



Department
for Education

Guidance and criteria

**For local authorities seeking to establish new
special or alternative provision free schools**

Published: July 2018

About this guidance

This publication provides non-statutory guidance from the Department for Education.

It sets out for local authorities the process to establish any new special or alternative provision free school.

New schools approved through this process are part of the department's central free schools programme and will be delivered and funded as such. Free schools are legally academies, which are state-funded educational institutions free from local authority control and are operated by academy trusts.

This process does not replace the [presumption](#) process and does not replace a local authority's duty to secure sufficient appropriate education for children and young people.

This guidance applies from July 2018 and supersedes all previous versions.

Contents

1.	Introduction	4
2.	Summary of what we are looking for	5
3.	The process explained	6
4.	Assessment criteria for local authority bids	11
5.	Annex A – Privacy Notice: special and alternative provision free schools wave	21
6.	Annex B: list of sources we will use in our assessment of need	24
7.	Annex C: information about special and AP free schools	25

1. Introduction

- 1.1. **Every child in this country, whatever their background, should have the opportunity to get a world-class education, so that they have a chance to reach their potential and live a fulfilled life. This includes children with special educational needs and disabilities and children in alternative provision, who are often already vulnerable and disadvantaged. Our ambition for these children is exactly the same as it is for all children – we want them to be able to do their best in school and reach their potential, and afterwards to find employment and lead happy and fulfilled lives.**
- 1.2. To help achieve this ambition, we have opened new special and alternative provision (AP) schools through the free schools programme: as of 1 July 2018 there are 29 open special free schools and 41 open AP free schools. These schools have helped to provide innovation, choice and higher standards for parents. There are a further 60 special and 16 AP free schools due to open in the future (as of 1 July 2018).
- 1.3. Our experience of opening these schools has shown that the commitment from local authorities is important so that new special and AP schools complement the local education offer and are a close match for what families need. This is not surprising; local authorities are responsible for securing provision for children and young people with Education, Health and Care (EHC) plans and arranging suitable education for permanently excluded children and for other children who – because of illness or other reasons – would not receive suitable education without such arrangements being made, funded from their high needs budget.
- 1.4. We want to use this wave to establish new schools that fit within local authorities' strategies for children and young people with special educational needs and disabilities (SEND) and those requiring alternative provision. This will help us to open new special and AP free schools which best meet the needs of children and young people so that they all have an opportunity to achieve better outcomes. That is why, building on the success of the recent [special free schools wave](#), we are running a joint special and AP free schools wave, which allows local authorities to set out their case for why a new special or AP free school would benefit their area. If the bid is approved, in early 2019 we will invite applications to find a trust to open the school.
- 1.5. If you are a local authority interested in establishing a new special or AP free school in your area, and you think a new school will meet our aims and criteria, then the next steps you will need to take are set out in this document. If you are a proposer group, separate guidance about applying to open new special or AP free schools in the successful local authority areas will be published in due course. In the meantime, we encourage you to speak to your local authority to confirm their plans and whether they are planning to submit a bid.

2. Summary of what we are looking for

2.1. We want to focus on putting special and AP free schools in the places where good new schools are most beneficial and needed. **This means that we are particularly looking for bids from local authorities that:**

- Have a **clear strategy** for high needs provision and can demonstrate how a new school will complement the local offer and help to achieve the local authority's strategy for children and young people with SEND and children in AP;
- Set out how the new school will help the local authority to achieve **better outcomes** for children and young people than current provision;
- Support **inclusion** (for example, by promoting outreach work to help reduce exclusion rates) and, where appropriate, timely reintegration;
- Offer **good value for money** –
 - With a particular focus on **helping to manage high needs costs** e.g. where a new school will provide more effective and cost-efficient ways of meeting the needs of children and young people, that are not currently well-served by existing provision (for example, those currently requiring out of area provision incurring high residential or extended travel costs), and
 - Bids where we are likely to secure a **value for money site** in a timely manner, and in particular those that include a commitment to use a local authority or government-owned site on a peppercorn lease (this is a long lease, usually 125 years, with a token payment of a very minimal sum per annum)
- Demonstrate that a new school will be **financially sustainable** and that the local authority(ies), and other relevant commissioning bodies in the case of AP schools, will commit to commissioning, funding and supporting places; and,
- **Benefit a wider geographical area**, e.g. more than one local authority.

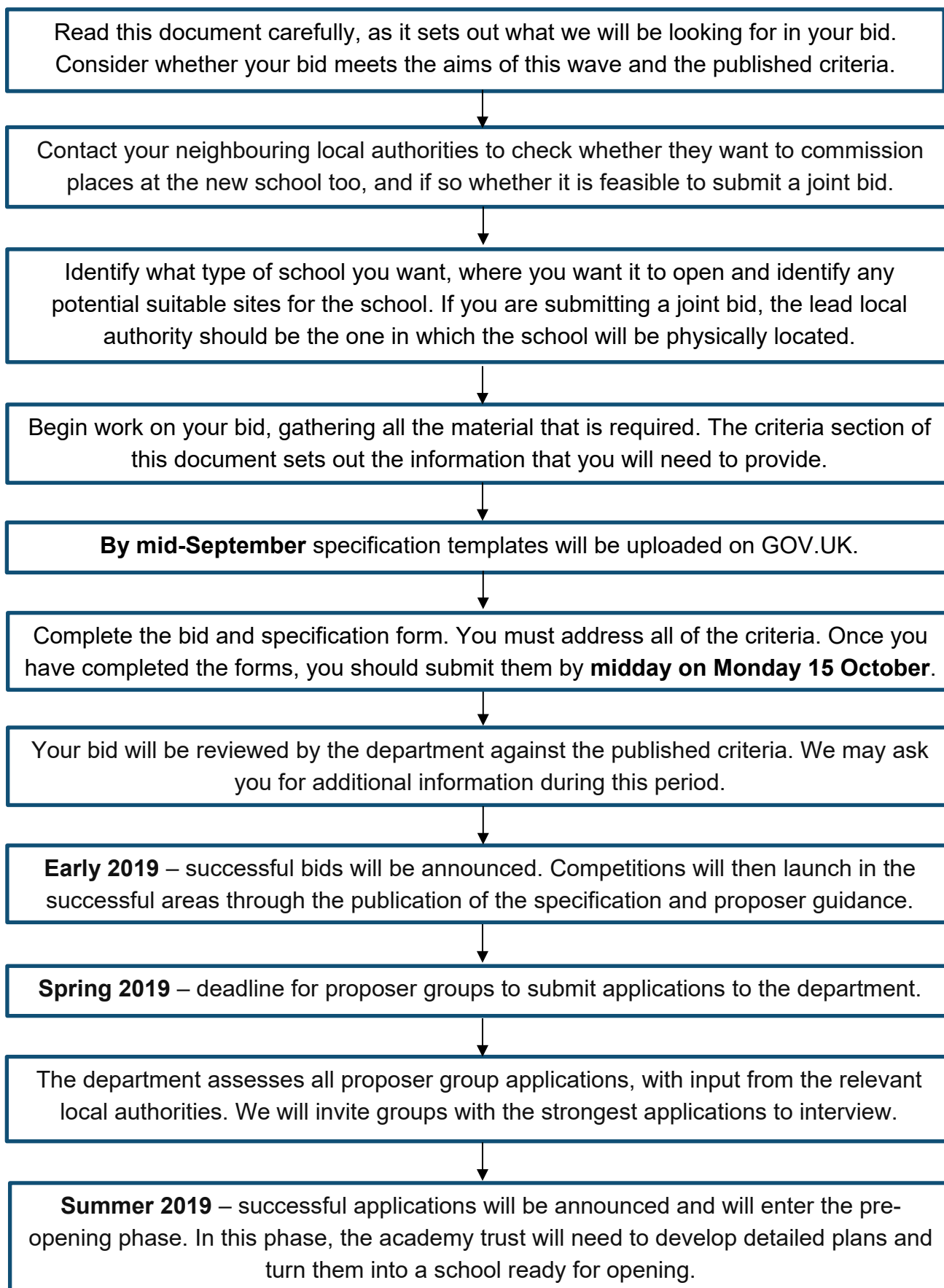
2.2. We particularly encourage bids that would not only meet these aims, but would also extend the free schools programme to areas that have not previously benefitted from special or AP free schools. You can find the location of existing free schools, as well as free schools in the pre-opening phase, on [GOV.UK](https://www.gov.uk).

2.3. In 2017, the government [announced](#) that it will approve around 110 applications for new schools over the next two years. As part of this, we are looking to approve around 30 new special and AP free schools in this wave. Given the limited number of new schools we will create, only the very strongest bids will be approved. While local authorities (either as a lead or sole bidder) can submit a bid for one special and one AP school in total in their area, it is highly unlikely that we will approve more than one school in any one local authority area in this wave.

2.4. You can find the full criteria against which we will assess bids in chapter 4 of this document.

3. The process explained

Process overview



Key dates

24 July 2018	Special and AP free schools wave is launched – the guidance and criteria for local authorities seeking to establish new special or alternative provision free schools is published.
15 October 2018 (midday)	Deadline for submitting your bid by email to APspecial.freeschool@education.gov.uk .
Early 2019	Announcement of successful bids. Competitions in successful areas subsequently open.
Spring 2019	Deadline for proposers to submit applications in successful areas.
Summer 2019	Approved applications announced.

Who to speak to before developing your bid

- 3.1. You must speak to your neighbouring local authorities to check whether they will commit to commissioning places at the new school at the specified top-up rate (particularly if you are a small local authority). If they do not want to commission places, you may put in a solo bid (i.e. a bid where you are the sole bidder and local authority commissioner). If you submit a joint bid, you must state the lead local authority. This would be the local authority in which the school would be located.
- 3.2. For AP free schools, local authorities must also speak to local schools if they are responsible for commissioning places, to confirm whether the schools would also want to commission any places at the school.

Identifying a site

- 3.3. It is not a requirement to have identified a specific site or premises, but we will look favourably on bids that include a commitment to using a site available on a peppercorn lease basis. We have an internal team with specific expertise that finds and acquires sites for free schools. They also oversee construction, redevelopment and necessary works.
- 3.4. Your bid is more likely to be successful if we judge that we will be able to secure a site that represents good value for money in a timely manner with an acceptable level of risk. This will make your bid a more attractive proposition for proposer groups, and reduces the risk that your project will be delayed or cancelled during the pre-opening phase. You should make enquiries as to the basis of your preferred site acquisition (peppercorn lease, freehold, commercial lease, long lease), but you must not enter

into any negotiations during the bid process or at any other stage. If your bid is approved, we will undertake negotiations to acquire a site for the school.

- 3.5. Advice and guidance on how to find sites is available from the Education and Skills Funding Agency (ESFA). If you have any queries or require advice on premises, you can contact the ESFA on FSC.EOI@education.gov.uk. They will be able to give advice on finding a site, as well as the process and requirements for planning permission and associated approvals.
- 3.6. Local authorities should not include sites that are expected to be costly to develop because of either ground contamination, flood risks, significant topographical issues, lack of services, access or other costly issues that would impede development. It has to be a workable site that presents value for money. If your bid is approved and the site proves to be too costly to develop, we are likely to cancel the project.

Completing your bid

- 3.7. We will assess your bid against the criteria set out in chapter 4. It is therefore essential that you read the assessment criteria before you start to complete your bid. Each criterion includes information you must provide for your bid to be assessed.
- 3.8. You need to complete a free school bid form (found on GOV.UK) describing the school you want to commission. For consistency, you must use the bid form provided. In the most exceptional of circumstances where you plan to make the case for two new schools in your area, you will need to complete a separate bid form for each school, although you should cross-reference where appropriate. There is an overview page towards the start of the bid form that asks for information about the number of bids you are submitting (i.e. one or two), the priority of each bid (if you are submitting two), and how many more schools you need beyond two. If you are submitting two bids, you only need to complete the overview page on one form – you should do this on your first priority bid.
- 3.9. You will also need to complete and submit a specification template, which we will publish on GOV.UK by mid-September. The specification is a document that, if your bid is successful, outlines the proposed school and is made available to proposer groups to develop their applications. The specification should be based on the information you include in the bid.
- 3.10. Completed bid forms, specifications, and any supporting documentation **should be submitted by midday on 15 October 2018. Submit your bid by email to:** APspecial.freeschool@education.gov.uk. Please title your email as follows: **Special/AP free school bid – [insert name of local authority (or lead local authority if joint bid)]**. Your email should not exceed 9 megabytes in size; anything larger will not be delivered. **If the bid is larger than 9 megabytes**, please split the

documents and send two (or more) emails clearly indicating that the emails are connected (e.g. email 1 of 3).

Assessment of and decisions on bids

- 3.11. In assessing each bid, we will take all of the criteria into account. To decide which bids are the strongest, we will make a judgement, weighing up the benefits and costs of each bid.
- 3.12. Decisions on bids are taken by the Secretary of State. **The decisions are final and there is no appeals process.** You will receive feedback if your bid is not successful.
- 3.13. Approval of your bid does not mean approval of every detail. The approval of your bid is also conditional on whether the site proposal is deliverable and the capital costs represent good value for money. The Secretary of State may also decide to reprioritise funding for the benefit of the free schools programme as a whole.

What happens if your bid is successful?

- 3.14. New schools approved through this process will be part of department's central free schools programme and will be delivered and funded as such.
- 3.15. Once the Secretary of State has decided which bids should be taken forward, the guidance for proposer groups and local authorities' specifications will be published on both the relevant local authorities' websites and GOV.UK. A date for the specifications to be published and competitions launched will be set in due course.
- 3.16. Following the launch of the competition the local authority should ensure that the widest possible range of prospective proposers are aware of the opportunity and have enough time to develop proposals. The department will also play a role in generating interest – by posting on its own website, encouraging key stakeholders to do the same and by sign-posting to potential proposers we know are keen to operate in that region.
- 3.17. Proposer groups interested in applying for a free school in one of the successful local authority areas should contact the New Schools Network (NSN), who can provide guidance and support. NSN is an independent charity that receives a grant from the department to provide advice, guidance and resources to those looking to open new free schools. More information can be found on the [NSN website](#).
- 3.18. The competition is open to all types of proposer groups, whether or not they are an existing provider or an approved sponsor. If a maintained school or group of maintained schools applies, we expect the existing maintained school(s) **to convert to academy status** and the proposer group to form a multi-academy trust (MAT) that will incorporate both the new free school and any existing schools. Proposer groups do not need to convert to academy status before applying, but we expect their application

to set out plans for how they will do this, if the application is successful. Guidelines on conversion are available on [GOV.UK](https://www.gov.uk).

3.19. It is important for local authorities to give an equal chance to all proposer groups. Local authorities cannot give information to one group that they do not make available to all interested parties.

3.20. The local authority cannot apply through this process to run the school itself or as a co-sponsor. The proposer group can choose to nominate local authority trustees, but this must be the choice of the proposer group **not** the local authority. The local authority must make up no more than 19% of members and no more than 19% of trustees.

3.21. Following the deadline for proposers to submit applications all proposals will be assessed against the published criteria for proposers and the relevant local authority specification.

3.22. The department will assess all proposer group applications, with input and taking into account information and recommendations from the relevant local authority. We will invite proposer groups with the strongest applications to interview. Interviews will be tailored based on the quality of the application and the strength and track record of the group, the local context in which the school will operate and the group's understanding of the state school system.

3.23. The department and the local authority must both agree on which proposer group to recommend to the Secretary of State for approval. Final decisions on the successful proposer group applications are taken by the Secretary of State. **The decisions are final and there is no appeals process.**

3.24. We would expect the successful free school providers to continue to work with the local authority and other local providers to ensure the new schools meet local need, complement the local education offer, and respond to local strategic priorities.

3.25. In the event that there is no suitably strong proposer group following the competition, the department maintains the option of agreeing to re-run the competition.

Publication of your bid on GOV.UK

3.26. The department is committed to being as transparent as possible. If your bid is successful we will publish your full bid on GOV.UK. Please read the full privacy notice in Annex A for more information about how we will use your personal information.

4. Assessment criteria for local authority bids

- 4.1. The criteria by which your bid will be judged are set out below. We strongly encourage you to read this chapter in full before starting work on your bid. **These criteria are for local authorities seeking to establish new special or AP free schools. Separate guidance and criteria for proposers applying to open new special or AP free schools in the successful local authority areas will be published in due course.**

Overview section

- 4.2. Given the limited number of new schools that we are looking to create, local authorities (either as a lead or sole bidder) can submit a bid for one special and one AP school in total in their area and it is highly unlikely that we will approve more than one school in any one local authority area in this wave. However, we would like you to inform us of expected future need for new schools in the table provided in the form.
- 4.3. In the most exceptional of circumstances where you plan to make the case for two new schools in your area, you will need to complete a separate bid form for each school, although you should cross-reference where appropriate. There is an overview tab towards the start of the bid form that asks for information about the number of bids you are submitting (i.e. one or two), the priority of each bid (if you are submitting two), and how many more schools you need beyond two. If you are submitting two bids, you only need to complete the overview tab on one form – you should do this on your first priority bid.

Confirmation section

- 4.4. In addition to meeting the requirements set out in this chapter, **your bid must be agreed by the relevant heads of department (inclusion, placement and funding) and signed off by the Director(s) of Children's Services (DCS)**. As part of the confirmation section on the bid form, we ask for confirmation that each relevant DCS is committed to commissioning the number of places as specified in the bid and paying the indicated top-up funding, and confirmation that they are aware of the financial consequences of their commissioning on their high needs budgets.

Section A – local authority(ies) putting forward this bid and evidence of commissions

Section A1 – local authority(ies) putting forward this bid

- 4.5. In this section we ask for basic information about the local authority putting forward the bid. If it is a joint bid, we ask for details of each local authority involved and ask you to state the lead local authority. This would be the local authority in which the school would be located.
- 4.6. You **must** check whether your neighbouring local authorities also want to commit to placing pupils at the school. Where it is feasible for the school to serve more than one local authority, joint bids are encouraged and we will prioritise bids that benefit provision in a wider geographical area e.g. more than one local authority. Where it is not feasible or other local authorities do not wish to commission places, you can put in a solo bid and explain the reason why – this will be taken into account.

Section A2 – evidence that the new school will be fully commissioned

- 4.7. For your bid to be approvable, you must be able to demonstrate that the places in each of the school's first two years of operation will be commissioned and confirm that top-up funding will be paid. We will look at the data you have provided to judge the level of demand and the extent to which you have engaged with other commissioners. In addition it is expected that all places will be commissioned beyond the first two years, and we ask for confirmation of this earlier on in the form.
- 4.8. You **must** complete the commissioner table and demand table in the bid form showing how many places you (and any other commissioners) would use at the school for the first two years of the school's operation. You must also ensure that the DCS in all relevant local authorities involved sign the confirmation section in the bid form.
- 4.9. In addition, if your bid is for a new AP school, you **must**:
- Provide commitments in writing from any commissioners other than local authorities (e.g. local schools) indicating their firm intention to commission a specific number of places in the first two years, including the top-up funding they will pay for the children occupying the places;
 - Demonstrate that the commissioners have made an informed decision, for example, confirmation that commissioners have seen your bid, and are aware of the characteristics of the new school and the outcomes you want to achieve; and,
 - Provide information about the commissioning and funding model used in your area(s) – this will enable us to judge whether you have engaged with, and secured commitments from, all relevant bodies.

Section B – type of school

4.10. **There are no assessment criteria for section B.** In this section we ask you to provide key information about the school you would like to commission, including:

- Type of school(s) (special or AP);
- Category of provision (for special schools this will be the area of SEND provided for e.g. ASD or SLCN, for AP schools this will be the purpose(s) of placements and needs of children);
- Age range;
- Expected top-up funding rate;
- Whether the school will be co-educational or not;
- Total number of proposed full time equivalent places;
- Type of placements offered (e.g. full time, short term, part time);
- Number of nursery places, if applicable;
- Number of 16-19 places, if applicable (please note that AP free schools can receive funding for this age group, through the national funding formula, in the same way as other providers of education for 16 to 19 year olds);
- Whether you want the provider of the new school to support mainstream schools through outreach, training and/or reintegration (if so, details of funding that will be made available to support the school to undertake this); and,
- The expected pupil build up (how the school would fill year-on-year once it opens).

4.11. The type of school should be either a special or AP school. We understand that there can be similarities between the two types of schools (and their cohorts), but we would not expect to receive bids for 'hybrid' schools. Special schools mostly admit children and young people with EHC plans, while AP is for children of compulsory school age who do not attend mainstream or special schools and/or who would not otherwise receive suitable education for any reason.

4.12. Our experience from the last special free schools wave was that it is hard to find proposers to run residential schools. We will only approve residential schools in exceptional circumstances or where the local authority confirms that they will run the residential element themselves. We reserve the right to approve a school without agreeing to the residential element, where it is not essential to the school or cohort.

Section C – rationale for a new school

4.13. Section C is made up of four parts and provides an opportunity for you to tell us about your vision for children and young people with high needs in your area and to explain why a new school is wanted, how it will complement and fit within the local education system, and what outcomes you expect it will achieve.

Section C1 – the current context in your area

4.14. We want to open new schools where they are most beneficial and needed. We are looking for bids in areas where a new school will most support local authorities to manage current and/or anticipated pressures on special school places or on the overall high needs budget, so that the needs of children can be better met.

4.15. Children and young people should only be placed in special or AP schools where it best meets their individual needs. We will not be inclined to approve bids that have the side effect of decreasing the inclusion in mainstream schools of children with SEND, or who are at risk of permanent or fixed term exclusions, or of creating excess spare capacity in existing special or AP schools. Bids will score more highly if they can demonstrate that a new school will be filled by students who would otherwise be going to more expensive or poor performing provision.

4.16. The purpose of section C1 is to help us understand the current SEND or AP picture in your area so that we can assess the benefit of, and need for, a new school. We will judge bids to be strong where the local authority is able to make a sound strategic case for new provision that will better meet the needs of children and young people in the area, explain how they will afford to fund this in the future and demonstrate that the new school will not add financial pressures, and where the data suggests that there is not an over-supply of places in the area.

4.17. In this section, **you must:**

- Provide a brief description of the relevant existing provision including its quality, how it is currently used, and why the needs of the specific cohort you want a new school for are not currently being adequately met;
- Set out future expected growth, including how many new places are needed;
- Explain how the places in the school would be filled (where the children would come from/where they would be educated if a new school is not approved);
- Demonstrate how you are managing your high needs budget;
- Provide appropriate information on residential costs, managed moves, exclusions, home tuition numbers, elective home education numbers, use of unregistered provision, and delays in placing children; and,
- Evidence that the new school would help you to manage your high needs costs (delivering wider value for money).

4.18. We expect your response to this section to be no more than around 500 words, excluding your entries in the relevant table of high needs costs.

4.19. The assessment of this section will consider evidence provided in your bid, as well as data held by the department and publicly available information (much of which has been provided by local authorities as part of other data collections). Annex B contains a list of some of the different published sources of information we will use. **You should also** use this section to provide a commentary around the information sources that we will use and tell us if you have any new information to support your bid. For example, if there have been any recent changes or if there is an anomaly that can be explained in more detail.

Section C2 – your strategy for high needs provision

4.20. You must use section C2 to tell us about your strategy for high needs provision. The purpose of this section is to help us understand your strategy for children and young people with SEND or those requiring alternative provision and make a judgement about whether the school you are proposing fits within your strategy. To be approvable, your entire bid must be consistent with the strategy described in this section and form a coherent whole.

4.21. **In this section you must:**

- Describe your strategy for high needs provision in your area;
- Include a summary of your high needs/SEND/AP strategy and provide either a link to it if it is published online or attach an electronic copy when you submit your bid (if you do not yet have a developed strategy, please explain your current thinking and plans to develop one);
- Describe the drivers for change in terms of key performance indicators (KPIs) e.g. improving education and destination outcomes, increasing rates of successful reintegration, reducing exclusions, reducing use of one-to-one tuition, elective home education and travel-distance for children or the use of residential provision where it is appropriate for them to be educated closer to home, or helping mainstream schools support more children with SEND;
- Explain what outcomes you want to achieve for high needs provision in your area;
- Describe how you have developed your strategy in consultation with the local community, local parent and schools forums and other schools with an interest, including other local special and AP providers whose intake may be affected, and relevant partners; and,
- Tell us about any future changes to capacity that you are already expecting e.g. planned expansions/re-configuration/closures of existing schools.

4.22. We expect your response to this section to be no more than around 1000 words.

Section C3 – why you want a new school and how it fits with your strategy and the local education offer

4.23. In this section you need to explain the rationale for a new school and how it fits with your strategy.

4.24. We want to open new schools where they are the right solution for the area. We are looking for bids where a new school will help local authorities meet children's needs, fit into the local authority's strategic plan for high needs provision and complement the local offer.

4.25. We expect new schools to have the support of the local community and relevant partners, so that they will be popular, fully commissioned and viable. You must speak to your neighbouring local authorities and/or other relevant commissioning bodies to check whether they want to commit to commissioning places at the new school at the specified top-up rate. If they do not, you may put in a solo bid. In the case of new AP free schools, you must speak to schools where they are responsible for commissioning places. The declaration section in the bid form asks you to set out a breakdown of the commissioning commitments. You should also speak to other partners to ensure that your bid will complement the local offer and be a close match for what families want.

4.26. In **this section you must:**

- Describe the rationale for the new school – what needs of children and young people it would meet and how, and the types and purposes of placements you expect to fund;
- Explain how the new school would benefit the area you have identified;
- Tell us how a new school and the commissioning of places fits into your strategic plan for high needs provision in the area, and how it would help to achieve your strategy;
- Demonstrate that a new school is accounted for in your high needs budget i.e. assuming that the costs of placing pupils in the school will be affordable within the level of overall high needs funding that the local authority expects to receive in future years, given demographic and other trends.
- Explain how the new school will fit into and complement the broader provision in the local area and region (including neighbouring local authorities, if appropriate);
- Demonstrate that you have understood the likely impact that a new school might have on existing providers in the area; and,
- Provide evidence of engagement, including a summary of conversations, with for example neighbouring local authorities/commissioning bodies, schools forums and parent/carer forums.

4.27. We expect your response to this section to be no more than around 500 words, excluding your entries in the table about how you have engaged with others.

Section C4 – expected outcomes

4.28. To be approvable, bids must demonstrate that the new school will support inclusion, including reintegration where appropriate and by providing expertise to mainstream schools. They should also demonstrate that the new school will help to achieve better outcomes for children and young people (compared with existing options).

4.29. **In this section you must** describe the expected outcomes you want the school to achieve – this should include:

- Outcomes for the children that will attend the school – this should include outcomes relating to length of stay, reintegration back to mainstream provision, and post-16 transitions; and,
- Outcomes relating to how the school will prepare those who attend it for adult life e.g. preparation for employment and independent living.

4.30. In addition, **you should also use this section to** tell us what you think the risks of opening a new school are (in terms of unintended outcomes, e.g. an increase in the proportion of children educated in special or AP settings, which might not be in the best interests of the children concerned) and how you plan to mitigate those if your bid is successful. This should include how you will mitigate any potential adverse impact on inclusion in mainstream schools, including (where applicable) types of expert support you would expect the school to provide to mainstream schools in the area and how funding would be made available to the school to support it with this.

4.31. We expect your response to this section to be no more than around 500 words.

Section D – the proposed location and site

4.32. Finding a suitable site is an essential part of opening a free school. As part of preparing your bid you should investigate potential sites for the school and tell us about them in your bid. In this wave we will undertake a desktop site assessment and consider the value for money, timescale and delivery risks in securing a site for the proposed school in the proposed area.

4.33. **We will give preference to those projects where our site assessments shows that we are likely to secure a value for money site in a timely manner with an acceptable level of risk**, in particular, those bids that include a commitment to use an available site on a peppercorn basis. Making a site available on a peppercorn lease gives the greatest chance of finding a provider to run the school and of the school opening successfully and on time.

4.34. In section D we ask you to set out where the school would be located and whether a site has been identified or made available. In particular, **we ask for:**

- The details of your preferred location;
- Full address and full postcode e.g. DL1 5QE, not DL1;
- Details of how you found the site;
- The tenure and ownership plus purchase/lease cost if known;
- If appropriate, confirmation that the relevant contact within the local authority supports the use of the site, including terms (for examples 125 year peppercorn lease);
- Confirmation of availability;
- An outline of its current use;
- Your reasons for choosing it and its suitability;
- Where appropriate, any size requirements that are necessary to deliver the provision;
- Size of site and, if applicable, building;
- Comments on the condition of the building;
- Details of any local authority contribution towards the capital costs of the project (for example the provision of a site, developer contributions);
- Whether the site is part of a housing development, including key dates for the development; and,
- Confirmation that the relevant Lead Member for Corporate Property has seen the bid and is content with the site information provided.

4.35. Additionally, please send any surveys, site plans, photos, location maps, any other technical work previously carried out on the site or other associated technical information as annexes along with your bid to

APspecial.freeschool@education.gov.uk.

4.36. The form also asks you to calculate the total floor area (gross internal area) for the school building(s). Please use the formulae in the following table to calculate this. As well as helping us, this will also help you search for suitably sized buildings. Note that these sizes are guidelines, not requirements or entitlements.

Type and age range of provision	Minimum building area (m ²)
Primary alternative provision for pupils with mental or physical health difficulties	275m ² + 10.5m ² per pupil place
Secondary or all-age alternative provision for pupils with mental or physical health difficulties	400m ² + 10.5m ² per pupil place
Primary alternative provision for pupils with behaviour difficulties	300m ² + 12.5m ² per pupil place
Secondary or all-age alternative provision for pupils with behaviour difficulties	450m ² + 12.5m ² per pupil place
Primary special school for predominantly ambulant pupils	700m ² + 14.5m ² per pupil place
Secondary or all age special school for predominantly ambulant pupils	1050m ² + 14.5m ² per pupil place
Primary special school for predominantly non-ambulant pupils	900m ² + 18.5m ² per pupil
Secondary or all-age special school for predominantly non-ambulant pupils	1250m ² + 18.5m ² per pupil

4.37. 'Non-ambulant' applies to a school that caters for a broad range of needs but is specially equipped for pupils with PD and/or PMLD; at least 10% of pupils will be non-ambulant. Further information on the application of these gross area formulae to different types of special school and AP are given in [Building Bulletin 104 'Area guidelines for SEND and alternative provision'](#).

4.38. For those schools that move into the pre-opening phase, there will be a series of engagement meetings with ESFA which will provide an opportunity to look at the range of needs the new provision will cater for.

4.39. **Notes on this section:**

- We will make an overall cost and value for money assessment of your preferred site. You should aim, therefore, for the lowest possible capital costs and be as flexible as possible in your site requirements. If appropriate, we may also ask you to share sites with other approved free schools and when open, you may be required to share surplus space in your permanent building with new free schools requiring a temporary home.
- **It is our very strong preference that local authority sites or government owned sites are used because often we are able to secure them on what is known as a peppercorn basis.** This is a long lease, usually 125 years, with a token payment of a very minimal sum per annum.

- **If, after approval of your bid, it proves impossible to identify a viable site, we may have to delay the opening of your school or, in some cases, we may not be able to open your school at all.**
- This process is intended to create open competitions. It is not designed for co-located special or AP schools where there is only one feasible proposer. Nor is it a mechanism to let the local authority close an existing special or AP school and re-open it as a free school in a new building.

5. Annex A – Privacy Notice: special and alternative provision free schools wave

Who we are

5.1. This work is being carried out by Free Schools Group, which is a part of the Department for Education (DfE). For the purpose of data protection legislation, the DfE is the data controller for the personal data processed as part of the special and alternative provision (AP) free schools wave.

How we will use your information

5.2. We receive your personal data from the free school bid form and are processing it in order to consider the case for a new special or AP free school in the area. More information about this work is available in the guidance and criteria for local authorities seeking to establish new special or alternative provision free schools.

The nature of your personal data we will be using

5.3. The categories of your personal data that we will be using for this project are:

- Names;
- Positions/job titles;
- Companies/organisations; and,
- Contact details (work postal address, email address and phone number).

Why our use of your personal data is lawful

5.4. In order for our use of your personal data to be lawful, we need to meet one (or more) conditions in the data protection legislation. For the purpose of this project, the relevant condition(s) that we are meeting is that the processing is necessary to perform a task in the public interest/for official functions. The processing is necessary for the department to carry out this work and use the information for the purpose of approving bids.

Publication

5.5. The DfE is committed to being as transparent as possible. If your bid is successful, the DfE will publish the full bid on GOV.UK. The following information will be redacted from the bid and will not be visible to the public: private addresses, private email addresses, private telephone numbers, commercially sensitive information and specific site locations.

- 5.6. All other information, including the names of and organisations mentioned in the bid, will be published.
- 5.7. Please notify any individuals or organisations that you have named in your bid that their information will be processed by the DfE during the assessment stage and that, if successful, the bid will be published on GOV.UK as detailed above.

Who we will make your personal data available to

- 5.8. We sometimes need to make personal data available to other organisations. These might include contracted partners (who we have employed to process your personal data on our behalf) and/or other organisations (with whom we need to share your personal data for specific purposes).
- 5.9. Where we need to share your personal data with others, we ensure that this data sharing complies with data protection legislation. For the purpose of this project we need to share your personal data with education advisers and independent panel members, in order for them to view your bid and personal data as part of the decision making process. The sharing of your data is necessary to perform a task in the public interest/for official functions. The processing is necessary for the department to carry out this work and use the information for the purpose of approving bids

How long we will keep your personal data

- 5.10. We will only keep your personal data for as long as we need it for the purpose(s) of this piece of work, after which point it will be securely destroyed. We estimate that we will keep your personal data for no longer than 10 years. Please note that, under Data Protection legislation, and in compliance with the relevant data processing conditions, personal data can be kept for longer periods of time when processed purely for archiving purposes in the public interest, scientific or historical research, and statistical purposes.

Your Data Protection rights

- 5.11. Under certain circumstances, you have the right:
- To ask us for access to information about you that we hold;
 - To have your personal data rectified, if it is inaccurate or incomplete;
 - To request the deletion or removal of personal data where there is no compelling reason for its continued processing;
 - To restrict our processing of your personal data (i.e. permitting its storage but no further processing);
 - To object to direct marketing (including profiling) and processing for the purposes of scientific/historical research and statistics; and,

- Not to be subject to decisions based purely on automated processing where it produces a legal or similarly significant effect on you.

5.12. If you need to contact us regarding any of the above, please do so via the DfE site at: <https://www.gov.uk/contact-dfe>.

5.13. Further information about your data protection rights appears on the Information Commissioner's website at: <https://ico.org.uk/for-organisations/guide-to-data-protection/principle-6-rights/>.

Right to lodge a complaint

5.14. You have the right to raise any concerns with the Information Commissioner's Office (ICO) via their website at <https://ico.org.uk/concerns/>.

Last updated

5.15. We may need to update this privacy notice periodically so we recommend that you revisit this information from time to time. This version was last updated on 12 July 2018.

Contact information

5.16. If you have any questions about how your personal information will be used, please contact us at the department's '[contact us](#)' page and enter 'special and AP free schools' as the reference. For the Data Protection Officer (DPO) please contact us via [GOV.UK](#) and mark it for the attention of the 'DPO'.

6. Annex B: list of sources we will use in our assessment of need

6.1. As part of our assessment of your bid, will consider evidence you provide in your bid, as well as data held by the department and publicly available information, including (but not limited to):

- School Census;
- SEN2;
- Alternative provision census;
- School exclusion reviews;
- Get information about schools;
- Ofsted reports;
- School performance tables;
- Local area SEND reports and local area SEND inspection outcome letters; and,
- ONS (population projections).

7. Annex C: information about special and alternative provision free schools

- 7.1. The [Children and Families Act 2014](#) gives local authorities a number of statutory responsibilities relating to SEND, which are set out in the [SEND Code of Practice](#) and which include a role in securing suitable educational provision for children and young people with SEND who live in their area. As at January 2017, 242,185 pupils (2.8% of the overall school population) have been assessed by local authorities as having more complex SEND, requiring statutory statements of SEN or EHC plans. Local authorities must make and fund provision to meet the SEND set out in statements and EHC plans, funded using their high needs budget. Although there is a general presumption in law that pupils will be educated in mainstream schools, SEND may be met in a wide range of settings, including early years settings; mainstream schools and academies; resourced provision and special units attached to mainstream schools; special schools and academies; independent and non-maintained special schools; FE colleges; and specialist post-16 institutions.
- 7.2. AP is for children of compulsory school age who do not attend mainstream or special schools and who would not otherwise receive suitable education, for any reason. Local authorities are responsible for arranging suitable education for permanently excluded children and for other children who – because of illness or other reasons – would not receive suitable education without such arrangements being made. Where a child has been subject to a fixed-period exclusion of more than five school days, schools must arrange AP. AP is provided through full-time or part-time placements of short or longer-term duration. Placements can be delivered by AP academies, AP free schools and pupil referral units (PRUs). Other settings also provide AP, including independent schools, further education colleges, and other providers from the private and voluntary sectors. As at January 2018, 16,732 children were educated in AP free schools, AP academies and PRUs (this excludes 9,897 dual subsidiary registered pupils) and 22,848 children in other AP settings. Depending on the reason a child requires AP, placements will be commissioned by local authorities or schools. It is up to the commissioner to determine the most appropriate AP for the child but they should take into account the views of the child, their parents and other professionals. The department summarises the responsibility of the commissioner in [statutory guidance](#).

Funding arrangements

- 7.3. **Any new schools need to be sustainable within the local authority's or authorities' high needs funding block of the dedicated schools grant.**
- 7.4. High needs funding is provided to local authorities through the dedicated schools grant (DSG), and local authorities must spend that funding in line with the associated

conditions of grant, and [School and Early Years Finance \(England\) Regulations](#). High needs funding is also provided directly to some institutions by the ESFA.

- 7.5. The high needs funding system supports provision for children and young people with SEND from their early years to age 25, enabling both local authorities and providers to meet their statutory duties under the [Children and Families Act 2014](#). High needs funding is also intended to support good quality AP for pre-16 pupils who cannot receive education in mainstream or special schools.
- 7.6. Local authorities should use their high needs budget to provide the most appropriate support package and setting for an individual with SEND, taking account of parental and student choice. The Children and Families Act 2014 extended local authorities' statutory duties relating to SEND across the 0 to 25 age range.
- 7.7. Before planning to open a special or AP free school, it is important that local authorities understand the high needs funding arrangements, and that the majority of the free school's ongoing revenue funding will come from the allocation of high needs funding to local authorities. These allocations include elements to reflect the changing population, and characteristics of that population, in each area. Bearing in mind the level of high needs funding they expect to receive, local authorities are responsible for making decisions about the supply of special and mainstream school places for pupils with high needs, taking account of demand from parents and schools as well as changing diagnosis of particular conditions and other factors. It is therefore important that local authorities only submit a bid for a new special or AP free school if it fits in with their overall strategy for special and AP provision, and is affordable within future high needs funding allocations.
- 7.8. A small revenue grant will be provided by the department to cover the school's start-up costs, as for central free school projects. Before opening, special and AP free schools receive a project development grant (PDG) of up to £220,000 (via the academy trust running the school). Where a trust is opening multiple schools in one year, a reduced PDG rate is provided. Further information on PDG is available in the [Free School Preopening Guidance](#). Once open, special and AP free schools receive post opening grant (POG) for the first few years as they grow and build up to capacity. Further information on the POG rates is available in the latest revenue funding guidance for [AP free schools](#) and [special free schools](#).

Revenue funding for special free schools

- 7.9. Once the special school is open, its funding comprises:
 - Per-place funding of £10,000 for all places for pre-16 and 16 to 19 pupils with EHC plans; and,
 - Top-up funding for each pupil placed in the free school, based on the pupil's assessed needs and the cost of meeting those needs in the school – this top-up funding comes from the local authority commissioning the place, and is

determined by the local authority in negotiation with the free school and is paid for as long as the pupil attends the school.

- 7.10. The number of funded places will be determined mainly according to data collected from the local authority in whose area the school is to be located. Place funding will be calculated and paid to the school by ESFA, and this will be deducted from that local authority's high needs allocation. We are intending to ensure that the relevant local authorities are allocated funding to reflect the costs of significant growth in these new and growing schools, both for those currently open and those in the pipeline. More detail on this will be provided in the high needs operational guide in autumn 2018.
- 7.11. Top-up funding will be paid by the local authorities commissioning places at the free school. Local authorities have different ways of determining top-up funding levels. Many have developed local banding systems for their existing special schools, and might expect free schools to fit in with those.
- 7.12. Special free schools may also receive funding from local authorities and other schools or academies for commissioned services – for example to provide specialist teaching support for pupils in local mainstream schools.
- 7.13. For more information about special free school revenue funding please see [‘a guide to new special free school revenue funding: 2018 to 2019’](#).

Revenue funding for AP free schools

- 7.14. In AP free schools funding for school-aged pupils is comprised mainly of two elements: base funding of £10,000 for each pre-16 full-time equivalent place received directly from ESFA, and top-up funding agreed on a case-by-case basis with the authority, or school, commissioning a place within the provision. AP free schools may also receive funding for commissioned services from a local authority or school.
- 7.15. Once open, ESFA will decide on the number of places to be funded each year, based on the free school's plans, the commissioning of places by local authorities and schools (both actual and planned) and the number of pupils actually attending the school as indicated on the school census. This funding will be paid by ESFA directly to the free school.
- 7.16. Normally, from the third year after an AP free school opening, ESFA starts to deduct an appropriate proportion of the place funding from the high needs funding block of the DSG of the local authorities who commission (or whose schools commission) places at the AP free school. Exceptions will be made where the places in a new AP free school are substituting for existing AP places funded by local authorities that are being decommissioned.
- 7.17. Where AP free schools accept pupils from local authorities other than the one in whose area they are located, or from schools and academies in other local authority

areas, we expect all relevant authorities and schools to co-operate. They should understand how AP is commissioned and funded locally, and should make sure that the costs of the place funding for a new AP free school are met appropriately.

7.18. There may be situations where, because of the different school census data used, the funding deducted from the DSG does not constitute the total funding for places ESFA will pay to the free school.

7.19. For more information about AP free school revenue funding please see '[a guide to new alternative provision free school revenue funding: 2018 to 2019](#)'. Taking account of the development of policy on alternative provision, we will consider whether any consequential funding changes should be made to the way that AP is funded, including the funding of AP free schools.



Department
for Education

© Crown copyright 2018

This publication (not including logos) is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

To view this licence:

visit www.nationalarchives.gov.uk/doc/open-government-licence/version/3

email psi@nationalarchives.gsi.gov.uk

write to Information Policy Team, The National Archives, Kew, London, TW9 4DU

About this publication:

enquiries www.education.gov.uk/contactus

download www.gov.uk/government/publications

Reference: DFE-00227-2018



Follow us on Twitter:
[@educationgovuk](https://twitter.com/educationgovuk)



Like us on Facebook:
facebook.com/educationgovuk