

Appendix E **Consultation as part of the competition route**

1. Under section 9 of EIA 2006 the LA **must** undertake consultation before publishing a notice inviting proposals for a new school. When consulting, the LA **must** have regard to the Secretary of State's guidance. Paragraphs 1.2 to 1.5 below contain the Secretary of State's statutory guidance. Where the LA carry out any preliminary (informal) consultation to consider a range of options, and/or principles, for a possible reorganisation, this should not be regarded as the statutory (formal) period of consultation as required by section 9 of EIA 2006. The statutory consultation would need to cover the specific location and specification of the school in question.
2. The purpose of the statutory consultation is to inform local people and seek their views about the specification for the new school. It is not to shape opinion about how that specification might be met, or to promote or seek to close off particular options. The LA should, therefore, avoid implying during the consultation that a particular category of school, or a particular type of proposer, would be more or less likely than any other to be able to meet the specification. Any information about the categories of schools which might be proposed in a competition should be presented in a factual and objective way.
3. The Secretary of State considers that LAs bringing forward proposals **must** consult all interested parties. In doing so they should:
 - 3.2 allow adequate time;
 - 3.3 provide sufficient information for those being consulted to form a considered view on the matters on which they are being consulted;
 - 3.4 make clear how their views can be made known; and
 - 3.5 be able to demonstrate how they have taken into account the views expressed during consultation in reaching any subsequent decision as to the publication of proposals.
4. The Secretary of State considers that the interested parties who **must** be consulted by proposers include:
 - 4.2 any LA likely to be affected by the proposals, in particular neighbouring authorities where there may be significant cross-border movement of pupils;
 - 4.3 the governing bodies, teachers and other staff of any other school that may be affected;
 - 4.4 families of any pupils at any other school who may be affected by the proposals including, where appropriate, families of pupils at feeder primary schools;
 - 4.5 representatives of any trade union of any other staff at schools who may be affected by the proposals;
 - 4.6 the local CE and RC dioceses and anyone else who has previously expressed an interest in setting up a school;
 - 4.7 MPs whose constituencies include the schools that are the subject of the proposals or whose constituents are likely to be affected by the proposals;
 - 4.8 the local district or parish council where the proposed school is to be situated;

- 4.9 any other interested party, for example, the Early Years Development and Child Care Partnership (or any local partnership that exists in place of an EYDCP) where proposals affect early years provision, or those who benefit from a contractual arrangement giving them the use of the premises;
- 4.10 such other persons as appear to the LA to be appropriate.
5. Under section 176 of the Education Act 2002, LAs and governing bodies are also under a duty to consult pupils on any proposed changes to local school organisation that may affect them.
6. Although Regulations do not specify the duration of the consultation period, the Department strongly advises that the LA should allow at least 6 weeks for this. This will allow consultees an opportunity to consider what is proposed and to send their comments. The LA should avoid consulting on proposals during school holidays. As part of the consultation the LA should hold at least one public meeting to inform the public of the consultation, the planned specification for the school and a brief explanation of the competition process. It is good practice to hold the meeting in a venue close to the proposed location of the new school.
7. During the consultation the LA, in their role as commissioner of school places, should make it clear that the Government wishes to encourage a range of providers to put forward proposals for new schools in order to increase diversity and maximise parental choice. As indicated above, the purpose of the consultation is to seek views on the LA's specification for the new school, but the LA might also receive responses from parties expressing an interest in entering the competition. The LA should direct any parties expressing such an interest to the "Guide for people wishing to enter a new school Competition" The LA should also keep a record of all interested parties as the regulations require the LA to send a copy of the notice inviting proposals (bids) to them. The LA should also pass contact details to the Department's contractor who will carry out proposer engagement activity
8. If the LA wish to make proposals for a community school in the competition, and require the Secretary of State's prior consent they should apply to the Secretary of State after the 1st competition notice is issued. They should provide details of the views of interested parties on their preferred plans for the new community school with their application
9. Once the LA have started their consultation they should inform the Secretary of State in writing, confirming the proposed duration of the consultation. It should include the information provided in the consultation document. The Department will contact the LA to confirm who will be their DCSF contact for questions relating to the competition and inform the proposer engagement contractor.
10. At the end of the consultation the LA **must** consider the views expressed during the consultation before reaching any final decision on whether to publish the Invitation to Bid notice (about the specification for the new school). Where, in the course of consultation, a new option emerges which the LA wish to consider, it will probably be appropriate to consult afresh on this option before proceeding to publish.