



Department  
for Education

# **Disposal or change of use of playing field and school land**

**Departmental advice for local authorities,  
maintained schools, special schools,  
academies and free schools**

**May 2015**

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# Summary

## About this departmental advice

1. This is departmental advice from the Department for Education. This advice is non-statutory and sets out the Secretary of State's policy to protect school playing fields and the Secretary of State's powers to protect land for academies and maintained schools.

2. Prior written consent of the Secretary of State for Education is required to dispose of land (which includes any transfer/sale of freehold or leasehold land and the grant/surrender of a lease). Applications and notifications must be made to the Education Funding Agency. Before making an application (or giving notification) to the EFA you should read this summary which explains the evidence you will need to provide and the process to follow.

3. This advice describes the main circumstances in which local authorities, academy trusts, governing bodies and diocesan bodies need to obtain the prior written consent of the Secretary of State for Education to dispose of, or change the use of, land used by maintained schools and academies, including playing field land. It also describes how the Secretary of State will assess applications for such consent.

4. This advice does not influence or affect the procedures for applying for planning permission. The Secretary of State for Education does not have any statutory powers to influence any future development of land.

5. This advice has been produced to help you understand your obligations and duties in relation to:

- Schedule 1 to the Academies Act 2010 ("AA 2010")
- Section 77 of the School Standards and Framework Act 1998 ("SSFA 1998")
- Schedule 14 to the Education Act 2011
- the General Consent Orders 2011, 2012 and 2014
- the Education (Independent Schools Standards) England (Amendment) Regulations 2012
- 'Advice on Standards for School Premises', March 2015<sup>1</sup>

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<sup>1</sup> The 2015 advice refers to the School Premises (England) Regulations 2012 (SPRs) that apply to all schools maintained by a local authority and Part 5 of The Education (Independent School Standards) (England) Regulations 2010 (ISS)

## **Expiry or review date**

We plan to review this advice by May 2016.

## **Who is this advice for?**

This advice is for:

- local authorities
- academy trusts
- diocesan authorities
- governing bodies of maintained schools
- School Playing Field Advisory Panel
- sporting bodies

## Policy

6. The [2015 advice on standards for school premises](#) confirms that all maintained schools and academies must provide suitable outdoor space to enable physical education in accordance with the school curriculum and to enable pupils to play outside. There is a very strong policy presumption against the disposal of school playing field land.

7. The Secretary of State for Education uses the definition of “playing field land” set out in SSFA 1998 as ***“land in the open air which is provided for the purposes of physical education or recreation.”*** [Annex A](#) provides examples of what this definition includes. You should note this is a wide definition and it does not matter if the land is not currently in use for sport or recreation or is not laid out for formal team games.

# Transactions for which you will need consent

## Disposals

8. The requirement for the Secretary of State's consent applies to all maintained schools and academies<sup>2</sup> where it is proposed to dispose of publicly funded land<sup>3</sup>. [Annex B](#) summarises the legal framework but you should take independent legal advice if you are unsure about any of your statutory obligations. You will need to apply to or notify the Education Funding Agency ("EFA") of any intended transaction to dispose of any playing field land, and you should not assume that approval will be granted. You should not take any step to transfer your interest to another party or start works before receiving the Secretary of State's decision in writing.

9. The Department for Education publishes a [list of all disposals](#) that have been granted consent since May 2010 and updates this each month.

10. A local authority may notify the EFA if it believes a General Consent Order applies, but otherwise, the Secretary of State will consider all applications and make a decision that balances the benefit to the school (or other local schools) against the loss of the playing field land. Three General Consent Orders currently issued can be found at annexes [E](#), [G](#) and [H](#).

11. The Secretary of State may direct that the land is to be used for another educational purpose and what should happen to any receipts, having regard to the sufficiency of playing field land at the applicant's school or those close to it and any representations made including from any authorised community users.

12. You should read [Annex C](#) on how to calculate the need for playing field land and the guidance on consultation at [Annex D](#). You should note that the Secretary of State is unlikely to approve applications that result in the school's playing field provision falling under the area guidelines, and also has the power to direct that the disposal should simply not take place. You should discuss your proposals with Sport England at an early stage as they will be involved as a statutory consultee when you submit any planning application.

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<sup>2</sup> Under Schedule 1 to AA 2010, the prior consent of the Secretary of State for Education is required to dispose of any land – whether or not it is playing field land.

<sup>3</sup> Including land which was originally private but has been enhanced by public funds as set out in Schedule 22 to SSFA 1998 and Schedule 1 to AA 2010.

## Changes of use of playing field land

13. The Secretary of State's consent is also required for a change of use of playing field land, whether for another educational purpose or a non-educational purpose.<sup>4</sup>

14. General Consent Orders apply to some situations on land owned by the local authority. If the conditions set out in the Order are met, the local authority will be able to notify the EFA using the process explained below.

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<sup>4</sup> s.77 School Standards and Framework Act as amended by the Education Act, 2011



## Criteria used to assess playing field applications

15. The criteria which the Secretary of State uses to decide an application are the same for all publicly funded school playing field land. The Secretary of State will consider the overall balance of benefit of the disposal against expected gains, to pupils and existing community users.

16. The criteria applied to the decision will include the area guidelines for a school's outdoor space ([Annex C](#)). Schools occupying restricted sites may need to demonstrate they have access to suitable off-site provision. The criteria include:

### The school's needs

17. By reference to area guidelines, worked examples of how to calculate this are set out below. The guidelines give an indication of what is a suitable amount of space, and any disposal that would reduce the space below the guidelines is unlikely to be approved. The guidelines provide for some flexibility and potential growth in pupil numbers: they are based on the higher of (a) 105% of the current capacity, or (b) forecast pupil numbers five academic years after the application. Artificial pitches are counted as double their surface area to reflect their extended availability as they can be used all year round.

### Curriculum needs

18. Applications for consent to dispose of playing field land should include a detailed assessment of how the proposal would affect the provision of the sports curriculum, and show clearly how the curriculum will be met if consent is granted. You will need to show that the curriculum needs are met at the school seeking to dispose of playing field land and any other school using the land. For example, where alternative off-site provision is proposed, the effect of additional travel time should be taken into account.

### Other schools' needs

19. As part of your consultation exercise, you will need to identify if any primary schools and special schools within half a mile, or secondary schools within a mile of your site, do not meet the DfE's published area guidelines for playing field land. If any of them do not, you must provide evidence from the governing body of those schools that they do not need the land which you propose to dispose of.

### Community use

20. The Secretary of State will take account of community use of playing fields under an authorised agreement. This will include after-school activities and out-of-hours clubs.

If your proposals include a permanent loss of playing fields, you will be asked to show that any existing after-school activities will not be adversely affected.

21. A formal agreement to use the playing fields may be written or oral. The essential test is that the land is used with the express authorised agreement of the school or academy.

22. If your proposals would displace any current authorised community users, you will need to show how the proposals would affect them and, in particular, whether their activities can realistically be moved elsewhere on reasonable terms. If realistic alternative venues cannot be provided, you should give reasons why the Secretary of State should grant consent. Where fencing off of playing fields has already displaced formal community users, you will need to provide evidence giving reasons why the playing fields were closed to those users, and whether the alternative arrangements made are suitable.

23. When considering whether to make a direction about land that is proposed to be disposed of at maintained schools or academies which have closed or are due to close, the Secretary of State will consider whether the views of existing community users of any playing field land have been taken into account, and whether reasonable alternative arrangements have been offered.

## **Reinvestment of proceeds in sport and education facilities**

24. The Secretary of State has the discretion to direct what any sums from the disposal of land (“disposal proceeds”) are to be used for, including that all disposal proceeds are paid to the Secretary of State. Unless pursuant to a General Consent Order or otherwise agreed beforehand by the EFA all applications must include a recent valuation report prepared (preferably) by the District Valuer, or alternatively another Registered Valuer, together with a breakdown of how proceeds will be invested. The Secretary of State will expect that the first priority for reinvestment should be sports facilities where these are needed by the school. A significant factor in exercising this discretion to dispose of playing field land will be whether you ring-fence the disposal proceeds in capital facilities for sport (which will take priority), recreation or education facilities. This investment may be at the school or academy or, where this is not practical or existing facilities do not require investment on site, in facilities that will benefit another maintained school or local academy. Any proposed new facilities should reflect the breadth of physical activity and existing facilities in the area – Sport England can advise on the need for strategic facilities in the area.

25. Sport and recreation can include indoor or outdoor sport, play or activities such as dance and other activities that help engage people in a wide spectrum of physical activity. Applicants should remember, in particular, their duties under the Equality Act 2010.

## Value for money

26. The applicant is responsible for ensuring that the disposal of publicly funded land satisfies the requirements in the Treasury's publication [Managing Public Money](#).

## Affordability

27. Where you propose to spend any disposal proceeds on a capital project, the Secretary of State will expect the project to be affordable, with no funding gap that could jeopardise the financial stability of the school or academy. The affordability considerations must take into account the restrictions on the use of income from disposal of capital assets that are described in the Treasury's publication [Consolidated Budgeting Guidance](#) chapter on "Income and the Capital Budget".

## Application and assessment processes

28. The Secretary of State's decision is informed by the EFA's assessment of the information you provide using the [forms](#).

29. Where your proposal is to dispose of playing field land, you will be expected to have consulted adequately on the proposals before making any application for consent. Annex D provides guidelines that should be followed.

30. When you submit the form, you will need to give the EFA all the information it needs to assess your application for it to be registered and assessed. The EFA asks for this information with the application form to reduce the number of times it has to ask applicants for more information or clarification. You should note that the EFA's time for assessing applications for the disposal of playing fields will vary according to the type of transaction. Where you meet the criteria of a General Consent Order, you should normally receive confirmation soon after submission. Some applications may take longer to assess including when further evidence may be sought. The Secretary of State may ultimately decide not to grant consent. You must not take any steps to dispose of the land before you have received the Secretary of State's written consent or a notification of her decision to make a direction regarding the land.

31. Once you have submitted your application, you will be notified of who is managing the case at the EFA, a reference number to quote in any further communications and an indicative timescale for the Secretary of State's decision.

32. Whether you are applying to dispose of land under s.77 of SSFA 1998 or Schedule 1 to AA 2010, your application will be assessed using the criteria set out in section 6 of this guidance.

## The School Playing Fields Advisory Panel

33. The EFA and the School Playing Fields Advisory Panel (see below) use the same criteria as set out in this advice. S.77 applications are referred to the independent School Playing Fields Advisory Panel which has no decision making or executive function. The Chair of the Panel acts as an impartial and independent Chairman and is appointed by the Secretary of State. The Panel comprises representatives of:

- Fields in Trust
- Learning through Landscapes
- Local Government Association
- National Association of Head Teachers

- Sport and Recreation Alliance
- Sport England attends each Panel meeting in an observer capacity.

34. The purpose of the Panel is to provide the Secretary of State with independent, objective advice on the merits of each application to dispose of school playing fields, and the Panel makes a recommendation to the Secretary of State.

35. Ministers consider the Panel's advice alongside a range of other issues. The existence of the Panel makes it unnecessary for applicants to consult any of these organisations prior to application.

# Annex A: definition of playing field land

## What is playing field land?

1. The EFA adopts the definition in s.77(7) of SSFA 1998 being *'land in the open air which is provided for the purposes of physical education or recreation, other than any prescribed description of land'*. It will include:

- **grass pitches and artificial surface pitches** set out for the playing of sports;
- **hard surface games courts** including multi-games courts, tennis courts, netball courts and hard paving marked out for games;
- **informal and social areas**, including grassed areas, paved areas (including playgrounds), outdoor seating and teaching areas including rest and quiet areas;
- **marginal areas**, around the edges of playing fields for run-off and to allow for the cyclical realignment of pitches;
- **habitat areas**, set aside for the formal teaching of nature or informal curriculum purposes, including meadowland, wildlife habitats (including ponds), gardens, nature trails and outdoor science areas. Allotment gardens are included in the definition as well as woodland habitat areas;
- **local authority parkland** or other open space that is used, or has been used in the last ten years, for the purposes of a maintained school.

2. **A sports pitch** will naturally form part of a school's playing fields and means an area of:

- open grassed land that is capable of forming a small pitch of at least 2,000m<sup>2</sup> (the Football Association's recommended area for games played by under-10's). Its configuration and topography should make it suitable for a sports pitch, whether it is laid out or not; or
- synthetic or artificial playing surface, or dedicated hard games court of more than that is set out for team games.

3. **Hard play area** means incidental recreation area with tarmac, concrete or paved surface. It does not include areas provided mainly for any type of sport.

4. **Enclosed social area** means social areas, not used for any type of sport, which are enclosed on at least 3 sides by school buildings.

5. By contrast, examples of land that is non-playing field land includes:

- land on which a building or other structure stands including sports halls, indoor and outdoor swimming pools and incidental land that is functionally linked to such buildings or structures;

- soft landscaped or grassed areas not suitable for use for physical education or recreation purposes, such as marginal waste land outside a school's physical boundary fence and ornamental or other flower beds which directly surround a building or which are connected to a caretaker's house, and
- roads, car parks, paths, and hard standing areas for storing waste containers.

## Annex B: legal framework for the disposal of playing field land

1. This annex outlines the statutory basis for the protection of playing fields at existing maintained schools and academies. You should seek independent legal advice if you need further explanation.
2. There are two pieces of legislation, explained below, that require any school or academy to obtain the Secretary of State's consent to dispose of playing field land.

### Disposals

3. Schedule 1 to the Academies Act 2010 (AA 2010). This applies to academies (which include Studio Schools, University Technical Colleges, Free Schools and Special Schools) seeking consent to dispose of any publicly funded land, including playing field land. It also applies to (among others) academy trusts, local authorities, governing bodies, and foundation trusts that hold land for academies.

4. Section 77 of the School Standards and Framework Act 1998 (SSFA 1998) This applies to local authorities, governing bodies and trustees (such as those who hold land for voluntary and foundation schools) seeking consent to dispose of land that is being currently used or has been used for playing fields for the purposes of a maintained school in the last 10 years. If a maintained school has converted to an academy, s77 will only apply to a local authority in respect of any playing field land leased from the local authority until the 10-year period has expired. Both during and after the expiry of the 10-year period Schedule 1 to AA 2010 will apply to the disposal of any land held by any person for the purposes of an academy, whether or not it is playing field land. The same assessment criteria will apply to all applications to dispose of playing field land before or after the ten year period has expired.

5. s.77 of SSFA 1998 applies to all schools maintained by a local authority including voluntary schools, foundation schools and special schools. Where a school site is surplus to requirements, normally as a result of closure, amalgamation or consolidation, consent to dispose of the land is required under paragraph 12 of Schedule 1 to AA 2010.

### Changes of use

6. s.77(3) of SSFA 1998 provides that a local authority, governing body, foundation body or trustee of a foundation, voluntary or foundation special school may not *"take any action...which is intended or likely to result in a change of use of any playing fields...whereby the playing fields will be used for the purposes which do not consist of or include their use as playing fields by a maintained school for the purposes of that school."* So a local authority may not erect new school or other buildings on playing fields, or



change their use, without prior consent under s.77(3). (Some changes of use are covered by General Consent Order (No 5) 2014 but only if they are set out in the Schedule to that Order.) A change of use to, for example, a residential care home is not covered by s.77(3) and requires a full application.

7. s.77 of SSFA 1998 does not apply to academy trusts, but it does apply to local authorities. Therefore, if an academy trust holds playing field land under a lease from a local authority, and if the land was used by a maintained school at some time in the previous 10 years, the local authority will need consent to change the use of the land (for example, to build a classroom on the land to address basic need pressures). If the proposed change of use would take the land out of academy use (for example, if a community centre is to be sited on the land), the academy trust will require consent under paragraph 17 of Schedule 1 to AA 2010, and the local authority will also need consent under s 77 of SSFA 1998.

8. If the circumstances described in one of the Class Consents Orders applies and where conditions are met, the applicant is to confirm this to the EFA when applying.

## **Annex C: area guidelines for playing field land at existing schools and academies**

1. The Department for Education has published non-statutory area guidelines for existing maintained schools and academies on the recommended size of playing fields. Some schools may not be able to meet the guidelines, but they are still expected to have access (including possible hire of facilities off-site) to meet their curriculum needs and meet the requirements in the Premises Regulations. New schools are to meet the standards in BB103.

2. The guideline is made up of two elements: a base area and an area per pupil, adjusted for the age of the pupils. An example is shown here for each type of school or academy. For all-through schools or academies, the base area for each age group is 9,000 m<sup>2</sup>.

3. An application has to include type of playing field land (not just land laid out for sport). Artificial (all weather) pitches are able to be included at double their superficial area as they can be used more than a grass pitch throughout the year.

4. Grassed sports pitches should also be capable of sustaining the playing of team games by pupils at each school that use those pitches for 7 hours per week during term-time

**Table 1: area guidelines for playing field land at maintained schools and academies (KS=Key Stage)**

	<b>KS1: mainstream schools and academies</b>	<b>KS2: mainstream schools and academies</b>	<b>KS3-KS4 &amp; post 16: mainstream schools and academies</b>	<b>KS1 Special Schools (including academies)</b>	<b>KS2–KS4, post 16 &amp; Special Schools (including academies)</b>
Number of pupils (105% of existing capacity or 100% of future capacity 5 academic years from application date. NB The need is to be based on the <u>higher</u> figure.	90 x 1.05 = 95	120 x 1.05 = 126	1,000 (current capacity) x 1.05 = 1,050 but 1,600 projected pupil numbers = 1,600 So, use 1,600	120	250
<b>Base area</b>	<b>2,000 m<sup>2</sup></b>	<b>2,000 m<sup>2</sup></b>	<b>9,000 m<sup>2</sup></b>	<b>2,000 m<sup>2</sup></b>	<b>2,000 m<sup>2</sup></b>
<b>Area per pupil</b>	<b>11 m<sup>2</sup></b>	<b>50 m<sup>2</sup></b>	<b>50 m<sup>2</sup></b>	<b>11 m<sup>2</sup></b>	<b>50 m<sup>2</sup></b>
Base area	2,000 m <sup>2</sup>	2,000 m <sup>2</sup>	9,000 m <sup>2</sup>	2,000 m <sup>2</sup>	2,000 m <sup>2</sup>
Pupil area	(95 x 11) = 1,045 m <sup>2</sup>	(126 x 50) = 6,300 m <sup>2</sup>	(1,600 x 50) = 80,000 m <sup>2</sup>	(120 x 11) = 1,320 m <sup>2</sup>	(250 x 50) = 12,500 m <sup>2</sup>
Total recommended area required	2,000 m <sup>2</sup> <u>1,045 m<sup>2</sup></u> 3,045 m <sup>2</sup>	2,000 m <sup>2</sup> <u>8,300</u> m <sup>2</sup> 8,300 m <sup>2</sup>	=9,000 m <sup>2</sup> <u>80,000 m<sup>2</sup></u> 89,000 m <sup>2</sup>	2,000 m <sup>2</sup> <u>1,320 m<sup>2</sup></u> 3,320 m <sup>2</sup>	=2,000 m <sup>2</sup> <u>12,500 m<sup>2</sup></u> 14,500 m <sup>2</sup>
Hectares	= 0.30 Ha	= 0.83 Ha =	= 8.9 Ha	= 0.33 Ha	= 1.45 Ha
Acres	= 0.75 acres	2.03 acres	= 21.98 acres	= 0.82 acres	= 3.58 acres

**Table 2: stage, age and year group**

<b>Stage</b>	<b>Age</b>	<b>Year group</b>
Early Years Foundation Stage	Ages 3 to 5	Nursery and reception
Key stage 1	Ages 5 to 7	Years 1 and 2
Key stage 2	Ages 7 to 11	Years 3, 4, 5 and 6
Key stage 3	Ages 11 to 14	Years 7, 8 and 9
Key stage 4	Ages 14 to 16	Years 10 and 11
Post-16	Ages 16 to 18	Years 12 and 13

## Annex D: playing field consultation guidelines

1. Any applicant proposing to dispose of playing field land must consult adequately. The Secretary of State expects the consultation period to be no less than 6 weeks, 4 of which should be in term time. In all cases, you will need to provide evidence of the means of consultation and the results before any application will be assessed.

2. The Secretary of State expects consultation to be open and transparent. This means you should have consulted relevant stakeholders on any proposal before requesting consent to dispose of any land defined as playing fields.

3. Consultation is to be within one year of any application for consent to dispose of the land, so it reflects the up to date views of local people. Evidence will be expected to be provided of the results of consultation with:

- the headteacher
- the chair of the governing body, (evidence of the decision of the governing body or academy trust will be required as part of your application)
- parents of pupils attending the school or academy
- any group or organisation with permission to use the playing field
- the local community generally
- any minor authority in whose area the playing field is situated
- the local authority in whose area the playing field is situated and adjacent local authorities likely to be affected
- any publicly funded primary schools and special schools within a half-mile radius and secondary schools within a mile radius of the playing field if their current playing field provision falls below the minimum area recommended in the guidelines.

4. Possible methods of consulting include use of the local press, direct contact with parties such as staff, pupils and parents, other local maintained schools and academies and the local authorities and inviting the public to a meeting. The results of the consultation should be summarised where required by the EFA.

## Annex E: General Consent Orders

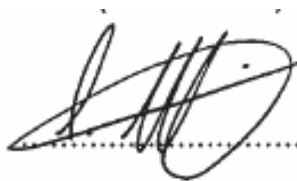
1. The Secretary of State has agreed that some types of disposal fall within the type where she would routinely expect to grant consent. Accordingly, she has agreed General Consent Orders (GCOs) which provide a blanket consent in these cases. These are only available to those who require consent under s.77 of the School Standards and Framework Act, 1998 and Schedule 1 of the Academies Act 2010. These are: local authorities and academies holding their land under a lease from the local authority, governing bodies and foundation trusts. The applicant is to notify the EFA that they consider a specific GCO applies. If you would like to notify the EFA that a GCO applies, this is to be done using the EFA's online notification and application process. The EFA has sought to mirror the simple requirements that apply to GCOs to applications for consent to those who do not fall under s77 so it is no more burdensome for academies owning the freehold of their land.
2. There are currently three General Consent Orders:
  - 2.1. The School Playing Fields General Disposal and Change of Use Consent (No 5) 2014. This applies only to the changes of use falling into one of the ten types set out in the Schedule to that General Consent Order.
  - 2.2. The Academies General Disposal and Appropriation Consent (No 2) 2012. This applies only to land to which sub-paragraph 4(2) of 6(20 of Schedule 1 of the Academies Act, 2010 applies, where the disposal or appropriation is of one of the five types specified in the Schedule to the General Consent Order.
  - 2.3. The General Consent or Disposal of Playing Fields by Restriction 2011. This applies only to entering a Restriction where circumstances where a grant has been awarded for the purposes of upgrading the playing fields (or facilities on them).
3. Each of the GCOs is provided in Annexes F-H below.

## **Annex F: General Consents: Section 77 School Standards and Framework Act 1998**

### The School Playing Fields General Disposal and Change of Use Consent (No 5) 2014

1. The Secretary of State for Education, in exercise of the powers conferred on her by section 77 (5) of the School Standards and Framework Act 1998, hereby grants the following consent.
2. This consent comes into force on 1 October 2014 and may be cited as “The School Playing Fields General Disposal and Change of Use Consent (No 5) 2014”.
3. In this consent:
  - ‘the 1998 Act’ means the School Standards and Framework Act 1998
  - ‘change of use’ means a change of use falling within section 77(3) of the 1998 Act
  - ‘playing fields’ has the same meaning as in section 77(7) of the 1998 Act
4. Consent is hereby granted to the disposal or change of use of playing fields to which section 77(1) or (3) of the 1998 Act applies, where the disposal or change of use is of a description specified in the Schedule.
5. This consent is granted subject to the condition that body disposing or changing the use of the playing field provides the Secretary of State with:
  - a) details of the location and area (in square metres) of the playing fields to be disposed of or have their use changed
  - b) the area (in square metres); of the remaining playing field land
  - c) detail of the total site area of the school (in square metres)
  - d) details of the number of pupils on the school’s roll
  - e) the date or proposed date of the disposal or change of use
  - f) an explanation as to why the body thinks that the disposal or the change of use is covered by a class consent
  - g) a plan clearly showing the area in question in relation to the whole of the school site
  - h) where the disposal or change of use is at an operating school, the views of the head teacher and governing body.

6. The School Playing Fields General Disposal and Change of Use Consent (No.4) 2012 (as amended) is hereby revoked.



Department for Education

Dated 1/10/19

### Schedule

1. The disposal of hard play areas and enclosed social areas and other ancillary social and recreation or habitat areas that surround the buildings at closed or closing school sites provided that either:

- a) no other schools share or border the site
- b) the body seeking to dispose of the land can satisfy the Secretary of State that the areas in question are not needed by any other schools which share or border the site

'Hard play area' means incidental recreation area with tarmac, concrete or paved surface. It does not include areas provided mainly for any type of sport.

'Enclosed social area' means social areas, not used for any type of sport, which are enclosed on at least 3 sides by school buildings.

2. The grant of an easement and/or a way leave over playing fields where such land is required for the purpose of constructing, maintaining or servicing a highway, or for health and safety requirements or enabling provision of gas, water or electricity.

3. Temporary disposal or change of use of a school playing field provided that:

- a) the lease or temporary change of use is for no longer than 3 school terms;
- b) the Secretary of State is satisfied that the school is still able to carry out the curriculum to at least the same extent
- c) the land is returned to at least the same condition that it was beforehand

4. The disposal of an area of land less than 50m<sup>2</sup>, where such land is required for purposes of constructing, maintaining or servicing a highway, or for health and safety requirements or enabling provision of gas, water or electricity.

5. The disposal of playing fields to an organisation which does not have the principal purpose of making a profit from commercial sports schemes when the following conditions are met:

- a) the terms of the disposal agreement provide that any school or community user group using the playing fields in the 6 months immediately before the transfer may continue to do so for at least 10 years following the date of the disposal, during which time they will have access to the playing fields for at least the same periods and on the same, or more favourable, terms as they did before the disposal; and either
- b) the constitution of the receiving organisation obliges that organisation to maintain them as playing fields; or
- c) the terms of the disposal agreement require that organisation to maintain them as playing fields for at least 10 years from the date of disposal; or
- d) the disposal is to a local authority and the receiving authority has given an undertaking that the playing fields will continue to be used as school/community playing fields for at least 10 years from the date of disposal

6. A disposal which involves the granting of a leasehold interest in the whole school site, including the playing fields to facilitate an agreement under a Private Finance Initiative, provided there is no net loss of school playing fields.

7. The disposal or change of use of playing fields (“the original playing fields”) where, upon that disposal or change of use, any school which used the original playing fields in the 6 months immediately before the disposal will have made available to it newly created, alternative playing fields, provided that all of the following requirements are met:

- a) the replacement playing fields are of at least the same area as the original playing fields
- b) the replacement playing fields are capable of sustaining 7 hours use a week per school that will have use of those playing fields
- c) the replacement playing fields are immediately available to any schools which used the original playing fields on the same, or more favourable terms as the original fields had been
- d) the replacement playing fields have the same or better standards of facilities as the original playing fields
- e) the location of the replacement playing fields is such that the schools using them are able to carry out the curriculum to at least the same extent as they were on the original playing fields
- f) there is no reduction in the amount or type of sports provision currently available to the schools who used the original playing fields



8. The disposal of playing fields where they are not a school's own provision of playing fields but fall within Section 77 only by reason of a school's temporary or occasional use of them.

9. 'School's temporary use' means use as a school's main playing fields for a maximum of 3 school terms in the last 10 years or use only whilst the school's own playing fields could not be used by the school for reasons outside the school's or local authority's control.

10. 'School's occasional use' means either an infrequent and informal use without prior agreement, or a formal use but only by specific pupils or for a set purpose on an infrequent basis.

11. The change of use of playing field land to allow the reconfiguration of school sites, where the following conditions are satisfied:

- after the project is completed the school will have at least the same size and quality of playing field land as it had before - there must be no net loss
- there is no disposal of school playing field land
- the local authority and/or school ensures that the requirements of the School Premises Regulations 2012 continue to be met

12. The disposal of an interest in land in favour of a person for the purposes of an academy for no [or nominal] consideration where an Academy Order has effect in respect of a maintained school which uses the land and the school is to be an academy.

# Annex G: General Consents: Schedule 1 Academies Act 2010

## The Academies General Disposal and Appropriation Consent (No 2) 2012

1. The Secretary of State for Education, in exercise of the powers conferred on him by Schedule 1 to the Academies Act 2010, hereby grants the following consent.
2. This consent comes into force on 31 October 2012 and may be cited as “The Academies General Disposal and Appropriation Consent (No 2) 2012”.
3. In this consent:
  - ‘the 2010 Act’ means the Academies Act 2010
  - ‘appropriation’ means an appropriation of land under section 122 of the Local Government Act 1972
  - ‘a disposal’ includes entering into a contract to make a disposal or granting an option to make an acquisition
4. Consent is hereby granted to the disposal or the appropriation of a freehold or leasehold interest in land to which sub-paragraph 4(2) or 6(2) of Schedule 1 of the 2010 Act applies, where the disposal or appropriation is of a description specified in the Schedule.
5. This consent is granted subject to the condition that the local authority disposing of or appropriating the land provides the Secretary of State with:
  - a) details of the location and area (in square metres) of the land to be disposed of or appropriated; and
  - b) details of the total site area (in square metres) of the school or former school; and
  - c) the date (or the proposed date) of the disposal or appropriation; and
  - d) an explanation as to why the local authority thinks that the disposal or the appropriation is covered by a general consent

Signed.....

on behalf of the Secretary of State

Dated .....1.11.12

## Schedule

6. The disposal of an interest in land in favour of a person for the purposes of an academy for no [or nominal] consideration where an Academy Order has effect in respect of a maintained school which uses the land and the school is to be an academy (including free schools, studio schools and university technical colleges).

7. The disposal in respect of land consists of a grant of a lease to facilitate an agreement under the Private Finance Initiative or a Public Private Partnership.

8. The disposal or appropriation of an area of land [which is part of a single school estate or land title] less than 250 square metres provided that the following qualifications are met:

- a) the disposal or appropriation is not part of a disposal or appropriation of a larger area of land;
- b) the land to be disposed of or appropriated does not, taken together with any areas of land in which the local authority holds a leasehold or freehold interest which have been disposed of in the last 5 years, form a combined area of 250 square metres or more; and
- c) the land to be disposed of or appropriated does not constitute an access to an area of land in which the local authority have a leasehold or freehold interest and which consists of an area of 250 square metres or more

9. For the avoidance of doubt, any disposal of an interest in land by a local authority in order to fulfil its statutory duty; for example, under paragraph 9 of Schedule 3 to the School Standards and Framework 1998 Act to transfer to an existing voluntary aided school any premises which it is providing for that school to use by way of assistance.

10. The disposal of an area of land less than 50 square metres where such land is required for purposes of constructing, maintaining, or servicing a highway, or for health and safety requirements or enabling provision of gas, water or electricity.

## Annex H: General Consent for disposal of school playing fields by restriction

In the exercise of his powers under section 77(5) of the School Standards and Framework Act 1998, the Secretary of State for Education gives the following consent.

This consent may be cited as the General Consent of Disposal of Playing Fields by Restriction 2011 and comes into force on 22 August 2011.

In this consent:

- “the Act” means the School Standards and Framework Act 1998
- “person” includes a body of person corporate or unincorporated
- “restriction” means Restriction in the Register of Title kept by the Chief Land Registrar in accordance with the Land Registration Act 2002

Consent is given in relation to the disposal of any playing fields to which section 77(1) of the Act applies, where the disposal consists only of a person entering a Restriction in relation to the playing fields (to apply to any subsequent disposal of them), in circumstances where that person has awarded a grant for purpose of upgrading the playing fields (or facilities thereon).

This consent is given subject to the following conditions.

1. Prior to the disposal, the body (or trustees) disposing of the playing fields provides the Secretary of State with:
  - a) the name and address of the school and the address of the playing fields to be disposed of (if different);
  - b) a plan of the site on which the playing fields are situated;
  - c) the proposed date of the disposal;
  - d) the reason for the disposal;
  - e) the wording of the proposed Restriction;
  - f) a copy of the undertaking referred to below
2. Prior to the disposal, the person entering the Restriction provides the body (or trustees) disposing of the playing fields with a written undertaking that they will not withhold consent to a subsequent disposal of the playing fields to another maintained school or an academy, where the governing body (or trustees) of that maintained school or the proprietor of that academy agree in writing:

- a) that the playing fields will continue to be used by that maintained school or academy as playing fields in accordance with the conditions of the grant, failing which they will repay the grant; and
- b) to the entering of a Restriction, in the same terms as the original Restriction, to apply to any subsequent disposal of the playing fields.

Signed:  JANE CUNLIFFE

Deputy Director, Central Capital Unit

Department for Education

Date: 22<sup>nd</sup> August 2011

## Further information

### Other relevant departmental advice and statutory guidance

- [Glossary and terminology](#)
- [Property Information Notes and forms](#)
- [2015 advice on standards for school premises](#)
- [Academies Act 2010](#)
- [School Standards and Framework Act 1998](#)
- [Education Act 2011](#)
- [General Consent Orders 2011, 2012 and 2014](#)
- [Education \(Independent Schools Standards\) England \(Amendment\) Regulations 2012](#)

### Useful resources and external organisations

- HMT: [Managing Public Money](#)
- HMT: [Consolidated Budgeting Guidance](#)



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

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