



Department
for Education

Closure of an academy by mutual agreement

Guidance for all types of academy trust

October 2024

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Summary

Expiry or review date

This guidance supersedes all previous versions. This guidance will be kept under review and updated versions will be published if necessary.

Who is this guidance for?

This guidance is to support academy trusts to understand when the closure of an academy might be an appropriate solution to address standards and/or viability issues, including in areas where there are surplus places and there is no predicted increase in the need for places in the medium to long term.

This guidance sets out matters concerning whether to close an academy by mutual agreement with the Secretary of State. **It is not to be taken as providing legal advice and academy trusts should consider seeking their own independent legal advice to ensure they are complying with their legal obligations.**

This guidance sets out an expectation that academy trusts will work collaboratively with the Department for Education's Regional Directors¹(RDs) and local authorities, and – where applicable – trustees of the school (separate to the trustees of the academy trust) and the appropriate religious authority².

This guidance only relates to schools in England.

Separate statutory guidance is also available on the closure of a maintained school:

[Opening and closing maintained schools³](#).

Terminology

Definitions of common terms used in this guidance:

- **Academies** – includes free schools, academy schools, 16-19 academies (including maths schools), special academies, alternative provision academies, studio schools and university technical colleges (UTCs).

¹ www.gov.uk/government/organisations/regional-department-for-education-dfe-directors.

² In the case of church academies, the diocese or relevant diocesan board

³ www.gov.uk/government/publications/school-organisation-maintained-schools

- **Academy trusts** – includes single academy trusts and multi academy trusts. Academy trusts are set up as charitable companies limited by guarantee.
- **Parent** – The Education Act 1996 defines ‘parent’ as including someone who has care of, or legal responsibility for, the child. Therefore, a parent can include, for example, a grandparent, other family member or foster carer if they have care of, or responsibility for, the child.
- **RD** – Regional Director. RDs act on behalf of the Secretary of State for Education.
- **Schools with a religious character** – schools designated as having a religious character in accordance with the School Standards and Framework Act 1998.
- **Trustees of the school** – trustees of the foundation which established the school (such as charitable organisations). In the case of schools with a religious character this could be:
 - the Church of England;
 - the Catholic Church; or
 - other religious authorities.
- The term ‘trustees’ is usually used in the department’s documents to refer to those who sit on the board of directors of an academy trust. In church academies the term ‘trustees’ refers to the legal trustees, known in law as the ‘trustees of the school’. The directors of church academies are usually referred to as the directors and not trustees.

Introduction

Before deciding to close an academy, the academy trust and the RD should consider whether other types of changes, such as an academy transfer, amalgamation, or reduction in the Published Admission Number (PAN)⁴ and/or reorganisation of the school estate more broadly, could provide a realistic alternative to academy closure. Information on these types of change can be found in the [Making significant changes to an open academy](#)⁵ guidance.

This guidance sets out the processes academy trusts need to follow before deciding to close an academy by mutual agreement and provides guidance as to when academy trusts should talk to other parties. The guidance also:

- recognises the need for a clear and consistent approach to the consideration of academy closures by mutual agreement and sets out the processes for academy trusts to follow;
- supports academy trusts in understanding when the closure of an academy might be an appropriate solution to address standards and/or viability issues, including in areas where there are surplus places and there is no predicted increase in the need for places in the medium to long term;
- sets out an expectation that academy trusts will work collaboratively with RDs and local authorities, and – where applicable – the trustees of the school⁶ and the appropriate religious authority⁷; and
- emphasises the need for an area-based approach to pupil place planning.

Just as it is important that academy trusts and (where relevant) dioceses support local authorities in providing additional places where they are needed, it is equally important that they support the removal of surplus capacity in the system, where there is no forecast increase in the need for school places in the medium to long term.

What to consider

Managing surplus capacity is about considering a range of options for the reutilisation and reconfiguration of space, and in some circumstances, closure. Mutually agreed closure can curtail prolonged decline in standards and viability, and as such, support better educational outcomes for pupils.

⁴ Published Admissions Number – the number of school places that the admission authority must offer in each relevant age group of a school for which it is the admission authority. PAN is part of a school's admission arrangements.

⁵ www.gov.uk/government/publications/making-significant-changes-to-an-existing-academy

⁶ Which are separate to the trustees of the academy trust.

⁷ In the case of church academies, the diocese or relevant diocesan board.

Where there are low pupil numbers with limited prospect of increasing numbers through recruitment, academies should consider area-based solutions for removing surplus capacity, including: amalgamations with other local schools, reduction of PAN, the reutilisation of part of the academy premises for other purposes (such as nursery or special educational needs and disability (SEND) provision), or, where appropriate, academy closure.

Local authorities have overall responsibility for local place planning and academy trusts play an important role in supporting local authorities to manage the school estate effectively. In the case of church schools, the diocese will work in partnership with the local authorities in place planning. If an academy trust is considering the future viability of its school, it will need to work collaboratively with RDs, local authorities, other academy trusts and academies, dioceses and the governing bodies of other schools in the area to ensure that decisions are made in the best interests of pupils.

Principles

The circumstances in which an academy trust might ask the Secretary of State to agree to the closure of an academy include:

- where an academy has low numbers of pupils on roll, and there is no reasonable prospect of attracting additional pupils because there are surplus places in schools elsewhere in the local area, and no predicted increase in the medium to long-term need for places;
- where an academy in an area with a need for additional school places has been underperforming for some time and is under capacity and shows no realistic prospect of meeting the required standard. However, in these circumstances, as an alternative to proceeding to closure, the Secretary of State may agree to allow trustees to transfer the funding agreement to an alternative sponsor or multi academy trust with the skills and capacity to improve standards.

If the Secretary of State agrees to terminate the academy trust's funding agreement and has decided not to transfer the academy to another academy trust, then the school will close. The Secretary of State must agree to the termination of the funding agreement before an academy can close by mutual consent.

This decision will be based on evidence supporting the case for closure and evidence that the academy trust has followed this guidance.

Academy trusts will need to plan ahead to ensure that any closure takes place in good time. Relevant local authorities will be able to advise on the availability of alternative places and will be required to run a preference exercise to find alternative places for any displaced pupils. Local authorities must be able to begin this process at the earliest stage feasible to allow for choices to be made, places to be found and for disruption to be minimised.

Closure of rural schools

Both the department and the local authority need to agree to the closure of a rural academy, and where applicable, the trustees of the school and appropriate religious authority. Rural academies are identified on the [Get Information about Schools](#) (GIAS)⁸ database using the Office for National Statistics' [Rural and Urban Area Classification](#)⁹.

There is a presumption against the closure of rural primary academies. The presumption does not mean that a rural primary academy will never close, but it does mean that the

⁸ www.get-information-schools.service.gov.uk/

⁹ www.gov.uk/government/collections/rural-urban-classification

case for closure should be strong and clearly in the best interests of educational provision in the area.

When considering a closure solution for a rural academy, it is important that due regard is given to the factors below:

- alternatives to closure including joining a multi-academy trust;
- the scope for an extended school to provide local community services and facilities e.g. childcare facilities, family and adult learning, healthcare, community internet access;
- the availability, and likely cost to both parents and the local authority, of transport to other schools;
- any increase in the use of motor vehicles which is likely to result from the closure of the school, and the likely effects of any such increase;
- whether the proposal will result in unreasonably long journey times;
- the proportion of pupils attending the school from within the local community, i.e. is the school being used by the local community;
- the overall and long-term impact on local people and the community of the closure of the school and of the loss of the building as a community facility;
- educational standards at the school and the likely effect on standards at neighbouring schools; and
- whether the school is now surplus to requirements (e.g. because there are surplus places elsewhere in the local area which can accommodate displaced pupils, and there is no predicted demand for the school in the medium to long term); and
- wider school organisation and capacity of schools with strong performance records in the area to accommodate displaced pupils.

Process and factors to consider

Stage 1: Consideration of closure

When considering a closure solution, it is important that the academy trust engages early with the relevant RD and local authorities, and quickly establishes an active working relationship, involving them in planning and decision making right from the outset. Where applicable, these discussions should also take place between the RD, the trustees of the school and the appropriate religious authority. The ESFA (Education and Skills Funding Agency) will also work closely with the trust and RD throughout the closure process.

Early discussions should be handled sensitively. The interests of the pupils should be at the heart of the consideration.

At this stage, the academy trust should not announce the possibility of closure or make changes to their admission arrangements unless there is a strong rationale for doing so and this is agreed in advance with the RD and local authority. For example, there may be instances where an area is undergoing wider rationalisation/reorganisation of school provision, of which the closure would be an integral part, or there may be an interlinked proposal for the re-use of the school site.

Factors to consider in closure discussions:

- Are pupil numbers low? Is this due to a surplus of places in the area?
- Is the surplus of places likely to change in the future? If so, are there steps the academy trust can take in the meantime to improve viability of the school?
- If numbers are low for reasons other than surplus places, does the academy trust have the capacity to drive the necessary improvement to improve viability? If not, is there another academy trust willing and able to take over?
- If the school closes, will there be sufficient places in schools with strong performance records in the area for the pupils affected?
- Are there any viable alternatives to closure, e.g. an amalgamation/merger?
- Has the academy trust exhausted all other appropriate options related to increasing income and achieving efficiencies?
- What time frame is the academy trust considering?
- What can be done to minimise any impact to pupils who will be in exam years?
- What is the likely financial impact of the closure? (i.e. loss of income, cost of school closure etc.)
- What are the implications for the school site? If the school holds a lease, are there any clauses in the lease which need to be considered? Who will the land belong to

once the school has closed (for example, would it revert to the local authority) and how might it be used in future? What would be the impact on any third-party use of the site, including community use?

- In the case of special academies, what is the availability and proximity of suitable provision?
- In the case of special academies, what are the financial implications of transporting pupils to alternative schools?
- Where the academy is single sex, has consideration been given to the balance of provision, ensuring there is equal access to single sex provision for both sexes?
- Where the academy is a middle school and pupils may need to move into 2 tier provision, how can the change be implemented in a coordinated way?
- What are the equality implications? What protected characteristics groups are impacted and what mitigations can be put in place?
- What is the potential impact of the academy closure on the local community?
- What are the possible cost implications of transport to other schools for parents and the local authority?
- Is there likely to be an increase in the use of motor vehicles as a result of the closure?
- Where the academy provides early years provision, have discussions been undertaken with the local authority to avoid a shortfall of nursery places?

Stage 2: Seeking an in principle agreement

If, in consultation with the RD, the academy trust decides that closure is the best option, the trust should submit, in writing, a request to terminate the funding agreement by mutual consent and its proposal for closure together with documentary evidence. Where applicable, consent of the trustees of the school is required. Where the academy is designated as having a religious character, consent of the appropriate religious authority is required.

The proposal should include (but should not be limited to) the following:

- the primary reason for seeking agreement to terminate the funding agreement, and the rationale and evidence in support of closure;
- confirmation that reasonable alternatives to closure have been considered;
- evidence that each of the relevant considerations in the list outlined in stage 1 have been considered;

- consideration of whether partial closure or an extended closure date is an option, allowing pupils in exam year groups to complete their studies, if that is in the best educational interests of those pupils (note that a partial closure may result in a reduction in general annual grant (GAG) funding);
- an indicative closure timeline/calendar; and
- an Equality Impact Assessment of the proposed closure¹⁰. This should include an analysis of all protected characteristic groups impacted, ensuring mitigations are in place where it is deemed they are not. For example, demonstrating suitable SEND provision for students has been considered and actioned¹¹.

Stage 3: In principle decision

The RD will consider the information available and make a recommendation to the Secretary of State as to whether, in principle, the funding agreement should be terminated and the academy should close. Where applicable, the RD will consider any evidence from the trustees of the school and, where the academy is designated as having a religious character, the appropriate religious authority. The department will communicate the Secretary of State's decision to the academy trust.

Factors considered by the RD/Secretary of State will normally include:

- the information provided by the trust in the closure proposal¹²;
- local authority projections for future levels of basic need, drawing on the latest published School Capacity (SCAP) survey data and any more up-to-date supplemental intelligence/data;
- the viability of the school under the current academy trust, including the effectiveness of any previous attempts to improve educational standards and financial performance;
- the availability of other academy trusts to take on the school and their capacity to drive the necessary improvements;
- the impact on those likely to be affected by the closure;
- for Alternative Provision academies, the impact on schools and local authorities who have commissioned places at the academy and the availability of Alternative Provision places for displaced pupils;

¹⁰ Complying with the Public Sector Equality Duty (PSED) in section 149 Equality Act 2010.

¹¹ Further guidance on how to meet your duties under the PSED can be found on the Equality and Human Rights Commission's (EHRC) website (<https://www.equalityhumanrights.com/en>) and at Equality Act 2010: advice for schools - GOV.UK (www.gov.uk) (<https://www.gov.uk/government/publications/equality-act-2010-advice-for-schools>).

¹² Outlined in stage 2.

- the impact on any pupils with special educational needs or disabilities, and the availability of suitable alternative options for displaced pupils;
- the cost effectiveness of closure; and
- the equality impact of the closure.

Closure of special educational provision

When considering closure of special schools or of mainstream schools with dedicated special educational provision (such as specialist units or resourced provision), evidence of discussions with local authorities will be particularly important. Local authorities are responsible for commissioning and funding high needs places, and they will be expected to confirm that the proposed closure will not result in insufficient special educational provision required to meet current and forecast needs in the local area. All local authorities which make or may be likely to make placements in the academy should be included in discussions.

Additional factors considered by the RD/Secretary of State in the case of closure of special educational provision will normally include:

- how the proposal is likely to impact on the standard, quality and range of educational provision for these children; and
- details of the impact that the proposals will bring in respect of:
 - access to education and associated services including the curriculum, wider school activities, facilities and equipment with reference to the local authority's Accessibility Strategy;
 - access to specialist staff, both education and other professionals, including any external support or outreach services;
 - access to suitable accommodation; and
 - supply of suitable places at other schools in the local area.

Stage 4: Seeking a substantive decision on closure

If there is an agreement in principle to close the school, further work will be completed by the department at this stage which will include an updated value for money/viability assessment and an updated Equality Impact Assessment.

In parallel, the academy trust must develop a communications and stakeholder plan for the closure of the academy, setting out how they will undertake ongoing communications with pupils and parents, academy employees and their representatives and the local authorities and schools affected by the closure throughout the closure period. This will allow the process to move swiftly, assuming the Secretary of State agrees the school closure.

The academy trust should explore availability of other schools for pupils in the local area and evidence that costs and transport arrangements to attend other schools have been considered and are reasonable and viable for both parents and the local authority, as well as how the proposed arrangements will mitigate against increased car use. The academy trust may need to work with their relevant local authority, and any other local authorities where pupils reside, in order to obtain this information.

The academy trust should make appropriate financial arrangements. The ESFA will provide support throughout this process. When an academy closes and its funding agreement terminates, its general annual grant ceases immediately. Academy trusts are expected to meet the costs of closure from existing reserves. This includes any redundancy payments, the costs of appointing an independent auditor, of providing financial statements and an accounts return, any legal advice, and penalties incurred by the early termination of contracts or leases.

The academy should also make appropriate arrangements relating to any land held for the purposes of the school. In the case of land leased from a local authority, the lease should contain termination clauses in the event that the academy's funding agreement ceases which would usually see the land return to the local authority. The Secretary of State also has an option in the funding agreement to acquire land either leased from a local authority or held by the academy trust at nil value, where it may be required for another purpose.

Where academies occupy land held by trustees of the school, they will need to consider the arrangements that are in place for that use of the land to end, either under the terms of a supplemental agreement or any lease or other arrangement in place. Similarly, where academies occupy entirely private land, academy trusts will need to consider how these arrangements are terminated. As well as the academy's occupation of the land, academy trusts should also consider any third-party use of their land, and whether this must end when the academy closes, or whether some of it (for example a children's centre using part of the site) could continue after the academy closes through arrangement with the landowner.

Once these actions have been taken, the trust should formally request for the Secretary of State to make the substantive decision on closure.

Stage 5: Substantive closure decision

The Secretary of State will decide whether the funding agreement should be terminated and the school should close. The department will communicate the Secretary of State's decision to the academy trust.

Following a substantive decision from the Secretary of State to proceed to closure, the academy trust should share news of the closure with pupils, parents, staff, unions, relevant local authorities and schools elsewhere in the local area at the earliest opportunity and conduct a listening period.

The listening period is an opportunity for stakeholders and interested parties to be provided with information as to why the school is closing and how it is proposed the closure process will operate. Likewise, it is an opportunity for stakeholders and interested parties to submit their views on how the school closure process can be best managed.

Annex A sets out the expectations of a listening period in more detail. The academy trust should have regard for the responses received when developing their final proposed closure plan.

Stage 6: Approval and implementation of the closure plan

The Secretary of State will consider the outcome of the listening period and give permission for the trust to announce details of the closure. It is the academy trust's responsibility (seeking external advice if required) to ensure that all closure obligations are met. The department will provide support to the academy trust throughout this process.

The key actions to be carried out by the academy trust at this stage include:

1. Placement of pupils

Where an academy is to be closed, the local authority must collaborate with all schools in their area to consider the best way to secure provision for children in other local schools (see paragraph 2.33 of the [Admissions Code¹³](#)).

Detailed work with the local authority admissions office should be undertaken to ensure that suitable places are found for all pupils (excluding post-16 students), building on the plans developed at stage 4. The local authority should take responsibility for running a preference exercise and co-ordinating the process of identifying places and agreeing transfers with local heads. For post-16 students, the closure should, where possible, be planned to allow A-Level pupils to complete their studies in situ. Wherever possible, this should also be accommodated for students studying for GCSEs. Where this is not possible, the academy trust should support students to find suitable alternative institutions to allow them to continue their courses.

In the case of pupils with education, health and care plans (EHCPs) and/or looked-after children, the child's home local authority will need to go through the appropriate statutory process to determine a new educational placement.

Pupils should not be just moved to another school; parents should be allowed to express a preference for their preferred school and offered a place at a suitable

¹³ www.gov.uk/government/publications/school-admissions-code--2

school. Where a parent has expressed a preference for a school, a child can transfer but only if the child has priority for admission under the published admission arrangements of that school or the school has sufficient space to accommodate them without applying its oversubscription criteria.

A statement on the process for the finding of places for displaced pupils should be agreed with the local authority. That statement should include the provision that is to be made for children with special educational needs and the proposed arrangements for travel of displaced pupils to other schools.

2. Pupil Records

The academy trust must plan for the storage of pupil records, including access to coursework, until these can be transferred to the receiving institutions¹⁴. It is important for the trust to ensure costs of document storage are included in closure costs and that transfer of documentation is completed as part of the final closure of the school.

3. Disposal of academy assets (including its land, buildings, finance, fixtures and fittings)

The memorandum and articles of association of the academy trust, its funding agreement and (in relation to land assets) the terms of any lease or other agreement influence how the assets are dealt with. In practical terms, the academy trust will work with the department and ESFA to establish a method of distributing all assets including its land, building fixtures and fittings.

4. Redundancies

The academy trust is responsible for meeting redundancy costs and should be mindful of TUPE implications.

5. Pension liabilities

- The academy trust is responsible for meeting the costs of pension liabilities associated with closure. The academy trust should engage with the Local Government Pension Scheme (LGPS) fund manager as early as possible, to review the options for payment. The fund manager will need to know the proposed/actual closure date, which will enable the fund manager to request and provide the

¹⁴ See ESFA Guidance for further information on record keeping and retention:
<https://www.gov.uk/government/publications/record-keeping-and-retention-information-for-academies>

academy trust with a 'cessation report'. Further [advice on the LGPS arrangements¹⁵](#) is available.

6. Submission of final accounts

When an academy is closed, its trustees must ensure audited financial statements and an accounts return from the start of the reporting period (1 September) up to the date of termination of the funding agreement are prepared and submitted to the department no later than 4 months after termination.

7. Deed of Termination and Release

Once final accounts have been submitted, the academy trust should produce a Deed of Termination and Release for agreement and sign off with the department.

Where the trust is being wound up, trustees must then undertake closure action with Companies House¹⁶.

¹⁵ <https://lgpsmember.org/>

¹⁶ www.gov.uk/topic/company-registration-filing/closing-company

Annex A: Listening Period

This is provided as guidance only.

The department's expectation is that academy trusts discuss their closure plans openly and transparently with all individuals and organisations likely to be affected by the closure once a substantive decision has been given by the department.

The listening period should normally take place over a period of no fewer than 4 weeks (during term time, and not school holidays). It should be made clear that the decision to close the school has been made, and the rationale for closure should be set out. The academy trust should set out the plans it intends to put in place to transfer pupils to schools elsewhere in the local area. It should also let people know the proposed timeline for closure.

We would expect the academy to advise parents of pupils with EHCPs to talk to the local authority about placements.

Information that should normally be provided to interested parties:

1. the name and the contact address of the academy trust considering closure;
2. the likely date of closure or, where it is proposed that the closure be implemented in stages, the dates of and information about each stage;
3. a statement explaining the reason why closure of the school is considered necessary;
4. the numbers (distinguishing between compulsory and non-compulsory school age pupils), age range, sex, and special educational needs of pupils at the school (distinguishing between boarding and day pupils) for whom provision is currently made;
5. a statement and supporting evidence about the need for school places in the area including whether there is sufficient capacity to accommodate displaced pupils;
6. a statement on the process for finding places at other schools or colleges for displaced pupils (produced in collaboration with the local authority. The statement should also set out the provision that is to be made for pupils with special educational needs;
7. a statement and supporting evidence about the likely impact of closure of the school on the community and any measures proposed to mitigate any adverse impact;
8. where closure plans relate to a rural primary school, a statement should be provided demonstrating that the trustees have considered:
 - the likely effect on the local community,
 - the availability and the likely cost to the local authority of transport of pupils to other schools;

- any increase in the use of motor vehicles which is likely to result from the discontinuance of the school, and the likely effects of any such increase; and
 - any alternatives to the closure of the school (such as consideration of amalgamation with other schools, or community use).
9. where the academy has a religious character, a statement about the impact of closure on the balance of denominational provision in the area and its impact on parental choice;
 10. a statement/report as to the equality impact of the closure and any measures proposed to mitigate any adverse impact;
 11. where the plans for closure relate to an academy that provides sixth form education, the likely impact on 16 to 19 year olds in the area in respect of their participation in education or training and the range of educational or training opportunities available to them;
 12. where the closure will remove existing provision reserved for pupils with special educational needs, a statement as to how the trustees believe their proposed changes are likely to lead to improvements in the standard, quality and/or range of the educational provision for these children;
 13. the proposed arrangements for travel of displaced pupils to other schools including how the proposed arrangements will mitigate against increased car use.

The department considers the following individuals and organisations to be interested parties:

- the local authority and any other local authority likely to be affected by the closure, in particular any local authority that maintains an EHCP in respect of a registered pupil at the academy or an academy with a looked after child;
- where the local authority is a county council, the local district or parish council where the academy is situated;
- local authority county councillors/members;
- pupils and the parents of pupils registered at the academy;
- teachers and other staff at the academy;
- parents of any pupils at other schools affected by the closure of the academy, including, for example, the families of pupils at feeder schools;
- any trade unions who represent staff at the academy;
- the MP for the constituency in which the academy is situated.

Further information

- [Education Act 1996](#)
- [Childcare Act 2006](#)
- [Academies Act 2010](#)
- [Equality Act 2010](#)
- [Equality and Human Rights Commission](#)
- [School Standards and Framework Act 1998](#)
- [Pipeline Free Schools](#)
- [Funding Guidance for Young People 2022 to 2023](#)
- [Convert to an Academy: guide for schools](#)
- [Small Business Enterprise and Employment Act 2015](#)
- [The School and Early Years Finance \(England\) Regulations 2014](#)
- [The Education \(Independent School Standards\) Regulations 2014](#)
- [Regional Department for Education \(DfE\) Directors](#)
- [Charity Commission](#)
- [‘Going Concern Basis of Accounting and Reporting on Solvency and Liquidity Risks’](#)
- [Schools Causing Concern guidance](#)
- [Establishing a new school: free school presumption](#)
- [Opening a free school](#)
- [Sponsor an academy](#)
- [Academies: funding, payments and compliance](#)
- [Condition Improvement Fund guidance](#)
- [Selective Schools Expansion Fund](#)
- [The School Admissions Code](#)
- [Governance Handbook](#)
- [Change your charity's governing document](#)

- [Boarding schools national minimum standards](#)
- [Residential special schools national minimum standards](#)
- [Ofsted material change inspection](#)
- [Get information about schools \(GIAS\)](#)
- [How to make changes to a maintained school](#)
- [Opening and Closing local authority maintained schools guidance](#)
- [Consultation principles guidance](#)
- [Independent School Standards](#)
- [Local Government Pension Scheme](#)
- [Companies House](#)
- [How to close a charity guidance](#)
- [Making significant changes to an open academy](#)



Department
for Education

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