range is needed even if the change relates to pupils outside of compulsory school age (e.g. if the academy trust will be running nursery provision).

The 2024 guidance also now addresses changes in local provision from three tier (lower, middle and upper schools) to two tier structures (primary and secondary). Where there is a proposed local authority reorganisation from three tier to two tier, it is possible for the local authority to run the consultation process, but the academy trust needs to ensure the local authority consultation is compliant with the requirements of the 2024 Guidance.

The 2024 guidance also sets out more detailed provision on changing the age range where this concerns sixth form provision¹⁴.

Boarding provision

Establishing new and/or disestablishing boarding provision remains a significant change but increasing/reducing existing boarding provision is now a below threshold change (previously this may have been significant depending on the extent of the increase/reduction).

Changes to special academies and SEN units/SRPs

A new Annex C is included in the 2024 guidance which specifically applies when proposing changes to SEN provision. As before, applications for such changes need to include a statement on how the proposed significant change will lead to improvements in the '*standard, quality and range of educational provision*'¹⁵. The significant change guidance is more explicit as to what constitutes a significant change regarding places. It is made clear that a significant change for special academies (and alternative provision academies) concerns the planned number of places detailed in the funding agreement, which may be different to the actual number of places

¹³ <https://www.gov.uk/guidance/net-capacity-assessment-nca-programme>

¹⁴ See pages 31 and 32 of the 2024 guidance for more detail.

¹⁵ Page 38, 2024 guidance

annually commissioned. The 2024 guidance also states that increasing/decreasing the number which an existing SEN unit/SRP caters for is linked to a threshold of more than 20 pupils or more than 20% of the overall school capacity (whichever is smaller), whereas the previous 2022 guidance suggested any change to pupils in an SEN unit/SRP would constitute a significant change. The 2024 guidance also clarifies the following where there are simultaneous change to mainstream physical capacity and the capacity of an SEN unit/SRP:

Note: as this provision [i.e. provision in an SEN unit/SRP] tends to be recorded separately and in addition to mainstream net capacity. Thresholds for any joint capital proposals – i.e. to simultaneously add both mainstream and SEN places – also apply separately. For example, an academy may simultaneously increase mainstream capacity by 30 and the planned number of SEN places by 20 without reaching the significant change threshold.¹⁶

Changes to the type of provision (by reference to the primary types of need¹⁷) at special academies/SEN units/SRPs remain significant changes. The 2024 guidance though now provides that local authorities and academy trusts need to collaborate so that significant changes regarding SEN provision are aligned to plans which are part of the Safety Valve¹⁸ or Delivering Better Value¹⁹ programmes.

Faith-related changes

Much of the 2024 guidance on significant changes relating to faith are similar to those in the 2022 guidance, although as noted above, these are all Tier 3 changes. The 2024 guidance does clarify the requirements for the different types of changes, explaining the processes for gaining a faith designation, redesignation, changing the religious designation (or relevant religious body, removing designation, and the specific processes for 16 to 19 academies gaining a religious character).²⁰

Amalgamations and de-amalgamations

As noted above, both of these significant changes are classed as Tier 3 changes.

In the case of amalgamations, the 2024 guidance makes clear that the provision at the amalgamated academy should not 'significantly deviate from that of the closing institutions(s)' and refers to there being a '*blending of ethos*'²¹. The 2024 guidance retains the position that an amalgamation may arise either by (1) closing one or

¹⁶ Page 18 of the 2024 Guidance

¹⁷ Specific learning difficulty (SPLD), Moderate learning difficulty (MLD), Severe learning difficulty (SLD), Profound and multiple learning difficulty (PMLD), Social, emotional and mental health (SEMH), Speech, language and communication needs (SLCN), Hearing impairment (HI), Vision impairment (VI), Multi-sensory impairment (MSI), physical disability (PD) and autism spectrum disorder (ASD).

¹⁸ <https://www.gov.uk/government/publications/dedicated-schools-grant-very-high-deficit-intervention>

¹⁹ <https://www.dbvinsend.com/>

²⁰ See pages 34 to 35, 2024 guidance

²¹ See page 33, 2024 guidance

more academies and then consolidating provision in a remaining academy, or (2) closing all academies and replacing by a new academy. The 2024 guidance makes it clearer that whichever option is chosen, displaced pupils should still be able to be accommodated at the remaining/new academy (should they choose to). Where pupils attend a closing school, they are not transferred automatically to the new school, rather parents will need to apply for a school place, with places allocated according to the oversubscription criteria. The 2024 guidance gives the example that academy trusts could consider giving a higher priority to pupils from the closing schools – although notes this would require a variation to their admission arrangements.

The 2024 guidance also now states that an amalgamation may include an expansion of the physical capacity of the remaining academy (although stressing that is not always the case but where it is it should be covered in the significant change application). It is also now made explicit that amalgamations are required to follow the significant change process, rather than the Guidance on Closure of an Academy by Mutual Agreement²².

The 2024 guidance on de-amalgamations remains similar although has been slightly condensed. Likewise, the 2024 guidance has removed the detail on registering a new school following an amalgamation/de-amalgamation, rather this is covered in a separate guidance document²³ which is referenced in the 2024 guidance.

Changes to UTCs

As noted above, any changes to UTCs are Tier 3 changes. The 2024 guidance though no longer sets out any specific guidance on specific UTC changes.

Changes to admissions

A new Annex B has been included in the 2024 guidance which concerns significant changes and admissions. The 2024 guidance still makes clear that changes to the PAN do not constitute significant changes. The 2024 guidance though now states that academy trusts can admit over PAN, but with the caveat that:

*Trusts should, however, remain mindful of potential overcrowding and continue to consider whether a physical expansion and an application to increase capacity would be appropriate.*²⁴

The 2024 guidance still makes clear that changes to admissions arrangements which arise due to a significant change, should (where possible) be undertaken in accordance with the Schools Admission Code²⁵, but if a

²² https://assets.publishing.service.gov.uk/media/63d7f578d3bf7f252799c824/Academy_closure_by_mutual_agreement_guidance_2023.pdf

²³ <https://www.gov.uk/government/publications/free-school-pre-opening-guide/free-schools-pre-opening-guide#inspections-and-registration-as-an-independent-school>

²⁴ Page 37, 2024 guidance

²⁵ <https://www.gov.uk/government/publications/school-admissions-code--2>

variation to admissions arrangements (after they have been determined) is necessary to implement the significant change, the admissions variation request should be submitted along with the significant change. The position on consultation for such admissions variations has changed. The 2022 guidance required an academy trust to consult for four weeks on such an admissions variation (in addition to a significant change consultation, although the admissions variation consultation could be concurrent with the significant change consultation). The 2024 guidance provides that there is no requirement to consult on such an admissions variation, but the academy trust must notify the persons listed at 1.47 of the Schools Admissions Code²⁶ and the significant change consultation must detail the consequential impact on the admissions arrangements. The 2024 guidance also states that should the academy trust decide to consult on the admissions variation, such consultation needs to run alongside the significant change consultation.

Novel changes

The 2024 guidance makes clear that if there is a change which is '*potentially novel or unique*'²⁷, then academy trusts (or local authorities) should contact the DfE.

Conclusion

As is clear, the 2024 guidance does significantly revise the significant change process, seeking to focus such changes more prominently within the context of place planning. Further the procedures required, to apply for and approve significant changes, have also been updated. That said, the circumstances which constitute whether a change is significant or not, remain very similar. Academy trusts should review and consider the 2024 guidance in full when considering any future changes to their academies.

²⁶ <https://www.gov.uk/government/publications/school-admissions-code--2>

²⁷ Page 29, 2024 guidance

