

School Organisation Process Overview – School Closures and Relocations

Report of the Director of Children & Young People's Services

Please note that the following recommendations are subject to consideration and determination by the Committee before taking effect.

1) Recommendation

That the Committee be asked to:

- (a) note the procedures and decision-making process for school closures and relocations for all types of schools.
- (b) note the processes and Department for Education (DfE) requirements for schools to receive capital improvements through the School's Rebuilding Programme (SRP).

2) Background

- 2.1 At their meeting on 16 September 2024, following representation from Councillor Bailey regarding proposals to relocate Tipton St John C of E Primary, Children's Scrutiny Members supported a request to exercise their overview function in respect of school closures and relocations and agreed to add this to the work programme as a broader examination of the process by which the Council reaches such decisions.
- 2.2 This report sets out the different processes, depending on the type of school, for either closing or relocating a school. The report will also update on the SRP and the DfE requirements for that programme.

3) Main Body

- 3.1 Changes to the organisation of schools are subject to legislation, regulations, Department for Education (DfE) statutory guidance and non-statutory guidance which sets out different requirements and processes for making organisational change to Local Authority maintained schools and academy schools.
- 3.2 There is statutory guidance regarding the closure of maintained schools and for making prescribed alterations to maintained schools, for which there are different procedures depending on the governance arrangements of the school. The transfer of a maintained school to a new site that is over two miles from its current site is considered a prescribed alteration. Local Authorities, Governing Bodies and School Adjudicators must have regard to the Secretary of State's guidance when exercising functions under these regulations. The guidance for maintained schools can be

found at: [School organisation: local-authority-maintained schools - GOV.UK \(www.gov.uk\)](https://www.gov.uk/school-organisation-local-authority-maintained-schools)

- 3.3 For Academies and Free Schools, there is non-statutory guidance for the closure of an academy by mutual agreement and for making significant changes to an academy. The transfer of a school to a new site, that is not an adjacent site, is classed as a significant change. The guidance for academy schools can be found at: [Academies: making significant changes or closure by agreement - GOV.UK \(www.gov.uk\)](https://www.gov.uk/academies-making-significant-changes-or-closure-by-agreement)
- 3.4 The process and key decisions for maintained schools are summarised in Appendix 1, split into three key school groupings (Community, Voluntary and Foundation).
- 3.5 The process and key decisions for academy schools are summarised in Appendix 2.
- 3.6 Whilst Devon County Council has a different role in the process for changes to academy schools and it is the DfE Regions Groups, for the Secretary of State, who is the decision-maker on changes to academy schools, the LA has an overall statutory responsibility in respect of the sufficiency of school places.
- 3.7 Devon County Council's Education Infrastructure Plan 2016 – 2033 confirms a presumption against school closures unless on education grounds. In practice, no matter the governance of the school, DCC School Organisation Officers are involved at the very early stages of any proposal that could result in the closure of a school and proactively engage with the Local Member and Cabinet Member for Children's Services and Schools throughout the process, recognising that a school closure will impact local communities.
- 3.8 In the case of a rural academy school both the DfE and the Local Authority need to agree to the closure and, where applicable, the Trustees of the school and the Diocese. However, it is the Secretary of State who makes the final decision to terminate the academy's Funding Agreement. The agreement by DCC to the closure of a rural academy school is considered a major decision and therefore is considered at a meeting of DCC's Cabinet. The DfE closure process for an academy school, in contrast to a maintained school, does not include a consultation period on whether the school should or should not close. The most recent rural school closure, Kingswear Primary School, was considered by [DCC's Cabinet on 8 May 2024](#) – (Item 544). There was a strong view from the Cabinet Member for Children's Services and Schools and senior officers that a non-statutory consultation on the proposed closure should be held prior to a meeting of Cabinet so they were fully informed on the community's views, even though it was held outside of the DfE's process for closing academy schools.
- 3.9 In respect of replacement schools, the majority of schools that are fully rebuilt in recent years have been through government programmes, such as the Priority Schools Rebuilding Programme (PSRP). The latest initiative is the DfE School's Rebuilding Programme (SRP) which carries out major rebuilding and refurbishment projects at school and sixth-form college buildings across England, with buildings prioritised according to their condition. Following representations to the DfE,

condition now include wider health and safety issues such as the risk of flooding. The SRP is a commitment to address the condition/risk issues which could involve a total rebuild and, in some cases, require a relocation off the current site, especially where there are external factors.

- 3.10 In respect of delivery, the SRP is principally delivered by the DfE through their national frameworks, not by individual responsible bodies. Projects will be brought into the programme at various times and will start with a feasibility to establish the extent of the project to deliver the outcomes of the programme, it is not a commitment for the rebuild of every school in the programme. The SRP also has some underpinning policy principles which include the following:
- The DfE does not fund any land purchases or lease negotiations on sites and expect a site to be available without encumbrance, including appropriate planning consents where necessary.
 - Does not fund any costs outside of the 'red line' of the proposed school sites, these costs could include highways works, third party land purchases, servicing (utilities etc);
 - The SRP may not agree to sites where there are significant constraints/abnormals within the red line, such as topography or other unmitigated risks to delivery e.g. planning risks or infrastructure risks within or outside of the 'red line'.

Projects will not formally enter the DfE programme for feasibility, where a relocation off the current site is agreed unless a site is 'secured' and the above conditions are met.

4) Options

- 4.1 In respect of school closures, options such as Federation or joining/re-brokering into a large Multi Academy Trust are considered in consultation with the DfE and if applicable, the Diocese.

5) Consultations / Representations / Technical Data

- 5.1 Although there is no longer a statutory pre-publication consultation period for prescribed alteration changes to maintained schools, DCC continues to undertake, or advises Governing Bodies to undertake, a pre-publication consultation prior to the publication of any statutory proposal to ensure interested parties are consulted in developing a proposal prior to publication.
- 5.2 For maintained schools, the pre-publication consultation and the statutory formal representation period are widely circulated including publication on Devon's Have Your Say consultation webpage as well as to a wider circulation list including all County Councillors, Equality Group representatives, Trade Union representatives, Town or Parish Council, District or Borough Council, District Councillors, Early Years providers, Devon Schools Leadership Services, DfE School Organisation unit, Parent Carer Forum, Neighbouring Local Authorities, MP and Devon Association of Local

Councils. All school organisation matters are reported to DCC's School Organisation, Capital and Admissions Group (SOCA).

- 5.3 DCC provides support and guidance to academy schools and will upload details of the Trust's consultation to the DCC Have Your Say website and circulate widely on behalf of the Trust.

6) Strategic Plan

- 6.1 Historically, decisions to close schools in Devon have been approved on the basis of having very low numbers on roll after an extended period of falling numbers. These schools have been considered as educationally and financially challenged where a good quality of education could not be sustained.
- 6.2 The replacement of a school building, in particular when replacing poor quality accommodation, provides significantly improved and compliant facilities to support children and young people.

7) Financial Considerations

- 7.1 There are no direct financial considerations relating to this paper. However, there are capital implications for the County Council for schools within the SRP in terms of pre-feasibility and capital costs outside of the red line.

8) Legal Considerations

- 8.1 The Education and Inspections Act 2006 introduced new School Organisation legislation under Part 2 of the Act for the establishment of new schools, the discontinuance of schools maintained by the Local Authority and prescribed alterations to maintained schools. The School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013 and The School Organisation (Establishment and Discontinuance of Schools) Regulations 2013 are made under the 2006 Act.
- 8.2 Local Authorities, Governing Bodies and School Adjudicators must also have regard to the Secretary of State's guidance when exercising functions under these regulations, which for maintained schools is set out in the DfE statutory guidance 'Opening and Closing maintained schools' and 'Making significant changes ('prescribed alterations') to maintained schools'.
- 8.3 Academy and Academy Free Schools must follow the DfE's non statutory guidance for "Closure of an academy by mutual agreement" and "Making significant changes to an academy".
- 8.4 The Department for Education expects all decision makers to adopt a presumption against the closure of rural schools. This does not mean that a rural school will never close but the case for closure should be strong and clearly in the best interests of

educational provision in the area. This aligns directly to Devon's position on the closure of schools.

9) Environmental Impact Considerations (Including Climate Change, Sustainability and Socio-economic)

- 9.1 An environmental impact assessment is included as part of any published impact assessment, where required, for individual school organisation proposals.

10) Equality Considerations

- 10.1 An Impact Assessment is undertaken and published for all school organisation proposals for maintained schools for which a statutory process is required. Impact Assessments are drafted and updated through the consultative stages so that they are informed by consultation and published prior to Cabinet decision.
- 10.2 The LA provides guidance and support in preparing Impact Assessments to Academy Trusts undertaking a significant change process for which an Impact Assessment is required.

11) Risk Management Considerations

- 11.1 No specific risks have been identified for this report but all school organisation proposals would be subject to a risk assessment.

12) Summary

- 12.1 In respect of the school organisation process detailed in this report, Local and Cabinet Members are always engaged early and throughout the process. Proposals are considered a major decision and are subject to call in by the relevant Scrutiny Committee.

Name: Stuart Collins
Director of Children's & Young People's Services

Electoral Divisions: All

Cabinet Member for Children's Services and Schools : Councillor Andrew Leadbetter

Local Government Act 1972: List of background papers

Background Paper
Nil

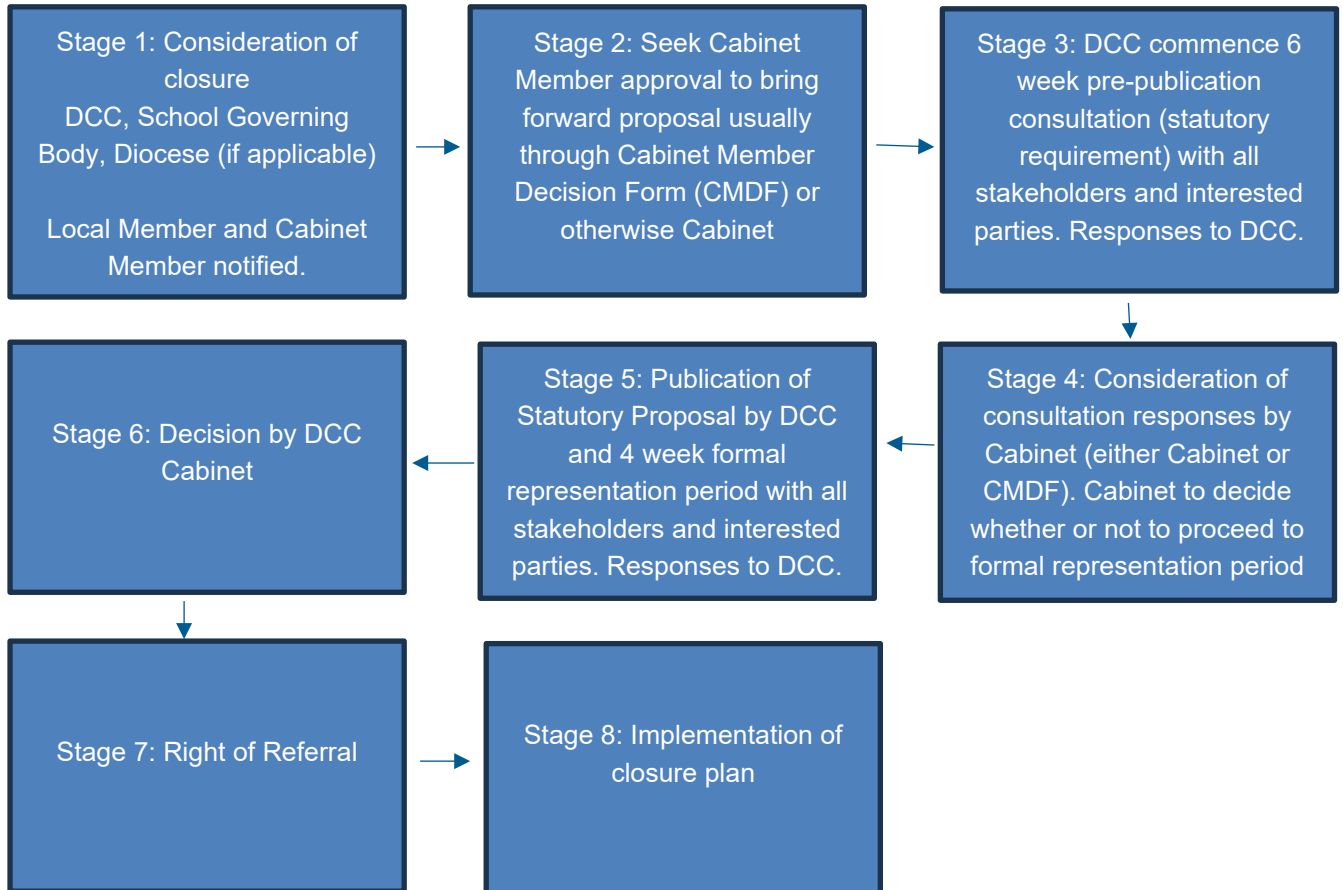
Contact for enquiries:

Name: Simon Niles

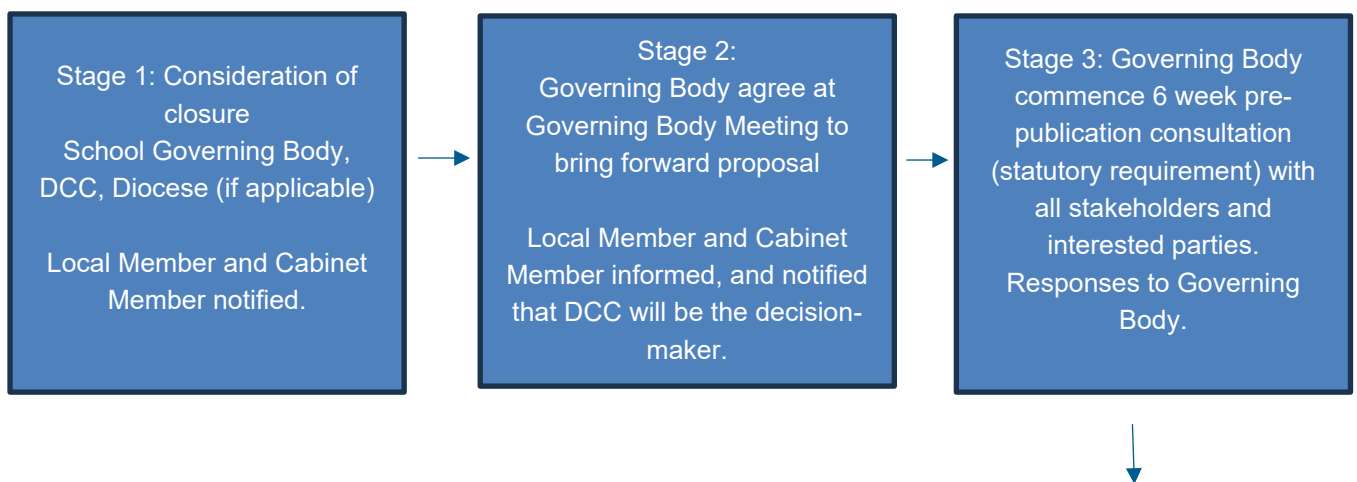
Telephone: 01392 383000

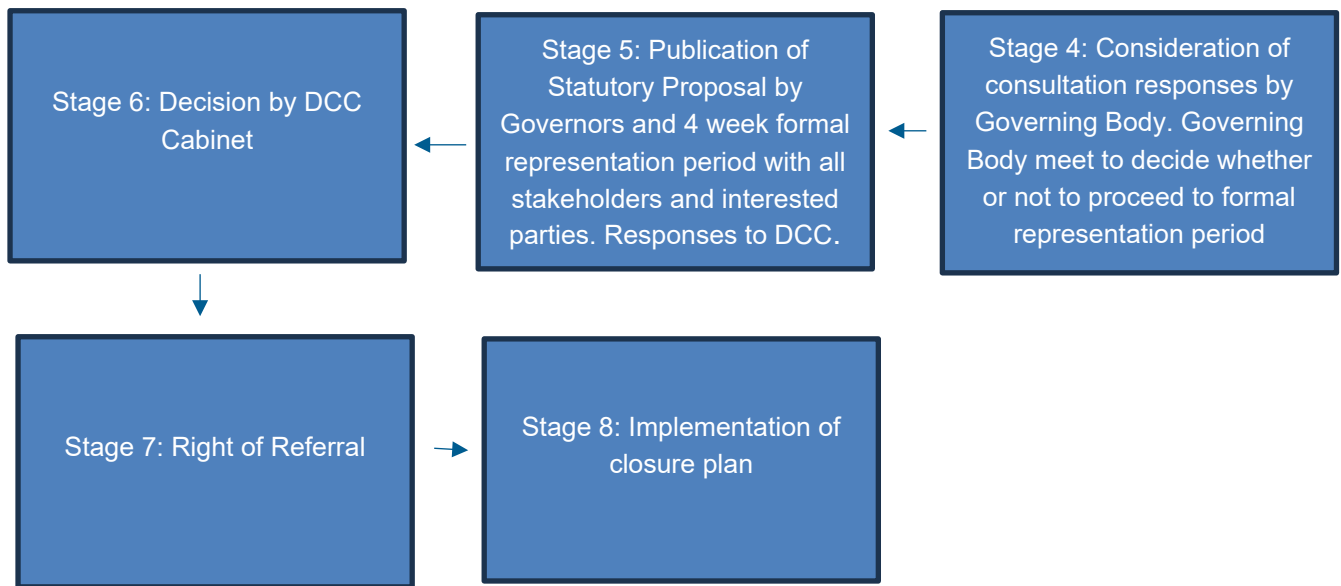
Address: County Hall, Exeter

Process Map A: Closure of a Maintained School: Community, Foundation, Voluntary Controlled or Voluntary Aided School: LA as the Proposer.



Process Map B: Closure of a Maintained School: Voluntary Controlled, Voluntary Aided, Foundation School: Governing Body as the Proposer.

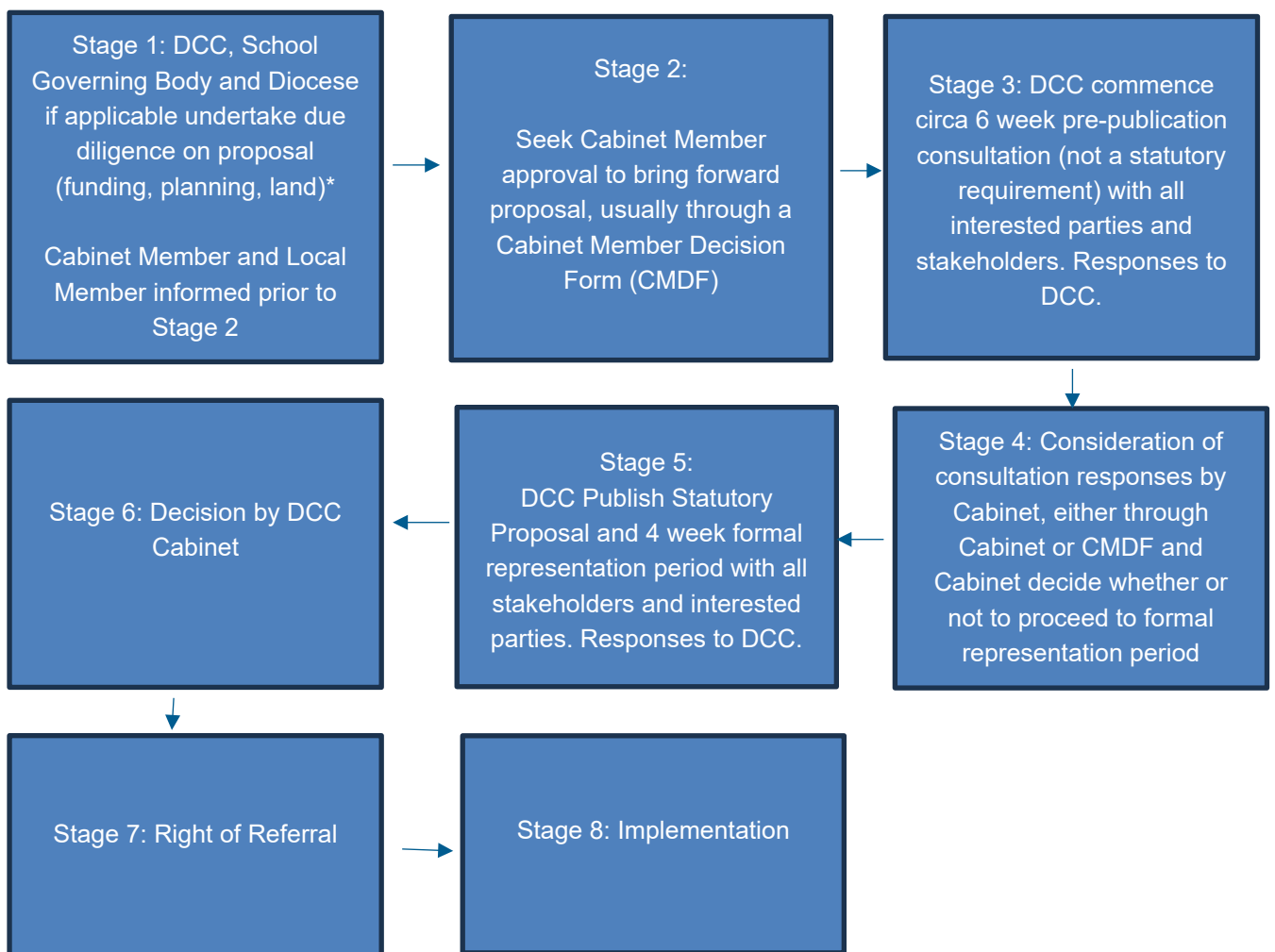




Process Map C: Prescribed Alteration: Transfer of a Maintained School to a new site: Community School. LA is the Proposer.

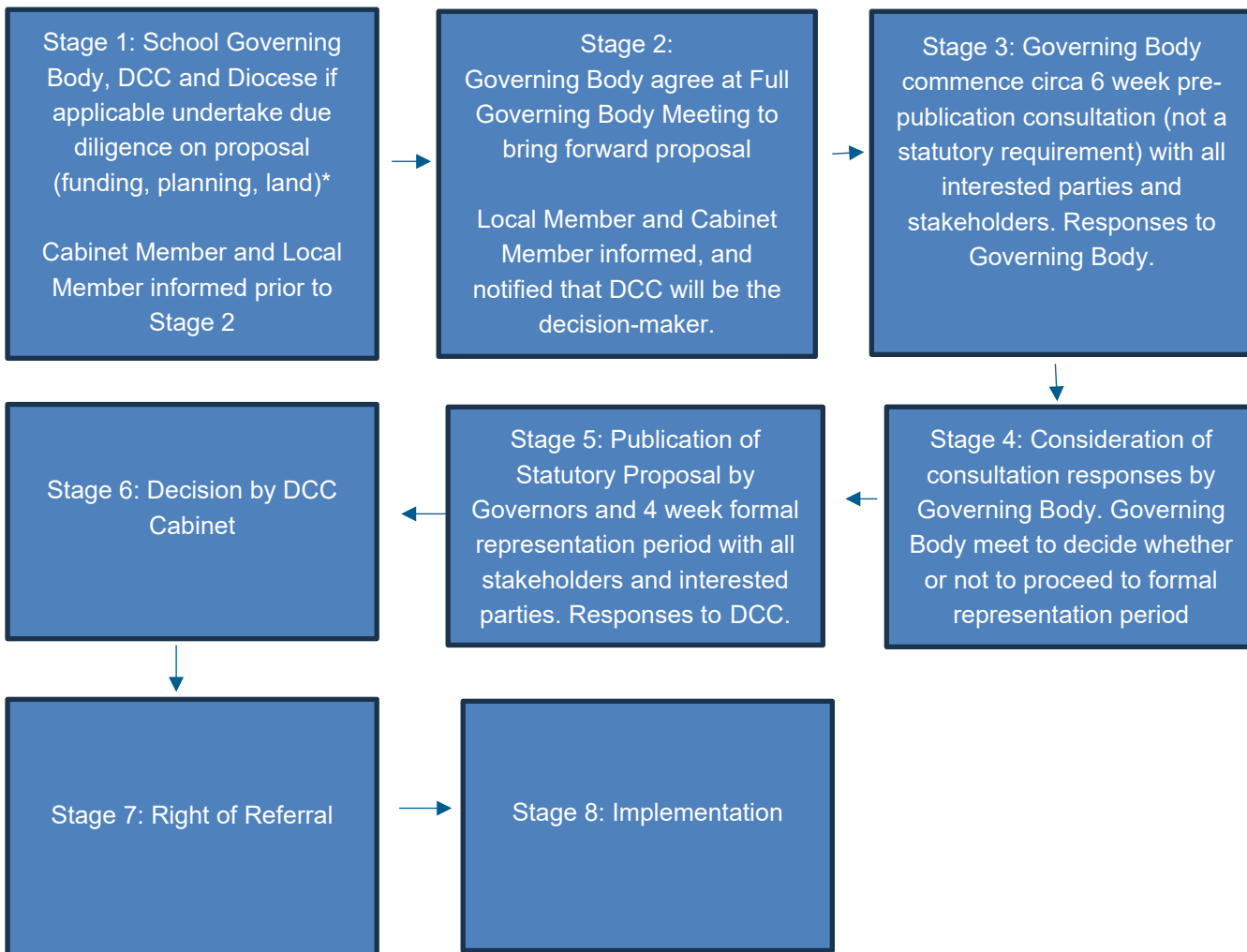
A statutory process must take place where the main entrance of the proposed new site for a school would be more than 2 miles from the main entrance of the current school site.

* If the project is part of central Government’s Schools Rebuilding Programme (SRP) then Stage 1 will also involve the Department for Education.

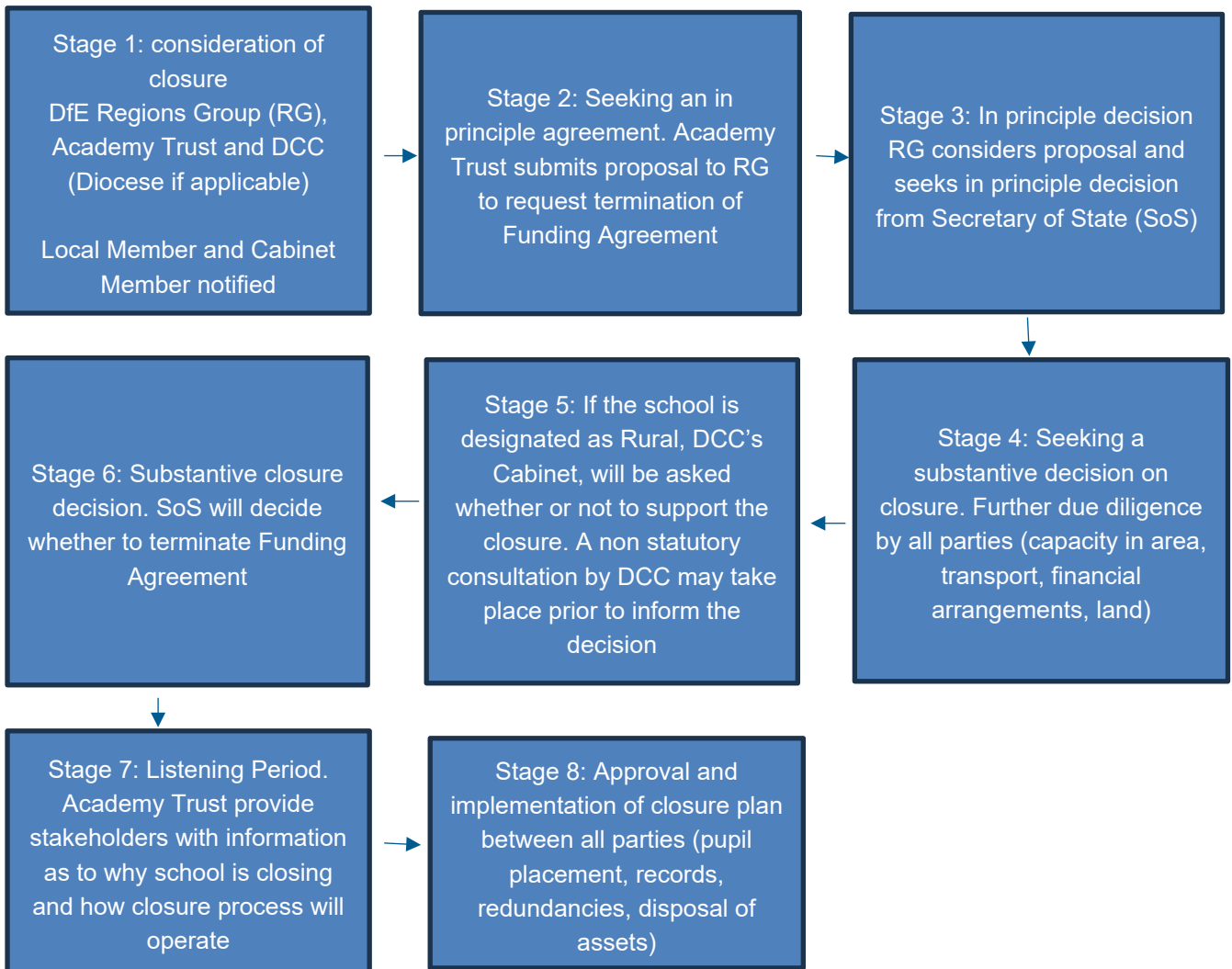


Process Map D: Prescribed Alteration: Transfer of a Maintained School to a new site: Voluntary Aided, Voluntary Controlled or Foundation. Governing Body is the Proposer.

* If the project is part of central Government’s Schools Rebuilding Programme (SRP) then Stage 1 will also involve the Department for Education.



Process Map E: Closure of an Academy/Free School



Process Map F: Transfer of an academy/free school to a new site requiring a significant change

Rebuilding on adjacent land is not considered a significant change.

