

A commitment from
The Children's Plan



National Challenge – Raising standards, supporting schools

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INTRODUCTION

The goal of the National Challenge is for every school to be a good school. The National Challenge commitment is that by 2011 there are no schools where fewer than 30% of pupils achieve at least 5 good GCSEs including English and maths.

In realising this goal, the National Challenge programme puts forward a range of structural solutions (also referred to as 'structural interventions') as part of a package of measures available to support schools that are performing below the threshold.

National Challenge Trusts (NCTs) and National Challenge Federations (NC Federations) are two of the structural solutions available under the National Challenge for the schools that need most help in strengthening governance and leadership.

Establishing a NCT can transform a school's performance and provide a platform for on-going improvement. NCTs look to develop the school's strategic leadership by harnessing the expertise and energy of a strong education partner. The education partner will be part of the Trust which in turn will appoint a majority of the members of the governing body. Once established, the new Trust and governing body will work to deliver on a school improvement plan which will address immediate problems and set in place a strategy for sustained improvement.

Federation, which can be combined with a Trust, involves two or more schools coming together under one governing body and sharing the benefits of partnership, including shared teachers, resources and economies of scale. In the case of National Challenge, federation can address weaknesses in the National Challenge school's leadership by allowing the strong school to take control of the shared governing body.

Both NCTs and NC Federations are about creating more confident institutions with the internal capacity to drive and sustain their own improvement.

This guidance is aimed at assisting local authorities, schools, and potential Trust partners through the process of establishing a NCT and/or a NC Federation. It provides an overview of the regulatory requirements, the models of trust and federation available, and the process routes and stages for their delivery.

As set out in this document, the NCT and NC Federation delivery process requires, in the case of NCTs - the Trust partners; or in the case of NC Federations – the LA/school proposers and/or GB, to complete a number of planning and project management related exercises. To assist with these requirements, the appendix includes document templates for:

- timelines for all the possible NCT or NC Federation routes;
- a statement of intent;

- model project plans;
- an accountability framework;
- a School Improvement Plan.

FURTHER INFORMATION

This document is not intended as a substitute for the more detailed guidance available on school improvement, Trust schools, federation processes and legal requirements which is available on the Department's website. In particular, the following documents, which are cited throughout this guidance, provide fuller descriptions of the information in this overview:

- *Trust Schools toolkit* – (this is non-statutory guidance)
[http://www.trustandfoundationschools.org.uk/pdf/Trust%20Schools%20Toolkit%20\(redraft%20October%202007\)%20FINAL%20amended%20Jan%202007_806.pdf](http://www.trustandfoundationschools.org.uk/pdf/Trust%20Schools%20Toolkit%20(redraft%20October%202007)%20FINAL%20amended%20Jan%202007_806.pdf)
- *Trust School Proposals: A guide for local authorities and governing bodies* – this is statutory guidance, which includes elements to which GBs (or IEBs) and LAs are required by law to have regard
<http://www.dcsf.gov.uk/schoolorg/guidance.cfm?id=25>
- *Guide for local authorities wishing to establish a new maintained mainstream school* – this is statutory guidance, which includes elements to which LAs are required by law to have regard
<http://www.dcsf.gov.uk/schoolorg/guidance.cfm?id=2>
- *Guide for people wishing to set up a new school outside a competition* – (this is non-statutory guidance)
<http://www.dcsf.gov.uk/schoolorg/guidance.cfm?id=2>
- *National Challenge Toolkit*
<http://www.dcsf.gov.uk/nationalchallenge/downloads/7715-National%20ChallengeWEB.pdf>
- *Guidance on the School Governance (Federations) (England) Regulations 2007*
www.standards.dfes.gov.uk/federations/word/fr2007.doc?version=1
- *Closing a Maintained Mainstream School – A Guide for Local Authorities and Governing Bodies*
<http://www.dcsf.gov.uk/schoolorg/guidance.cfm?id=3>
- The statutory notice builder facility on the School Organisation website for the development of proposals (excluding federation proposals).
(www.dcsf.gov.uk/schoolorg)
- *A Guide to the Law for School Governors*
http://www.governornet.co.uk/linkAttachments/GGTL_v12_1456.pdf

For further information please contact:

- Office of the Schools Commissioner's (OSC) for guidance on how to start National Challenge Trust and Federation process (up to, but not after, the SOI stage) at: schools.commissioner@dcf.gov.uk;
- Fred Sharrock in the National Challenge Team for information on NC/funding at: fred.sharrock@dcf.gov.uk;
- Trust and Foundation Schools Partnership for Trust acquisition information and support with the statutory process on 020 7802 0967, or email contact@trustandfoundationschools.org.uk.

NATIONAL CHALLENGE TRUST AND FEDERATION OVERVIEW

NATIONAL CHALLENGE PROGRAMME

The National Challenge was launched by the Secretary of State in June 2008 as a major initiative to improve standards in all secondary schools. It is a three year programme of support to secure higher standards. The aim is that by 2011 at least 30 per cent of pupils in every school will gain five or more GCSEs at A*-C, including both English and mathematics.

In City Challenge areas (London, Greater Manchester and the Black Country) the City Challenge programme supports the delivery of the National Challenge programme.

According to the 2007 performance tables, there were over 600 secondary schools in England below this threshold. Schools and their local authorities have been asked to identify a package for each school's needs, and discussions are now taking place with schools, local authorities and potential partners to help improve the achievements of young people in schools.

NATIONAL CHALLENGE STRUCTURAL SOLUTIONS

Structural solutions (also referred to as 'interventions') are one of the methods available through the National Challenge programme for raising the standard in low performing schools.

Structural solutions involve changes to the existing leadership or governance of schools which are judged to lack sufficient capacity to improve pupil outcomes up to the National Challenge threshold and beyond, and to sustain progress over the long term.

Local authorities should be looking at structural solutions as part of their National Challenge planning for schools that are at most risk of missing the National Challenge threshold: those which are furthest away from it and making slow progress.

Under the National Challenge, there are a number of structural solutions which local authorities can commission, depending on the individual circumstances of each National Challenge school in their area.

Where a local authority judges that a clean break with the past is needed to effect a transformation it may choose to commission an Academy, or to close and not replace a school directly.

NCTs and NC Federations will be appropriate where governance is weak but where the contextual factors mean an Academy may not be an appropriate option.

As described in detail in their respective sections, NCTs and NC Federations involve changes to the school's leadership. NCTs bring in an external partner as a member of the Trust to provide strategic leadership; NC Federations allow a strong school to take over the governance of a weaker school through the establishment of a formal partnership with a single governing body.

There are three routes by which a local authority can commission a NCT or a NC Federation: the closure and reopening of the school as a NCT or in a NC Federation; the replacement of the governing body with an Interim Executive Board (IEB) which publishes proposals; or through an agreed process whereby the governing body works voluntarily with the local authority to implement the Trust or Federation (the 'modified IEB route').

Structural solutions (such as NCTs and NC Federations) will work best where they are integral to the school improvement support a school is receiving through the National Challenge.

It is crucial that in implementing a structural intervention local authorities plan for the change by developing clear short and long-term improvement objectives, and establish effective arrangements for communicating with parents and the wider community, securing their involvement and support.

Any solution should be considered in line with other local priorities and should take into account other national policy initiatives that may also contribute to the school's improvement.

The development of a school improvement plan is one of the process requirements for NCTs and NC Federations. Other required documents include a project plan and an accountability framework (discussed on page 25 & 40). The development of a school improvement plan allows the new Trust partners or in the case of NC Federation the local authority/proposer and the strong school governing body to set in place a clear strategic direction and a set of actions aimed at raising standards and addressing performance issues in the school.

The Department is ready to work with local authorities to help determine the right solution for individual schools and to identify appropriate partner schools or external partners for Academies, NCTs and NC Federations¹.

FUNDING AND SUPPORT

A total of £65m (of the total £400m National Challenge pot) has been allocated to support the delivery of National Challenge structural solutions. It is anticipated that up to 70 NCT schools will be formed each receiving up to £750k over 3 years (Secondary Modern schools, or non-selective schools in selective areas, becoming NCTs will receive up to £1m over the same period). This limit includes any funding already received from the National Challenge to support school improvement at the school.

The decision to agree funding packages will be based on the degree of transformation planned, the level of financial commitments by local authorities, and will be decided on a case by case basis. Funds may be used for a range of measures, the emphasis being on the need for these schools to draw on partner expertise and experience to raise standards through effective leadership and governance.

NCT/NC Federation funding is agreed in principle when the Minister has sign-off the proposed Statement of Intent. Funding will be officially signed-off and released after DCSF approves the three planning documents (the project management plan, the school improvement plan and the accountability framework) which are part of the NC delivery process set out on pages 25-26).

The Trust and Foundation Schools Partnership (TFSP) is contracted by the Department to deliver support and advice to schools on the statutory proposals around acquiring a trust.

NCT funding may be used for (but is not limited to):

- Project management support (mostly for progressing the statutory and trust acquisition processes quickly; recruiting a new leadership team);
- Staff costs in a partnering good school, e.g. overtime and backfilling;
- Recruitment of subject specialists/Senior Leadership Team;
- School improvement support;
- Voluntary redundancy/staff restructuring packages.

¹ National Challenge Toolkit (paragraph 41)

<http://www.dcsf.gov.uk/nationalchallenge/downloads.shtml>

The Department has recently announced a pilot of up to 100 co-operative governance Trusts, where the partnering organisation is a community group consisting of parents, teachers and others with a direct stake in the school.

TIMEFRAME

The earliest estimated timescale for closure and reopening as a Trust school is **7- 10 months**. This may be slightly shorter, **7-9 months**, for establishing a Trust school, without closure but through setting up an Interim Executive Board (IEB) or through the 'modified IEB route'. These timeframes are based on requirements for brokerage and statutory consultations, IEB and Trust formation. The current timeframe will see the first group of NCTs in place by September 2009.

NC Federations could be established in six months without an IEB, and very approximately, eight months with an IEB.

NATIONAL CHALLENGE TRUSTS

National Challenge Trusts are intended for schools where fewer than 30% of students are achieving 5 A*-C's at GSCE including English and Maths and it is agreed that its replacement with an Academy is not an option.

The aim of NCTs reflects the aim of all Trust schools: to use the experience, energy and expertise from other schools and professions as a lever to raise standards in schools. Coming together within a Trust unites partners and schools, with the commitment to work in unison to improve the attainment of children at the schools. This collective approach for partners fosters new energy and innovation within the wider school community and can have a much greater impact than schools working with partners individually and / or informally.

As with any Trust school, the governing body of a NCT remains responsible for its day-to-day running and receives its delegated budget. It is the governing body which is the school's admissions authority and it (not the Trust) which appoints school staff. The influence of the Trust is through the governors whom it appoints to the school's governing body. In NCTs the Trust will always appoint a majority of the governors, meaning that it can control the governing body. As a majority governance Trust, there is also a requirement to form a Parents' Council.

What is a Trust School?

A Trust school is a state-funded foundation school supported by a charity, referred to as a Trust. The Trust is made up of partners working together for the benefit of the school. The Trust appoints trustees who in turn appoint the school's governors (up to a majority of the governing body).

Any maintained school can become a Trust school – primary, secondary or special schools – although where the school already has a foundation (in the case of voluntary schools and a minority of existing foundation schools) the process is more complex.

A Trust must be an incorporated charity of one of the types set out in the Requirements as to Foundations Regulations²; the model most commonly used is the company limited by guarantee. Trusts must register with Companies House. The Trust is also required by education legislation to have certain charitable objects and to promote community cohesion.

All Trust schools are established under the Education and Inspections Act 2006 and associated regulations and remain local authority maintained schools, subject to all the usual requirements of maintained status.

NCTs use the same Trust school legislative framework as standard Trusts but will focus on specific objectives.

Key characteristics of NCTs which distinguish them from standard trusts include:

- The decision to create a NCT is triggered by local authority intervention rather than by the school;
- The Trust must represent a radical option for transforming the school, with a clear focus on school improvement and with the involvement of at least one strong education partner – which may

² The School Organization (Requirements as to Foundations) (England) Regulations 2007 [SI 1287] http://www.opsi.gov.uk/si/si2007/ukSI_20071287_en_1

be a school or a non-school education partner such as an HE or FE college;

- There must be governance arrangements which allow the strong education partner to take over the running of the weaker school i.e. by the Trust appointing a majority of the governors³ (not generally the case with standard trust);
- Up to £750,000 in funding over 3 years (or up to £1 million in the case of secondary modern schools – non selective schools in selective areas) is available to support NCT schools where the NCT has been approved by the Department as part of the local authority's National Challenge strategy.

TRUST PARTNERS

A NCT will always include a successful and high performing educational institution to take the lead on educational improvement for the struggling school and it will be desirable to include others to take advantage of complementary skills. The lead Trust partner will take over the running of the weaker school i.e. by the Trust appointing a majority of the governors.

The Trust's memorandum and articles of association, the school's Instrument of Government and the accountability framework drawn up by the lead Trust partner will clarify roles and responsibilities, whilst providing a tangible demonstration of long term commitment to the school(s) by the Trust partners. Whilst it is expected that the lead education partner will play a key role as a member of the Trust, it is not specifically required that a strong school lead partner will itself become a Trust school although it may choose to do so. This is discussed in the NCT models below.

³ Where a Trust appoints the majority of the governors to a Trust school, including to a National Challenge Trust school, the law requires that school to establish a Parent Council. More information on Parent Councils is available on page 29.

NATIONAL CHALLENGE TRUST MODELS

SHARED TRUST

In this model the weak school and strong school both become trust schools under a shared trust. Each school retains its own governing body. The Trust appoints a majority of the governors to the weak school, but could appoint either a majority or a minority of the governors to the strong school. Where the Trust appoints a majority of governors to either school, the school must also establish a Parent Council.

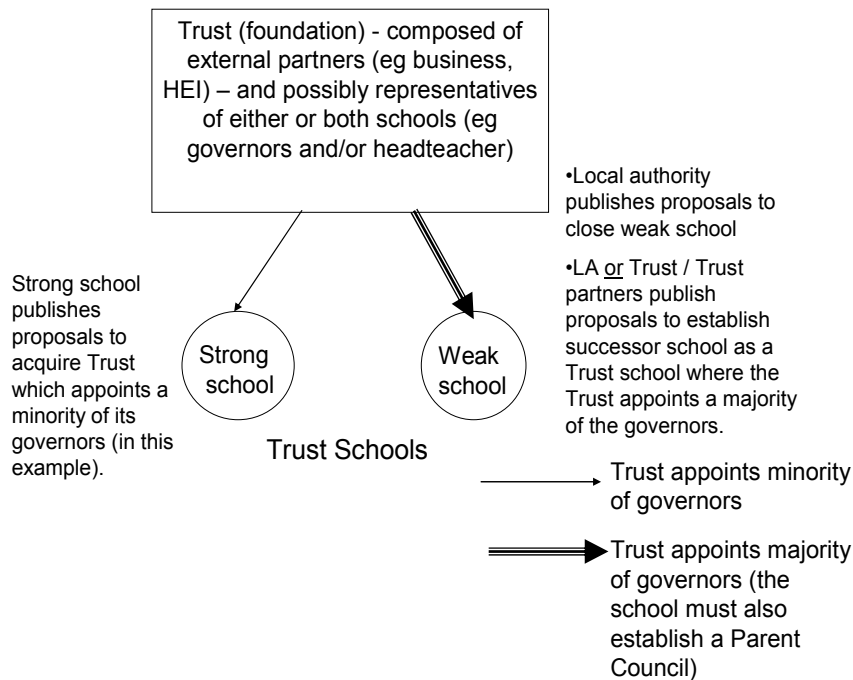


Fig 1. Strong school and weak school both Trust schools under a shared Trust

NCT Model II – The strong school supports the weak school as a Trust partner but without itself becoming a Trust school

This option allows schools which cannot become Trust schools under a shared Trust – either because they already have an existing foundation (for example voluntary schools) or because they are not maintained schools (e.g. Academies or independent schools) – to support a weak school through the Trust model.

Here the foundation or trustees of the existing voluntary school and/or individual governors or staff of a voluntary or community school could become members of, or nominate trustees to, the Trust of the weak school. They could thereby provide external support and drive to those schools and in the appointment of governors through these trustees.

Here the strong school has a stake in the foundation which appoints governors to the weak school which has become a Trust school, but there is no formal mechanism for the Trust to influence the strong school, which would not itself be a Trust school.

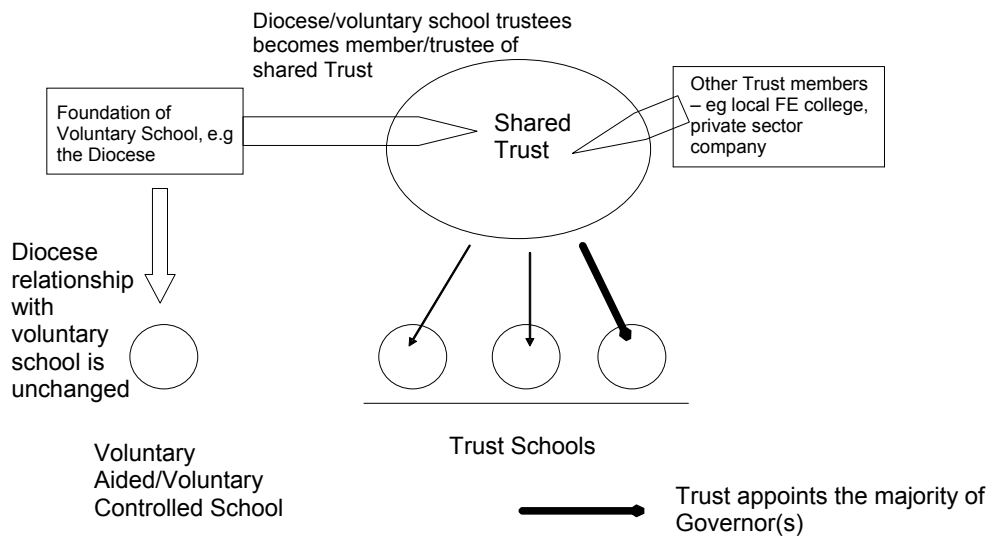


Fig 2. Strong school is a member of the Trust for the weak school but without actually becoming a Trust school itself

NC Model III Single school, single trust

This model involves a strong external partner with educational expertise (in this case a non school partner) forming a Trust and appointing a majority of the school's governors. It is a single-school, single-trust model and does not require the involvement of a strong school.

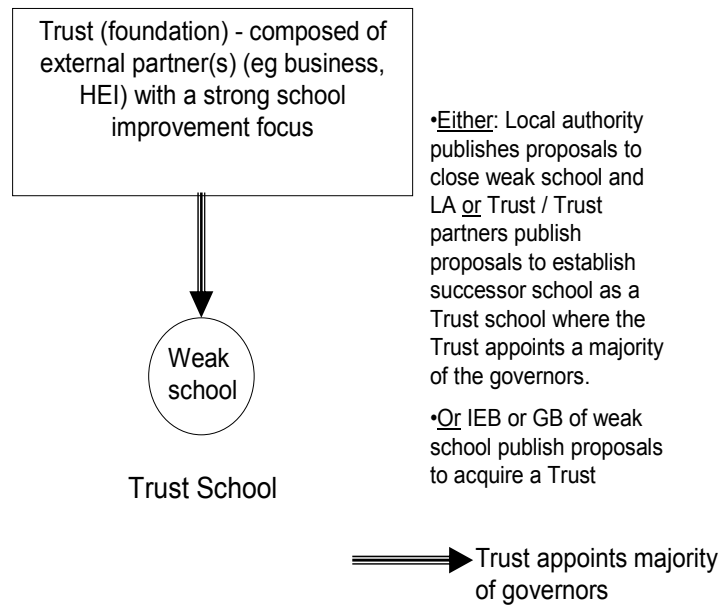


Fig 3. Single school, single Trust

NATIONAL CHALLENGE TRUST DELIVERY PROCESSES

National Challenge Trusts, like all new Trust schools, are established under the Education and Inspections Act 2006 and associated regulations. This means they must follow local decision-making processes. This requires: consultation; the publication of proposals; a period for representations; and a decision – taken locally (or, in some cases, by the independent Schools Adjudicator).

Because NCTs are a local authority structural intervention and part of the wider National Challenge programme, there are additional process requirements to a regular Trust school, in particular, intervention routes for moving to a Trust school, sign-off processes for funding, as well as school improvement planning and monitoring processes. An overview of the key steps in the NCT delivery process is set out below.

Overview of key NCT delivery steps

NB The list below is an overview of the steps involved – each step is discussed in more detail starting from page 17.

- LA National Challenge planning;
- Brokering Trust partnerships;
- Determining the route. One of the three available routes to establishing a NCT is taken:
 - closing and reopening the school as a NCT
 - setting up an IEB, or
 - modified IEB route (the governing body publishes proposals)
- Statement of Intent. The LA and partner/s make a commitment in principle to work on the NCT;
- Ministerial sign-off of the NCT proposal (via a Statement of Intent);
- Planning and accountability. Trust partner draws up the following three documents and submits to DCSF for approval:
 - Project plan (submitted shortly after approval of SOI)
 - Accountability framework
 - School Improvement Plan
- Departmental sign off. LA and partner/s submit the plans to DCSF for approval - DCSF signs-off funding.

NB. The routes and the statutory processes below happen in parallel with the development of the school improvement plan and the accountability framework.

Route 1 - Establishing a NCT through closure and reopening

NB. Where a strong school is to be the strong education partner as a Trust school under a Shared Trust (not mandatory) but does not already have a Trust under the 2006 Act, it will also need to undertake the statutory process to acquire a Trust (see pages 22-23). This process is included in the steps below and marked with * to indicate that the step is only relevant in the case of a Shared Trust.⁴

- Consultation on the closure of the existing school by the LA or Trust & the proposed new Trust school by the Trust partners (proposals must be linked);
- *Consultation by strong partner school on acquiring a Trust ONLY if to be part of a shared Trust. It's not necessary if strong school is to be a Trust member but not a Trust school itself;
- LA publish related statutory notice for closure;
- Trust partners or LA publish related statutory notice to establish a new Trust school;
- *GB of strong partner school publishes own proposals to acquire a Trust;
- Representation period (six weeks to allow for comments and objections for closure and new school proposals to be submitted);
- *Representation period (four weeks for strong partner school to acquire a Trust (where applicable));
- Decision by LA on both proposals to close & open new Trust school;
or
- If LA is involved in Trust or LA publishes proposals for the new Trust school the Schools Adjudicator is the Decision Maker for closure & new school proposals.
- *Decision by strong partner school to acquire a Trust (if applicable)
- Establishment of a temporary governing body.

Routes 2 and 3 - Establishing a NCT through either through an IEB or Modified IEB

- GB/IEB (depending on which route was taken) consult on proposals to acquire a Trust;
- GB/IEB publish statutory notice to acquire a Trust;
- *GB of strong partner school consults on acquiring a trust ONLY if to be part of a shared trust;
- Representation period (4 weeks);
- GB/IEB make decision on whether to go ahead with proposal;
- *Strong school GB makes decision if acquiring a Trust;
- Statutory process for establishing a NCT (through one of the three routes above).

Implementation process

Once the route has been undertaken leading to the formal decision to acquire a Trust, the following implementation processes must be undertaken prior to the NCT opening (this is the same for all routes).

- Establishment of Trust as a company limited by guarantee and registration of Trust with Companies House;
- Criminal Records Bureau checks completed for Trustees and governors;
- The Instrument of Government is determined by the temporary GB, the existing GB or the IEB (the local authority is required to make the Instrument of Government unless it is technically flawed);
- The Trust appoints the majority of governors according to the Instrument of Government.

Implementation date

Once the above steps have been taken, the NCT is opened on the date specified in the NCT proposal – this is referred to as the 'implementation date'. Following (or in some cases before) the implementation date the following steps must be taken:

- LA must transfer land & assets to Trustees;
- GB makes changes to staff contracts to reflect the change of employer;
- GB sets up a Parent Council;
- GB sets its own admissions arrangements in accordance with Schools Admissions Code;
- GB notifies LA to pass a statutory resolution enabling support staff to belong to the Local Government Pension Scheme.

After **opening**, the NCT works to deliver on the School Improvement Plan (SI) and its progress is monitored in the Local National Challenge Board.

National Challenge Trust delivery model

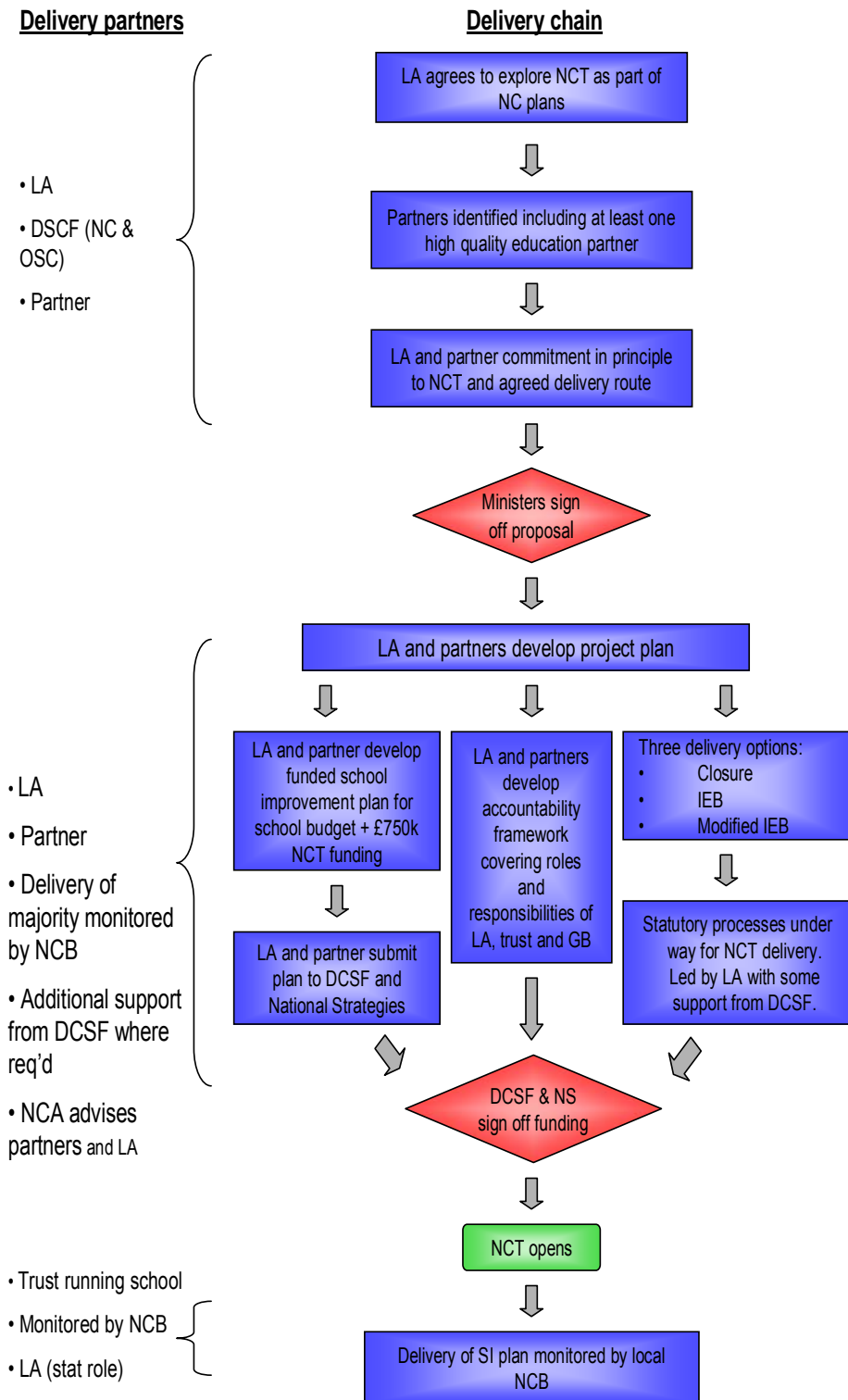


Fig. 4 The National Challenge Trust delivery model

STEPS FOR DELIVERING A NATIONAL CHALLENGE TRUST

STEP 1 - LOCAL AUTHORITY NATIONAL CHALLENGE PLANNING

National Challenge Trusts are part of the wider National Challenge programme for school improvement. This process involves schools and their local authorities developing a package to address the needs of each school in order to improve pupil achievement.

For a NCT to be established, the local authority would usually have agreed to explore NCT as an option as part of its wider NC plans [the first round were signed off in late 2008 / early 2009]. The NCT proposal is also subject to Ministerial sign-off, via a Statement of Intent, which gives approval for the local authority and the Trust partner to further develop plans for each potential NCT. This is not, however, a commitment to release NCT funding for the school at this stage.

STEP 2 - BROKERING TRUST PARTNERSHIPS

After sign-off of the local authority's National Challenge plans, local authorities should discuss potential NCT solutions with the schools concerned and brief the school's NCA accordingly. Relevant and effective partnership formation is central to the establishment of NCTs. Discussion and decisions about partners should take place as early as possible.

In City Challenge areas, City Challenge Advisers take the lead in identifying solutions needed to secure sustainable school improvement. This includes structural solutions where appropriate.

The actual brokerage of the NCT, including identification of potential Trust partners, is carried out by the local authority along with the Office of School Commissioner, City Challenge Advisers, DCSF's National Challenge Division and National Strategies.

Local authorities will work with Office of School Commissioner consultants, National Challenge Advisers and identified partners to establish these agreements.

STEP 3 – DETERMINING THE ROUTE TO A NC TRUST

The decision to start the process to create a NCT is taken by the local authority as a response to low performance. Local authorities have three possible routes to establish a NCT, these are:

1. Closure of the existing NC school and reopening as a Trust school;
2. The replacement of the GB with an Interim Executive Board (IEB) which then publishes proposals for the school to change category and/or acquire a Trust to become a NCT (without closure) and guides the school through the process to becoming a Trust until the permanent GB takes over;

3. The 'third route' or 'modified IEB route', which involves the GB working voluntarily with the LA to establish a NCT.

ROUTE 1: CLOSURE AND REOPENING

The local authority may decide that the best option is to close the school and to reopen it as a NCT in partnership with either a strong school or another strong education partner. For this to happen, a number of processes must take place, which may lead to any of the NCT models set out on pages 10-12. Depending on which of the Trust models is chosen, further processes may be required, for example if the strong school is to become a Trust school, it will also need to go through the statutory process for acquiring a Trust.

This process is governed by the School Organisation (Establishment and Discontinuance of Schools) (England) Regulations 2007.

Closure of the National Challenge school

The local authority has the power to publish proposals to close all categories of maintained schools.⁵ The process which must be followed is:

- consultation (no period specified in law, but a minimum of 6 weeks is recommended);
- publication of proposals; representations (6 weeks);
- decision (by LA – within 2 months – or schools adjudicator – no period specified).

NB. The governing body of the weak school will be dissolved when the school closes.

Reopening of the school as a new Trust school

Either the local authority or the proposed Trust or Trust members have the power to publish proposals to establish a new school (a governing body does not have this power) but if the local authority wishes to decide the proposals, then it may not publish the proposals or be involved in the Trust.

The Trust does not need to be fully established before the proposals to establish the new school are published but the proposals do require the names of the Trust members and the entitlement to appoint trustees, as well as the proposed charitable objects of the Trust.

The statutory process for establishing a new school, if an exemption from a competition is granted (see overleaf), mirrors that for closure of the predecessor school:

⁵ An interim executive board does not have powers to publish proposals to close a school (although it can make a report to the LA to recommend closure). The Secretary of State does have the power to direct a LA to close a school requiring special measures. Such a direction will not require the publication of statutory proposals for the school's closure, but proposals would still be required for the opening of the replacement school as a Trust school.

- consultation (no period specified in law, but a minimum of 6 weeks is recommended);
- publication of proposals and representations (6 weeks);
- decision (by LA – within 2 months – or schools adjudicator – no period specified) and implementation;
- establish a temporary governing body (see below).

Importantly, the school closure and re-opening processes can be undertaken in parallel. Where this happens, the proposals to establish the new school would be treated as being linked to the proposals to close the school and both would be decided together.

The final decision on proposals is taken by the local authority, except where the local authority has published the proposals or is involved in the Trust, in which case the decision is taken by the Schools Adjudicator.

Note that it is possible to establish a new school as a Trust school, with the Trust appointing a majority of the governors from day one.

Application for exemption from a competition

Where a school is closed, the normal procedure for opening a replacement school is for the local authority to invite proposals in a competition. Consent from the Secretary of State (SoS) must be received before proposals can be published without a competition. Where a NCT solution has been brokered and a strong school partner and possibly other strong external partners identified there would be little benefit in requiring a competition and it would delay the process.

For the purpose of National Challenge structural solutions that involve closure and reopening of schools, **any exemption from competition will be signed off by ministers as part of the approval process of NCT's SOI.** Approval and exemptions will be conditional on the continued involvement of the strong educational partners, agreed by the local authority. There is no need for a separate exemption application under s10 of the Education and Inspections Act 2006

Temporary governing body

Once proposals for a new school have been approved, the local authority must set up a temporary governing body for the new school, which is responsible for implementing the proposals and establishing the new school. Local authorities can also make arrangements to establish temporary governing bodies in anticipation that the proposals will be approved, which is helpful where an approval is expected shortly before the proposed implementation date for the new school to open.

Once the temporary governing body has been constituted and has a delegated budget, they will take on the responsibility for setting the school's admissions policy. Similarly, the initial staffing in the new school when it reopens as a Trust school falls to the temporary governing body, the majority of whom will be nominated or appointed by the Trust.

Once the new school has been opened as a Trust the implementation process must take place as set out on pages 28-30.

ROUTE 2: INTERIM EXECUTIVE BOARD

This route involves the establishment of an Interim Executive Board (IEB) to replace the existing governing body and to publish proposals for the school to become a NCT school.

This route is an alternative to closure of the school but still requires local authority intervention. As with the closure route, the IEB route can be used to deliver any of the models set out on pages 10-12. The local authority should consider carefully whether the circumstances of the National Challenge school are such that closure or the replacement of the governing body with an IEB is the best option.

When considering appointing an IEB, the local authority must determine that the existing governing body is unable to provide the necessary leadership to turn around the school as quickly as possible. Local authorities are advised to apply to the SoS requesting the appointment of an IEB if it considers the governing body is:

- Unable to provide sufficient challenge and support to the school's senior management team;
- The appointment of an IEB can add considerable momentum and be a first step towards securing new expertise in the school's drive for improvement;
- Where the governing body of a school in special measures is clearly weak.

Warning Notice

Where a school is eligible for intervention because a 'warning notice' has been given to a governing body by a local authority or where a school is in an Ofsted category, the local authority, with the consent of the Secretary of State, has the powers to require that the governing body consists of interim executive members and the governing body as constituted is then referred to as an Interim Executive Board (IEB).

In the case of the majority of NCTs, the schools are not in Ofsted categories. In these cases the local authority will first issue a warning notice setting out the matters for doing so; what action the school must take to remedy those matters by a specified date and the action the local authority is minded to take if the governing body fail to take the required action.

(NB The 'warning notice' is a legal document pursuant to s60 of the Education and Inspections Act 2006, in particular s 60(2) sets out the grounds for giving a warning notice and s60(4) sets out what a warning notice must include in order to be valid).

After a warning notice has been issued, if the school fails to take the necessary action the local authority may impose an IEB with the consent of the Secretary of State. The school may, however, appeal to Ofsted against the warning notice within a specified period of time.

Where the local authority wishes to (and, as discussed above, is legally entitled to) replace a governing body with an IEB, it must:

- Firstly, consult the existing governing body and, in the case of a foundation or voluntary school, the appropriate diocesan or other appointing authority. (A minimum of 14 days should be allowed for these parties to respond);
- Secondly, complete and send a copy of the proforma to DCSF. The proforma can be found in Annex A of *The Statutory Guidance for Schools Causing Concern* at:
www.standards.dfes.gov.uk/sie/si/SCC/news/sccamended.

After obtaining approval in writing from the SoS, the local authority must write to the governing body to give them notice that the IEB will be established. This notice should state when the IEB will commence, and may also indicate when the IEB will cease to function, where this can be estimated. In the case of foundation or voluntary schools, this letter should be copied to the diocesan or other appropriate appointing authority.

The timing of this process may vary. Where a school is eligible for intervention because a warning notice has been given, rather than the school is in an Ofsted category, the governing body may appeal to Ofsted within a specified period of time. Ofsted may uphold the schools objections or may confirm the warning notice. If the warning notice is confirmed the school will be eligible for intervention after 15 working days. This process can take up to six weeks. However, for schools in special measures the establishment of an IEB can take as little as 3 weeks.

IEBs are governed by the provisions set out in Schedule 6 of the Education and Inspections Act 2006 and a number of regulations.

Transition from an IEB - Shadow Governing Bodies

Please note we are currently in the process of drafting new transition regulations which will update The School Governance (Transition from an Interim Executive Board) Regulations 2004. We will alert people to the new arrangements once the regulations have been agreed. In the meantime the current regulations today still apply.

The School Governance (Transition from an Interim Executive Board) Regulations 2004 cover the transition to normal school governance arrangements after a date has been set for the completion of the work of the IEB. The 2004 Regulations provide for a Shadow Governing Body (SGB) to work alongside the IEB for at least six months before taking over full

responsibility as the governing body, until a normally constituted governing body is established under an instrument of government.

SGBs are appointed by the local authority in all categories of school, and it will be for the local authority to decide the size of the SGB although the composition is prescribed in the 2004 Regulations. In appointing shadow foundation governors, the local authority must consult those people who would be entitled to make such appointments if the governing body were a normally constituted governing body. An interim executive member can be a shadow governor.⁶

Full guidance on the role, duties and membership of SGB as well as IEBs, and the arrangements for transition back to normal governance is available at <http://www.standards.dfes.gov.uk/sie/si/SCC/>, Statutory Guidance on Schools Causing Concern May 2007.

Once the IEB is in place, the statutory process it must follow in order to create a NCT is the same as for the modified IEB route set out below.

ROUTE 3: MODIFIED IEB (GB publishes proposals)

In cases where the local authority has discussed the desirability for the school to become a Trust school with a majority of its governors appointed by a Trust and a strong education partner – and they have agreed and where this has also been agreed by Ministers – it will be sufficient for the governing body itself to publish the proposals to acquire the Trust. The statutory process it must follow in order to create a NCT is set out below.

If the governors are unwilling to follow this route, the local authority can still issue a warning notice to the governing body where it is satisfied that one of the conditions in section 60(2)(a)-(c) of the Education and Inspections Act 2006 is met. The warning notice will set out an expectation that the governing body will work with the local authority to acquire a majority trust composed of specified strong education partners (and/or to hard federate) in order to address the weaknesses in standards and move the school above the floor target. If the governing body does as required, then the school will still be eligible for NCT support; if it fails to do this, then the local authority would have grounds for removing the governing body and replacing it with an IEB and therefore taking forward NCT status in that way.

STATUTORY PROCESS FOR IEB AND MODIFIED IEB ROUTES

Once the SOI has been approved and a decision letter issued, and the necessary actions have been taken to set up an IEB or take the modified IEB route as set out above (and in the project plans in appendix C) the following processes must be carried out in order for the school to become a Trust school. Detailed guidance on the following processes is available in the Trust

⁶ See page 139 of *A Guide to the Law for School Governors* for further information on shadow governing bodies. http://www.governor-net.co.uk/linkAttachments/GGTL_v12_1456.pdf

Schools Toolkit⁷.

- Consultation by governing body or the IEB (depending on which route has been taken) to acquire a Trust. The timeframe for consultation is not prescribed but a minimum of 6 weeks is recommended;
- The governing body or the IEB publish statutory notice of proposals to become a Trust school and invite representations⁸;
- Representation period (timeframe: 4 weeks – prescribed in law);
- Decision by GB/IEB (timeframe: within 6 months of the publication date but ideally as soon as possible). [NB the local authority can refer the proposal to the Schools Adjudicator to decide but the referral must be made during the period for representations];
- Implementation of proposals (this process is discussed in detail in Step 8 below).

In parallel to the statutory process for the school to acquire the Trust, the Trust itself can be established and constituted as a company limited by guarantee.

Time frame

In theory, a Trust can be set up to the point of implementation stage within a few weeks if all parties are fully engaged, agree and sign the Memorandum and Articles of Association (required to establish the Trust) and send the documents off to Companies House. In practice the first group of pathfinder Trust schools took around 1-3 months to complete this process.

The timeframe for NCTs will depend on how much detail has already been agreed by schools and their partners before beginning the formal process, and on how frequently the governing body meets. As a minimum the process will take at least a term but more realistically it could take around 6 months.

Shared Trust model

Where more than one school decides to work together in a Shared Trust, (if the strong school is not already a Trust school) each school must separately go through the statutory processes to acquire the Trust. However, there is scope for governing bodies to publish a joint consultation if they are publishing proposals for the acquisition of the same Trust. Each governing body would need to consider any comments or views expressed before deciding whether to go ahead and publish proposals. NB this step is not required if the strong school is to be a Trust member – not a Trust school.

The governing body of the strong school has the power to publish and decide proposals to change category to foundation and/or acquire a Trust (unless the local authority refers them to the schools adjudicator because of concerns about standards or inadequate consultation). The process that must be

⁷[http://www.trustandfoundationschools.org.uk/pdf/Trust%20Schools%20Toolkit%20\(redraft%20October%202007\)%20FINAL%20amended%20Jan%2007_806.pdf](http://www.trustandfoundationschools.org.uk/pdf/Trust%20Schools%20Toolkit%20(redraft%20October%202007)%20FINAL%20amended%20Jan%2007_806.pdf)

⁸ It is strongly recommended for people developing proposals to refer to the statutory notice builder facility on the School Organisation website is (www.dcsf.gov.uk/schoolorg)

followed is: consultation (no prescribed timescale; minimum 6 weeks recommended); publication of proposals; representations (4 weeks); decision; implementation⁹.

STEP 4 - STATEMENT OF INTENT

The local authority and partner/s make a commitment in principle to work on the NCT by way of a Statement of Intent (SOI)

For the process to progress to the next stage, the local authority and partner/s will need to make a commitment in principle to work on the NCT which is set out in the SOI.

The SOI must include:

- the school/s;
- proposed partner/s and what they bring to the NCT;
- NCT model chosen (whether it is a NCT or a federation);
- route to deliver this (IEB, closure or the modified IEB route as discussed below); and
- the project rationale.

Guidance on preparing a SOI including an example SOI is attached as appendix B.

STEP 5 - MINISTERIAL SIGN-OFF OF STATEMENT OF INTENT

The Statement of Intent must be agreed between the Office of the Schools Commissioner, the local authority and the lead education partner for the NCT (and, if the modified IEB route is being followed must, also be signed by the chair of governors of the National Challenge school). The Statement of Intent must be presented for Ministerial sign-off.

Ministerial approval of the SOI gives agreement in principle that funding for the NCT will be available subject to successful completion of the following:

- a project plan setting out the milestones for delivering the NCT;
- the statutory local decision-making process to establish the NCT;
- a school improvement plan and accountability framework.

Note that, where the closure route is to be followed, the SOI should seek consent to publish proposals for the new school outside a school competition under s10 of the Education and Inspections Act 2006. This dispenses with the need for a separate application for consent as would normally be the case.

Ministerial approval of the SOI will be confirmed by means of a letter from the Office of the Schools Commissioner to the local authority and lead education partner who submitted the SOI. The letter will set out the next steps to be followed, as set out below.

⁹ Changing School Category to Foundation – A Guide for Governing Bodies
www.dcsf.gov.uk/schoolorg

STEP 6 - PLANNING AND ACCOUNTABILITY DOCUMENTS

As part of the NCT delivery process, the following documents must be provided (not at the same time) to the Department for approval:

6.1 Project plan

The local authority must complete and submit to the Department an outline project plan that sets out the key milestones for the delivery of NCT plans (or National Challenge federation plans) in line with the SOI and which has been approved by this Department through the signing off of a SOI. The project plan will be developed ahead of the school improvement plan and accountability framework, ideally within a week or two of the SOI being issued.

The project plan will show the timings of the key milestones in the school organisation statutory procedures which local authorities must follow when they establish NCT schools or oversee the delivery of a NCT by an IEB or by the governing body itself, or where the local authority or existing schools create NC Federations.

In addition to the statutory processes, the project plan needs to set out how the accountability framework and school improvement plan (discussed below) will be developed; who will be involved, when will they meet, who will do the writing, and how will they ensure it is finished by the time the statutory processes are completed. This will be a much smaller component of the project plan than the statutory processes.

Appendix C contains model project plans each of which covers a different statutory process: the correct one to use will depend on the route to be taken to deliver the NCT or NC Federation. The SOI will have set out which route is to be followed:

The model project plan also includes links to more detailed school organisation guidance that may be useful.

6.2 Accountability framework

Trust partners and the local authority produce a draft accountability framework.

The accountability framework clarifies lines of accountability between the governing body, Trust and local authority in the NCT delivery process. It specifies the people responsible for the planning process, makes clear the accountability of the lead education partner, governing body, local authority and any others with a key role. It should also address the project basics of who will write the plan, deliver specific elements and monitor the process etc.

The Department has developed a model accountability framework to assist with NCT monitoring and project management. This is attached as appendix

E.

6.3 School Improvement Plan

The local authority and Trust partner/s develop a (NC funded) School Improvement Plan (SI Plan) for the school budget and NCT funding. The SI Plan will identify and address the school's performance issues and set out how the Trust partners will drive improvement through the Trust.¹⁰

The Trust partner/s rather than the school's existing GB takes the lead in agreeing the SI Plans with the local authority and the Department. This includes deciding how the NCT funding should be spent.

The SI Plan is owned by the Trust partners with the lead education partner being responsible for delivering the outcomes in the plan or at least making sure the delivery is effective.

In terms of budget and funding, the SI Plan needs to identify what has been done and what needs to be done in the school over the next 4-5 years. NC funding is for extra activities over the 2-3 year NC timeframe (until the end of 2011 academic year) – the plan should identify what this will be spent on and how it will drive the school's continued improvement. National Challenge Trusts are eligible for up to £750k over the life of the National Challenge, from which any previous National Challenge funding is deducted.

It is important to note when developing a SI Plan that NCT funding is a one off and therefore all on going costs (e.g. staff) must be sustainable. Any funding required after the NC timeframe must come out of the individual school budget.

Guidance on developing the SI Plan is attached as appendix D.

STEP 7 - DEPARTMENTAL SIGN-OFF

Local authority and partner/s submit the project plan to DCSF for approval - DCSF will sign off the project plan. This is a process which should ideally be finished within a week or two of the SOI being issued. Funding allocations and conditions will be agreed later, at the point at which DCSF signs-off the school improvement plan and the accountability framework. Funds will be released as and when conditions of grants are met.

Payments will be made to the local authority via the Standards Fund. The Department's expectation is that the local authority will transfer this money on as part of the school's budget. This needs to be set out clearly in the school improvement plan. In the period before the NCT is up and running, the timing of payments to the school needs to be agreed with the Trust partners, to

¹⁰ The role of a school's specialism(s) as a driver of school improvement will form part of the discussions between the LA, NCA and the governing body or IEB of the NC school and should be integral to the wider school improvement plan.

ensure it is kept for use by the Trust partners and not the predecessor governing body.

STEP 8 - IMPLEMENTATION PERIOD

The 'implementation period' begins when the proposals are decided and ends on the date the proposals are implemented.

8.1 Establishment of a Trust as a company limited by guarantee & registration of Trust with Companies House

The school and partners need to have established the Trust as a charitable company by the implementation date so that it can hold the land and start to appoint governors. Further information on this process is set out in the Trust Schools Toolkit.¹¹ In short it involves sending the governing documents and other information as required, to Companies House to be registered as a company and in turn receiving a certificate of incorporation. In most instances a trust won't have to register information with the Charity Commission to be registered as a charity but the Trusts toolkit should be referred to on this matter.

8.2 Instruments of Government

The Instrument of government (IoG) must be drawn up by in the case of a change of category - the governing body or the IEB, and in the case of closure and reopening – the Trust partners or temporary governing body.¹² The IoG gives the name of the school and prescribes how many governors there are; who appoints, elects and co-opts them; who is eligible to be a governor and how long they serve.

The governing body must submit the IoG to the local authority who will check that the draft instrument complies with statutory requirements, including the relevant guiding principles for the constitution of governing bodies. If the instrument complies, the local authority will make the instrument.¹³ A model IoG can be adapted to suit individual circumstances and can be found in the DCSF Trust School toolkit.

Note that as a maintained school, a Trust school governing body must be composed according to the stakeholder model of governance, including representatives of the local authority, the community, parents and staff as well as foundation governors. Parents must make up at least one-third of the governing body of all maintained schools. This means that where the Trust appoints a majority of governors, it must appoint a number of parents as foundation governors so that the total number of parents who are governors

¹¹[http://www.trustandfoundationschools.org.uk/pdf/Trust%20Schools%20Toolkit%20\(redraft%20October%202007\)%20FINAL%20amended%20Jan%202007_806.pdf](http://www.trustandfoundationschools.org.uk/pdf/Trust%20Schools%20Toolkit%20(redraft%20October%202007)%20FINAL%20amended%20Jan%202007_806.pdf)

¹² *A Guide to the Law for School Governors*

http://www.governor-net.co.uk/linkAttachments/GGTL_v12_1456.pdf

¹³ [Education School Governance \(Constitution\)\(England\) Regulations 2003 SI 2003/348](http://www.governor-net.co.uk/linkAttachments/GGTL_v12_1456.pdf)

(amended): <http://w2k-web->

1.niss.ac.uk/0121governor-net/publishArticle.cfm?topicAreaId=9&contentId=175&context=0

equals at least one-third of all governors. In addition, at least one parent governor must be elected.

STEP 9 - Implementation date - NCT is opened

The NCT is opened on the date specified in the statutory proposals – this is referred to as the ‘implementation date’. Note that the Trust (as opposed to the Trust school) can exist before the implementation date.

Some preparations for implementation can happen as soon as the decision has been made to acquire the Trust, and others will begin in the months that follow the decision.

9.1 Appointment of Governors

The Trust will start to appoint governors from the implementation date, and the reconstitution of the governing body should be completed during the next 3 months. Partner school reconstitutes new governing body if it has also acquired a Trust.

On the implementation date existing governing body is dissolved and replaced by the new governing body of which the majority of governors have been appointed by the Trust.

9.2 Land and asset transfer

Legal title to the school’s land and buildings will be automatically vested in the Trust from the ‘implementation date’.¹⁴ The detail of the transfer should be agreed with the local authority during the consultation stage of the Trust school’s formation. The local authority will also complete a formal transfer. This can take several months. However, if the Trust and local authority have not executed a transfer agreement within six months of the implementation date then either party may apply to the Schools Adjudicator to determine any dispute¹⁵.

See Schedule 6 Prescribed Alterations to Maintained Schools Regulations 2007 <http://www.dcsf.gov.uk/schoolorg/guidance.cfm?id=29>

¹⁴ Note that the ‘implementation date’ (the date the Trust school is established), is not necessarily the same as the date of the establishment of the Trust itself (the foundation as distinct from the Trust school). The Trust (as distinct from the Trust school) may be established at any point up until the implementation date - it may exist before the proposals are published or it may be established some time between then and the implementation date. But irrespective of when the Trust is actually established, the land won’t transfer until the date when that Trust actually starts to act as foundation to the school and the school actually becomes a Trust school - the ‘implementation date’

¹⁵ [Trust Schools Guidance for information on land and building transfer](http://www.trustandfoundationschools.org.uk/governors/resources_and_publications.aspx)
http://www.trustandfoundationschools.org.uk/governors/resources_and_publications.aspx

9.3 Staffing and leadership changes

On the implementation date, all rights, duties, powers and liabilities under or in connection with employment transfer from the local authority to the governing body. The governing body must make relevant changes to staff contracts to reflect the change of employer.

The implementation of structural changes may impact on existing staff to a greater or lesser degree, dependent on the structural route taken (e.g. closure and reopening as a new Trust school or school changing category). But in all instances, as a basic principle, local authorities should aim to safeguard the interests of staff concerned.

The position with regards the transfer of staff from one category of school to another without the closure of the predecessor school is governed by the School Organisation, Prescribed Alterations Regulations.¹⁶ These Regulations are intended to carry forward the provisions of the previous Regulations, the Education (Change of Category of Maintained Schools) (England) Regulations 2000 (amended by subsequent regulations) in respect of such transfers. This only applies for the IEB and modified IEB routes for delivering NCTs without school closure.

The Department cannot offer a definitive interpretation of the law. Local authorities should obtain their own legal advice on how the transfer provisions may apply to their own particular case. However, our best current advice is that TUPE does not apply either to changes of category (i.e. if a school becomes a Trust school via the IEB route without closure) or to new maintained schools replacing existing maintained schools (i.e. the closure and reopening route). This is because they are likely to be viewed as an administrative reorganisation and a “transfer of administrative functions” from one public administrative authority (the local authority) to another (the governing body). Nevertheless, local authorities should always ensure that conditions are no less favourable under TUPE.

The Cabinet Office Staff Transfers in the Public Sector’ Statement of Practice offers further guidance on this matter.

http://beta.civilservice.gov.uk/Assets/stafftransfers2_tcm6-2428.pdf

9.4 Parent Councils

It is a requirement in law for the governing body of a majority governance Trust school to set up a Parent Council (all NCTs will be majority governance Trust schools).¹⁷ The Parent Council will have an advisory and consultative role to enable parents’ views to be taken into account.

¹⁶ School Organisation (Prescribed Alterations to Maintained Schools)(England) Regulations 2007 Statutory Instrument 2007 No. 1289

http://www.opsi.gov.uk/si/si2007/uksi_20071289_en_1

¹⁷ The Education and Inspections Act 2006

http://www.opsi.gov.uk/Acts/acts2006/ukpga_20060040_en_1

Regulations¹⁸ state that, as far as practicable, the parent members of the Parent Council must include the parent or parents of at least one pupil in each year group, at least one parent to represent:

- (i) any pupil; and
- (ii) any group of pupils or parents, identified by the governing body as requiring special consideration (e.g. looked after children, children with special educational needs or English as a second language, or BME parents); and
- (iii) the parent governor or parent governors.

The Parent Council can be set up at any time during the process of establishing the Trust. The majority of its members will be parents of registered pupils at the school. People, other than parents of current pupils, may only be members of a Parent Council where the parents consent to them being members.

9.5 Admissions policy

The governing body of a Trust school sets its own admissions arrangements. Like all other admission authorities, it must act in accordance with the School Admissions Code. The governing bodies of foundation and voluntary aided schools already set their own admissions arrangements. Consultation on arrangements must be complete by March 1 for arrangements the following September. It is possible for the local authority to manage the process once the governing body have set its oversubscription criteria¹⁹.

In practice, (in the case of a school closing and reopening as a trust) if the NCT is put in place in less than 18 months, the new school will have to honour the admissions arrangements of the old school for the first year of operation, but will be able to set its own admissions arrangements for subsequent years.

All maintained schools will be entitled to be represented on local admission forums, which consider how to handle difficult issues and advise admissions authorities on ways to improve their arrangements. The school will have to have regard to any advice it receives from the local forum about its arrangements.

Step 10 - Monitoring

The NCT works to deliver on the School Improvement Plan (SI) and its progress is monitored in the Local National Challenge Board.

¹⁸ School governance (Parent Council) Regulations 2007
http://www.opsi.gov.uk/si/si2007/uksi_20071330_en_1

¹⁹ Schools Admissions Code of Practice <http://www.dcsf.gov.uk/sacode/docs/DFES-School%20Admissions.pdf>

NATIONAL CHALLENGE FEDERATIONS

Federation²⁰ involves two or more maintained schools coming together with a formal partnership and a single governing body pursuant to s24 of the Education Act 2002 and its associated regulations.²¹ Many federations also have one head teacher working across the schools.

The schools in a federation remain separate schools with all that entails for admissions policies and for reporting on results.²²

Federation is about schools forming sustainable school-to-school partnerships in which they can provide students with a wider range of opportunities and services, pool their budgets, share resources, share best practice, improve professional development opportunities for staff, and strengthen the school's curriculum and specialisms.

Federating with a strong school transforms a National Challenge school's leadership – providing a solid platform for school improvement. The development of a school improvement plan ensures the new governing body has a clear strategy for addressing performance issues as well as a framework for sustained improvement over the long term.

Further guidance on federations and their regulations are available on the Department's website:

http://www.standards.dcsf.gov.uk/federations/what_are_federations/1798635/?version=1

²⁰ Federation is often referred to in terms of 'hard' or 'soft' federation. In this guidance the term federation refers to 'hard federation' which is federation with a single governing body and established pursuant to s24 of the Education Act 2002 and associated regulations.

²¹ The School Governance (Federations) (England) Regulations 2007.

²² Schools within a federation remain separate schools. Powers of intervention, including removal of delegated funding, are not affected by a school being a member of a federation. Similarly, powers in respect of individual governing bodies, including replacement by an IEB where this is necessary, continue to apply in respect of the federated governing body.

NATIONAL CHALLENGE FEDERATION MODELS

A strong school and a weak school form a hard federation without a trust or external partner. This is the quickest of all the models to put in place, as the statutory process to form a federation is simpler than the process to become a Trust school.

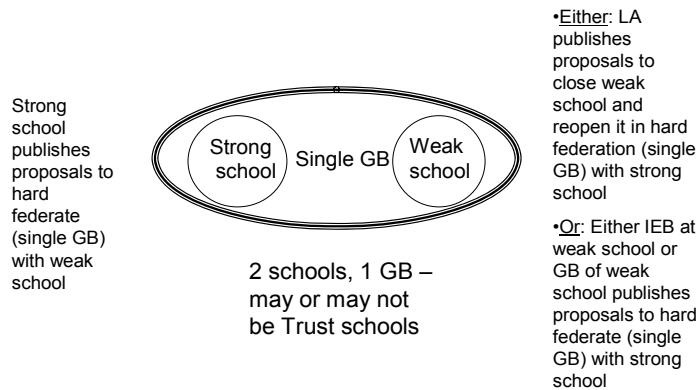


Fig. 5 Federation

Federation with a Shared Trust

This model allows the governing body of the strong school to take over or replace the governing body of the weak school as in a standard federation but with the addition of a Trust which allows for the involvement of external, non-school partners, who cannot be part of the federation.

Establishing a Trust to support a federation combines the advantages of a single governing body with the strategic leadership of involving external, non-school partners as part of a Trust.

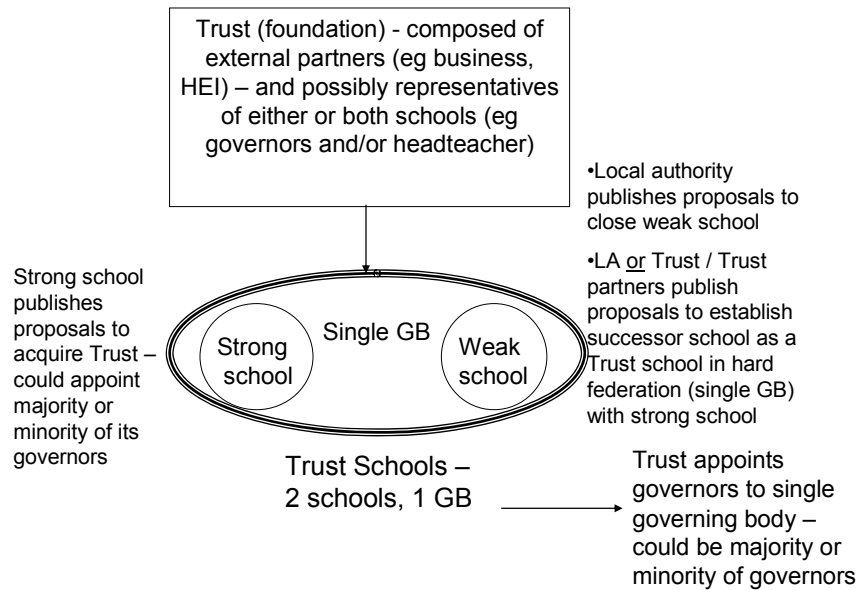


Fig 6. NCT Route III: Strong school and weak school are federated under a single governing body which acquires a Trust (involving an external partner)

NATIONAL CHALLENGE FEDERATION DELIVERY PROCESS

Overview of key delivery steps:

- LA National Challenge planning;
- Brokering federation partnership/s;
- Determining the route. One of the three available routes to establishing a NCT is taken:
 - closing and reopening the school
 - setting up an IEB, or
 - modified IEB route
- Statement of Intent - Ministerial sign-off
- Planning and accountability. The following three documents are submitted to DCSF for approval:
 - Project plan (submitted shortly after approval of SOI)
 - Accountability framework
 - School Improvement Plan
- DCSF sign off funding;
- NC Federation opens and is monitored by the local NC Board on how it delivers the SI plan.

NC Federation delivery model

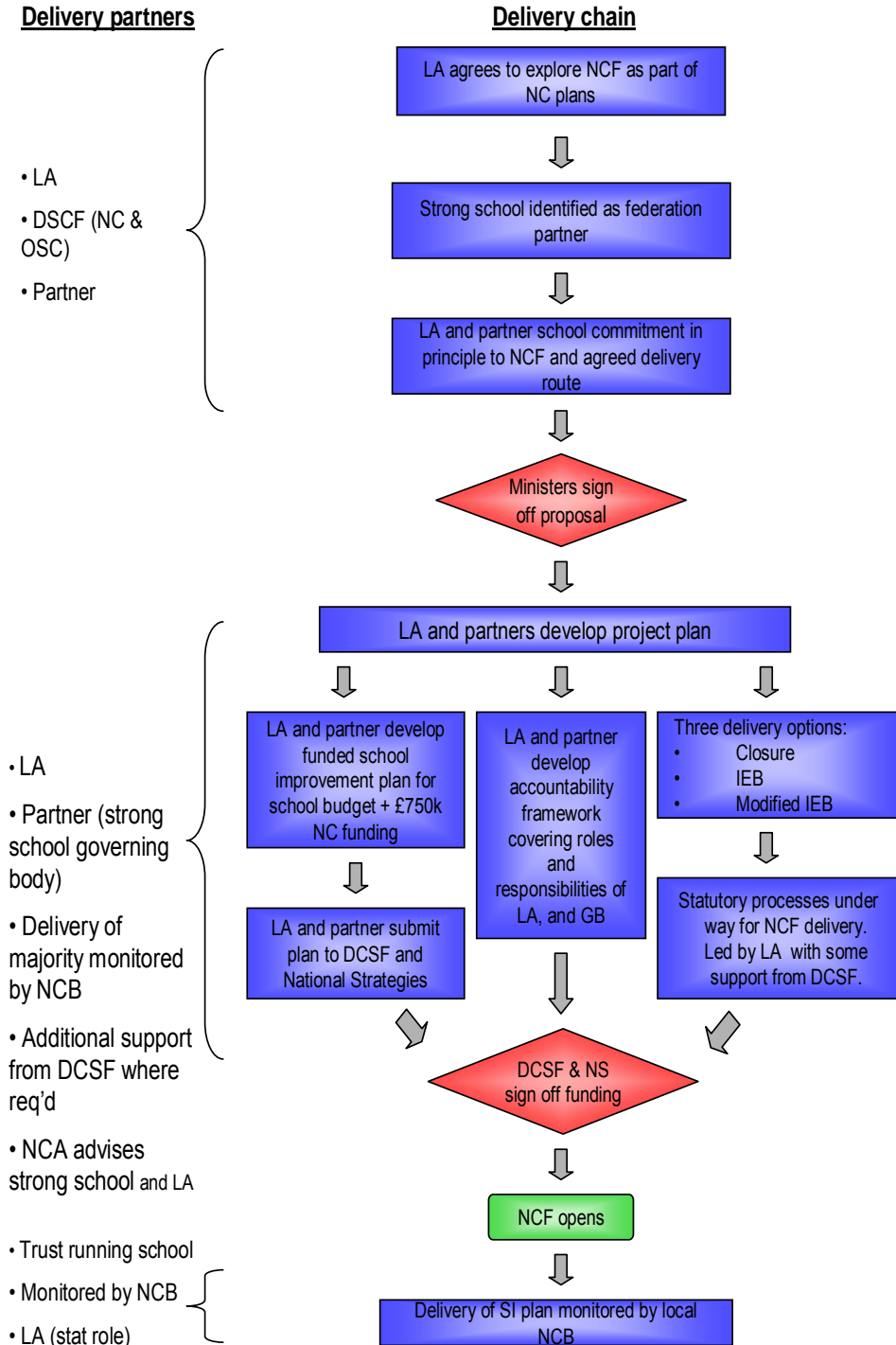


Fig.6

NATIONAL CHALLENGE FEDERATION DELIVERY STEPS

STEP 1 - NATIONAL CHALLENGE PLANNING

NC Federations are part of the wider National Challenge programme for school improvement. This process involves schools and their local authorities developing a package of measures to address the needs of each school in order to improve pupil achievement

For a NC Federation to be established, the local authority would usually have agreed to explore NC Federation as an option as part of its wider National Challenge plans [the first round were signed off in late 2008 / early 2009]. The NC Federation proposal is also subject to Ministerial sign-off, via a Statement of Intent, which gives approval for the local authority and the strong school to further develop plans for the potential NC Federation. This is not, however, a commitment to release NC Federation funding for the school at this stage.

STEP 2 - BROKERING FEDERATION PARTNERSHIPS

After sign-off of the local authority's National Challenge plans, local authorities should discuss potential NC Federation solutions with the schools concerned and brief the school's NCA accordingly. Relevant and effective partnership formation is central to the establishment of NC Federations. Discussion and preliminary decisions about partnership should take place as early as possible.

The actual brokerage of the NC Federation, including identification of potential federation partners, is carried out by the local authority along with the Office of School Commissioner, DCSF's National Challenge Division and National Strategies.

Local authorities will work with Office of School Commissioner consultants, National Challenge Advisers and identified partner school/s to establish these agreements.

STEP 3 - DETERMINING THE ROUTE TO ESTABLISHING A NC FEDERATION

As with NCTs, there are three routes for establishing a NC Federation:

1. Closure and reopening in federation with a strong school;
2. IEB put in place to replace GB and publish proposals for the school to federate with a strong school;
3. Modified IEB – governing body works voluntarily with the LA.

Route 1. Closure and reopening in federation with a strong school

A local authority can publish proposals to close any category of maintained

school.²³ The GB of foundation and voluntary schools can also publish proposals to close their schools. The local authority or another proposer (not a GB) can publish proposals for a new school. The proposals for both the closure of the weak school and the opening of the new school should be published and must be decided as “related” (linked) statutory proposals. The proposals for the new school must make it clear that it will form part of a federation and the consultation on the proposals must provide information on the proposed federation.²⁴

Statutory process for establishing a federation through closure of a weak school /opening of a new school to be federated with a strong school:

- The strong school must consider a report on the proposal to federate. The report must be specified as an item of business on the agenda for the meeting of which notice has been given in accordance with regulation 11(4) of the 2003 Procedures Regulations;
- If agreed, preliminary consent needs to be given by the strong school governing body and the proposers/LA of the new school to publish the federation proposals (this will be part of the SOI/brokerage process);
- The LA consults on closure (should take place concurrently with the consultation on opening by the LA/new school proposers and should make it clear that the new school will open as a federation);
- LA publishes closure proposals in parallel with publication of proposals for the new school (proposals should be identified as related). New school proposals should include proposal to federate and be published at the same time as the strong school governing body proposals to federate;*
- Representation period for the closure/new school proposals is 6 weeks (this is statutory and cannot be changed);
- Decision for a new school opening (as part of a federation) is made by the Local Authority or Schools Adjudicator (dependent on who has published the new school proposals) under School Organisation Regulations. The decision on the strong school’s federation proposals is made by the strong school’s governing body under the Federation Regulations;
- Implementation – The strong schools GB is dissolved and the new governing body for the Federation is incorporated etc. (if the proposals are approved, the proposers of the new school are under a statutory duty (under School Organisation Establishment and Discontinuance Regulations) to open the new school (as a

²³ In addition, s68 of Education and Inspections Act 2006 gives the Secretary of State the power to direct a local authority to close a school requiring special measures. Such a direction will not require the publication of statutory proposals for the school’s closure but proposals will be required for the opening of a new school.

²⁴ Para 29 of Schedule 3 Part 1 of the Establishment and Discontinuance Regulations requires proposals for a new school (outside a competition) to include "details of any proposals for the school to be federated with one or more schools (by virtue of section 24 of EA 2002 and section 12)."

federated school) from the date specified in the statutory proposals, unless the implementation date is subsequently modified (modification to the implementation date can only be made prior to the approved implementation date being reached).

* Formal proposals to federate should be circulated to all relevant persons with a minimum 6 weeks to comment. See regulation 8(3) of the School Governance (Federations) (England) Regulations 2007 for details of consultees: circulate to local authority, parents, staff of all schools; diocese or other relevant body if religious character; foundation governors or trustees where relevant – the wider the circulation the better (for example local schools not in the federation) so that the community is involved in the exercise.

Exemption from competition

Exemption from a competition for the replacement school can be granted as part of the Ministerial sign-off of the Statement of Intent for that particular NC school. As is the case with NCTs, exemption from competition is applied for as part of the SOI.

Temporary governing body

Where a temporary governing body for the new school has been established it would publish the proposals to federate. Otherwise, regulation 10(3) of the Federations Regulations 2007 states the new school proposers will act in the place of a governing body to jointly, with the federation partner(s), publish and consider responses to federation proposals.²⁵ See link below
http://www.standards.dfes.gov.uk/federations/pdf/uksi_20070960_en.pdf?version=1

Route 2. IEB put in place to replace GB and publish proposals for the school to hard federate with a strong school

Where a school is judged to be in an Ofsted category 4 or the local authority has issued a warning notice (and the existing GB has failed to comply see below), it is possible for the local authority to put in place an IEB that may take forward federation proposals. Appointing an IEB in a school in Ofsted category 4 involves:

- The local authority consulting the existing governing body;
- The local authority requesting consent for IEB from the Secretary of State;
- The local authority issuing a 'Notice of Establishment' to the governing body; If approval received
- IEB is established.

²⁵ Also paragraph 8(5) of Schedule 2 to the Education and Inspection Act 2006 provides that approvals may be conditional, and regulation 20(h) of the Establishment and Discontinuance Regulations provides that the approval may be conditional on the school becoming part of a specified federation.

The IEB for the NC school, along with the GB of the strong school, jointly publish proposals to federate. The final decision to federate is made by the IEB and the GB of the strong school. This process is set out on pages 39-40.

The process for appointing an IEB by way of a warning notice is as follows:

- Local authority issues a warning notice to the governing body;
- Governing body fails to comply/complies/appeals to Ofsted (within 15 days of receipt of notice);
- Where governing body appeal to Ofsted the decision may be to uphold or rescind the warning notice;
- If governing body fails to comply with the warning notice and does not appeal, the local authority uses the power of intervention and issues a 'Notice of Establishment' to the governing body appointing the IEB (within 2 months of the expiry of the warning notice).

Route 3. Modified IEB (GB working voluntarily with the LA)

As is the case for NCTs, there is a third option which allows for voluntary action from the governing body rather than formal intervention. Where the local authority has discussed the desirability for the school to become a federation and they have agreed (and where this has also been agreed by Ministers), it will be sufficient for the governing body itself to publish the proposals to federate.

If the governors are unwilling to follow this third route, it would be sufficient for the local authority to issue a warning notice to the governing body which sets out an expectation that the governing body will work with the local authority to federate with a specified strong school in order to address the weaknesses in standards and move the school above the floor target. If the governing body does as required, then the school will still be eligible for NCT support; if it fails to do this, then the local authority would have grounds for removing the governing body and replacing it with an IEB and therefore taking forward the NC Federation that way.

It is also possible for a local authority to use its powers of intervention under s63 of the Education and Inspections Act 2006 to require a governing body to establish a federation with a strong partner. Again, this is only possible where a school is judged to be in an Ofsted category 4 or the local authority has issued a warning notice as set out above. In such cases the existing federated governing body must give their preliminary consent. This could be funded as a NC Federation.

Process for establishing a NC Federation without school closure (Routes 2 and 3):

- Governing bodies/IEB produce a report and consider it as an agenda item at a governing body meeting to which 7 days notice has been given;

- Governing bodies/IEB from all schools involved publish consultation documents jointly (minimum 6 weeks to comment);*
- Joint meeting of governing bodies/IEBs to consider responses (7 days notice before a GB meeting is required);
- Individual governing bodies/IEB meet to make the final decision on whether they wish to proceed.
- Notification of local authority and appointment/election of new governing body of federation.
- Implementation process.

*Consultation documents must be jointly published by all the governing bodies concerned. The documents should give a range of information including: the names of the schools involved; the date on which it is intended to federate; the proposed size of the governing body; the proposed numbers of governors in each category; and the proposed staffing arrangements.

Implementation

If, after considering comments on the proposals (not less than 6 weeks after publication), the governing bodies decide to proceed with the federation, they must inform the local authority and provide the local authority with a draft instrument of government (the local authority has to make the IoG drawn up by the governing body unless it is technically flawed). They may not proceed to federation except with the schools mentioned in the consultation. On the federation date the governing bodies of the federating schools are dissolved, and the governing body of the federation is incorporated (rights, liabilities, and property of the federating governing bodies are transferred to the federated governing body).²⁶

STEP 4 - STATEMENT OF INTENT (Minister signs-off proposals in principle)

The Statement of Intent must be agreed between the Office of the Schools Commissioner, the local authority and the strong school governing body of the proposed federation (and must also be signed by the chair of governors of the National Challenge school if the modified IEB route is being followed). The Statement of Intent must be presented for Ministerial sign-off.

Ministerial approval of the SOI gives agreement in principle that funding for the NC Federation will be available subject to successful completion of the following:

- the local authority to prepare and submit to the Department a project plan setting out the milestones for delivering the NC Federation;
- the statutory local decision-making process to establish the NC

²⁶ From {insert date} amendments to the School Organisation and Governance (Federations) (England) Regulations 2007 come into effect

- Federation to commence; and
- the lead education partner on the NC Federation and local authority to develop a school improvement plan and accountability framework which, when agreed by the Department, will form the basis for Departmental funding of the NCT.

Note that, where the closure route is to be followed, the SOI should seek consent to publish proposals for the new school outside a school competition under s10 of the Education and Inspections Act 2006. This dispenses with the need for a separate application for consent as would normally be the case. Ministerial approval of the SOI will be confirmed by means of a letter from the Office of the Schools Commissioner to the local authority and lead education partner who submitted the SOI. The letter will set out the next steps to be followed, as set out below.

STEP 5 - PLANNING AND ACCOUNTABILITY DOCUMENTS

As described in relation to NCTs, the development of a project plan, an accountability framework and a school improvement plan is required as part of the NC Federation delivery process. The project plan should be developed and submitted to the Department within two weeks of the SOI approval being notified. See appendices C & D for information on these documents. The governing body of the strong school and the local authority (and, where relevant in the case of closure and reopening, the new school proposers) draft the school improvement plan and the accountability framework.

STEP 6 - DEPARTMENTAL SIGN-OFF

DCSF signs-off funding after approving the accountability framework and school improvement plans.

Funding allocations and conditions will be agreed at the point at which DCSF signs-off the package of documents comprising the project plan, the school improvement plan and the accountability framework. Funds will be released as and when conditions of grants are met.

Once the proposals have been implemented, payments should go directly to the school. Prior to this, payments will be made to the local authority.

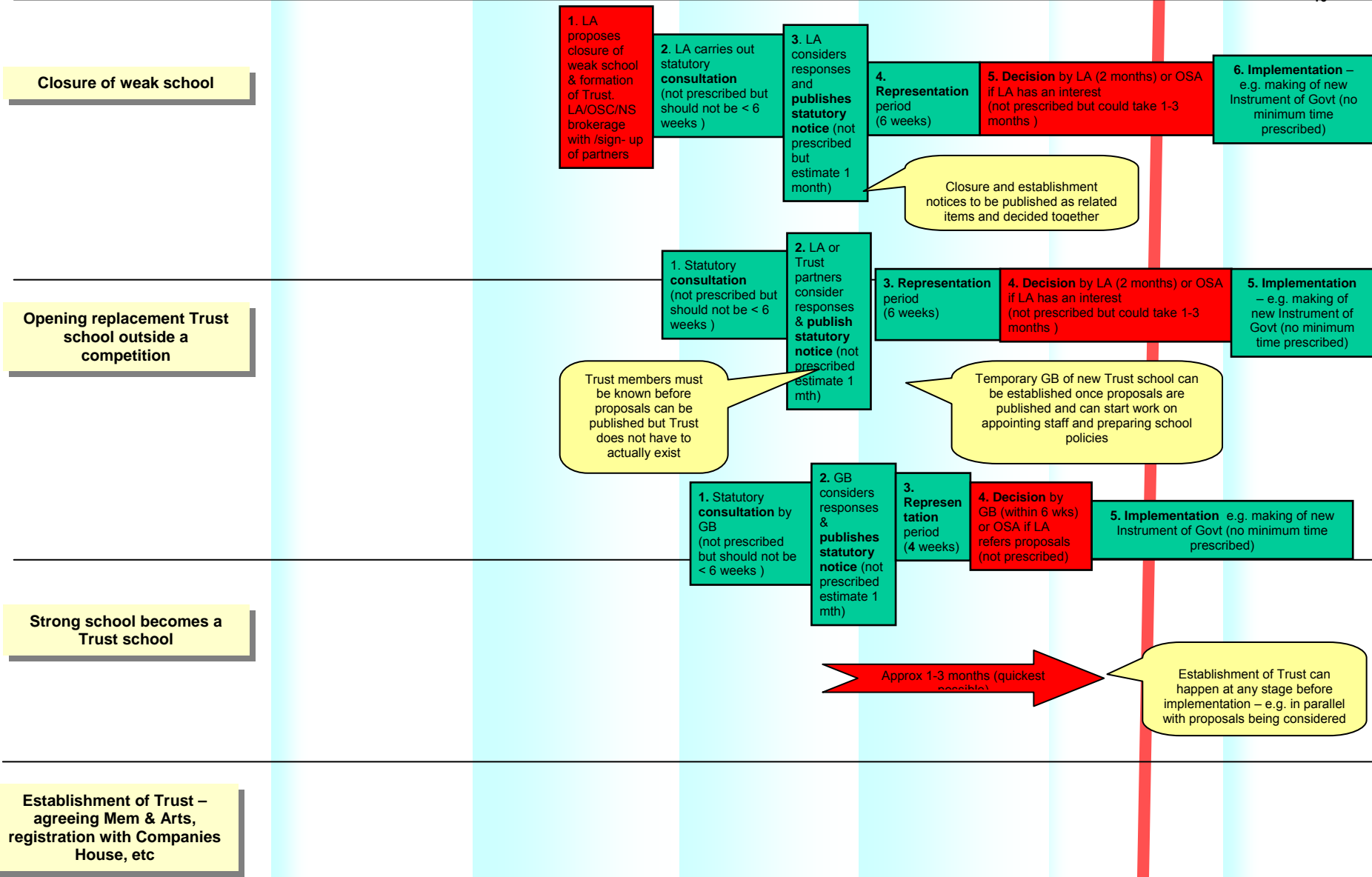
STEP 7 - NC FEDERATION OPENS and works to deliver on the RAP and school improvement plan which are monitored by the local National Challenge Board.

TIMEFRAMES

The statutory process for the establishment of a Federation can take 12 – 14 weeks. This does not include the brokering and planning process which could take the process up to more like 6-8 months. If the decision is made to close and reopen the school in a Federation the process will take longer.

Fig 7 National Challenge Trust with School closure

Process Month 1 Month 2 Month 3 Month 4 Month 5 Month 6 Month 7 Month 8 Month 9 Month 10 Month 11 Month 12



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Fig 8 National Challenge Trust with establishment of an Interim Executive Board

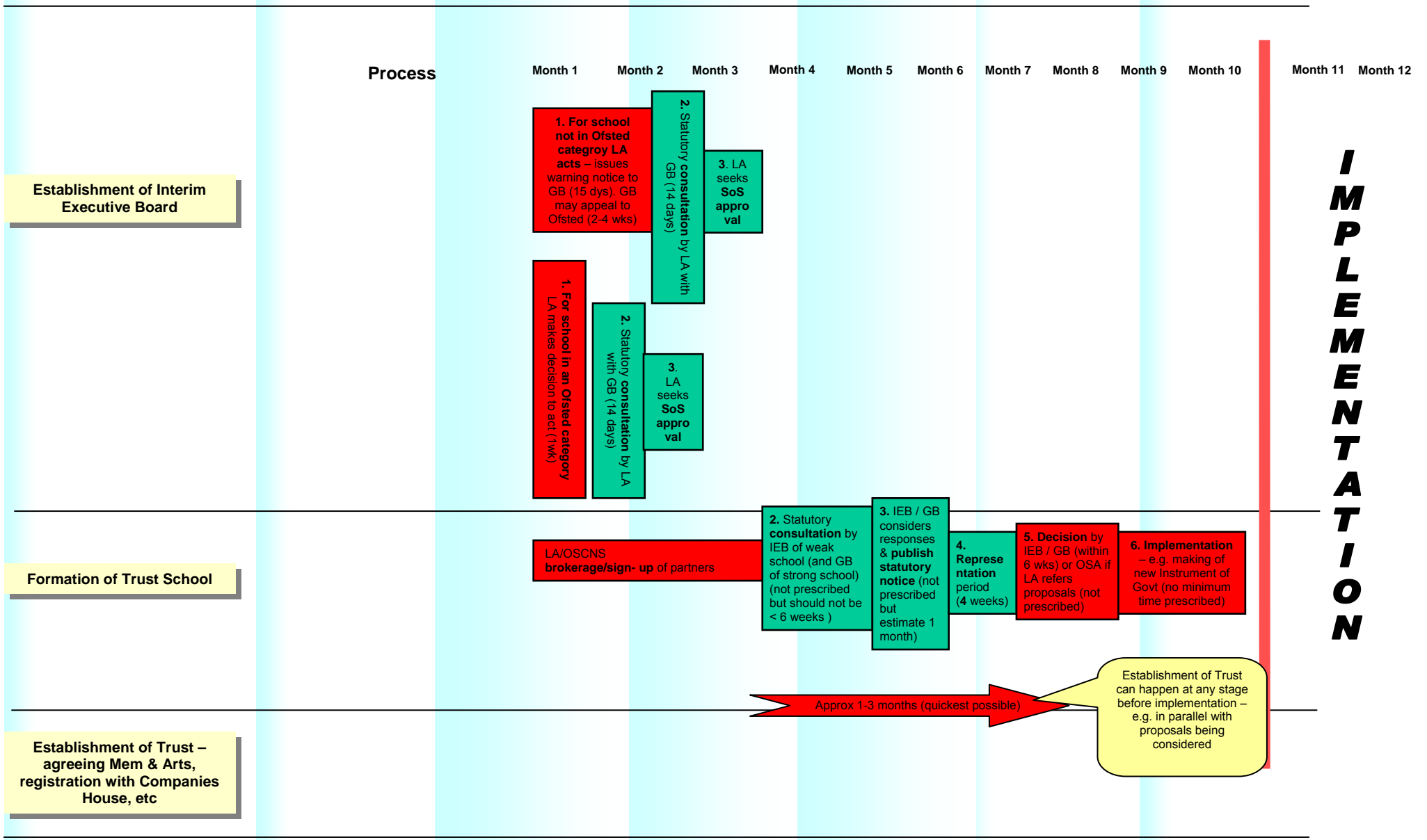
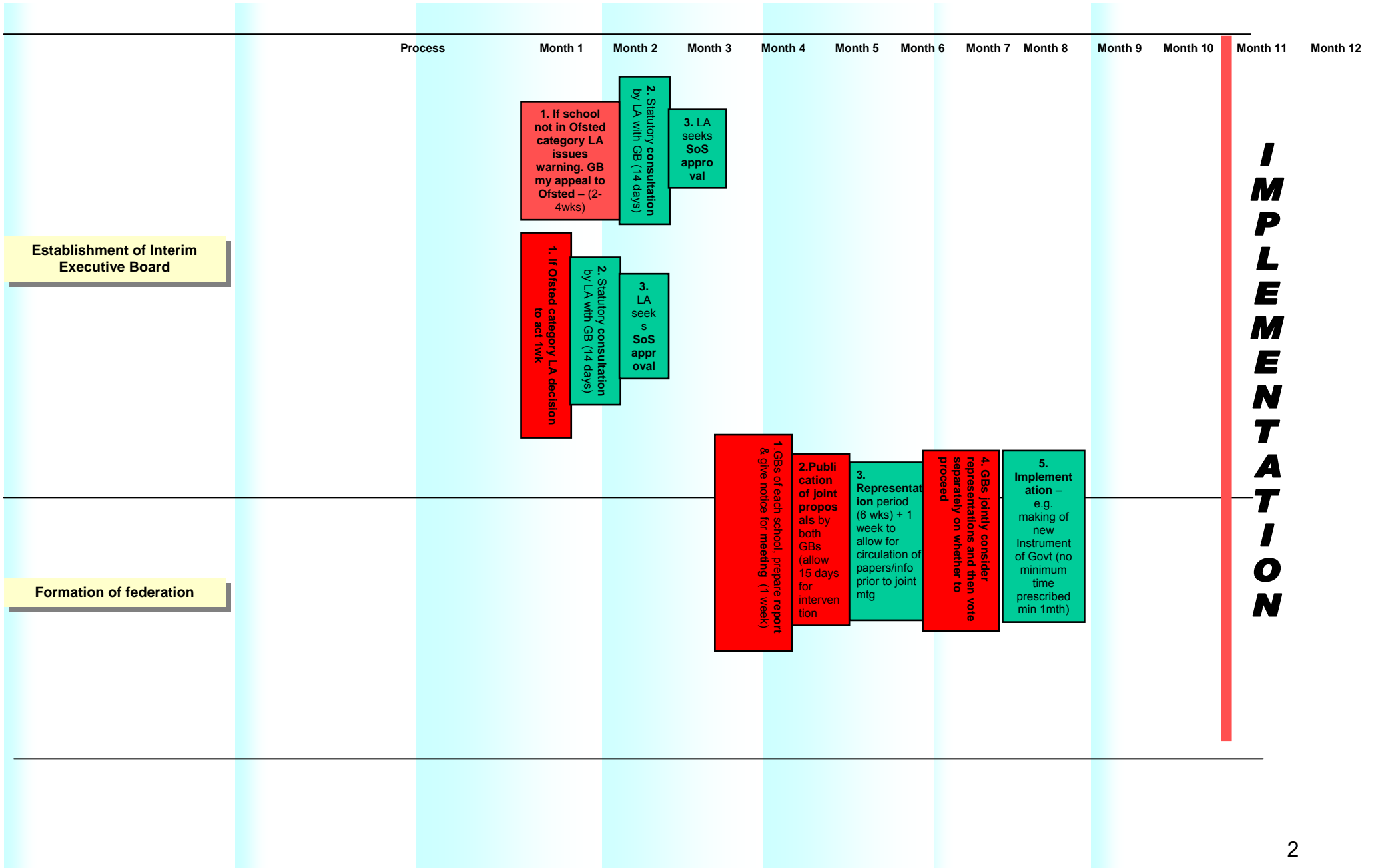


Fig 9 Formation of a NC Federation without school closure



APPENDIX B: STATEMENT OF INTENT (EXAMPLE) TEMPLATE

National Challenge Trust Statement of Intent					
School (s):					
LA:					
Performance results:	2006 GCSE (inc. Eng & maths)	2007 GCSE (inc. Eng & maths)	2007 CVA (KS2-4)	2008 GSCE provisional	National Challenge risk rating
Proposed route: <i>(Modified IEB, Closure, IEB)</i>					
Proposed opening date:					
Consent to publish new school proposals outside a competition (Required/NA):					
<i>(Secretary of State consent to publish new school proposals outside a competition is required in cases where the existing school is to close and be replaced by a new National Challenge Trust school. The normal statutory process must be followed, including publishing proposals - by the LA under s15 (closure) and by the LA or NCT partners to establish the new school under s10 (exemption from competition) of the Education and Inspections Act 2006.)</i>					
NCT Lead Partner:					
Type of school (Community/Foundation/VA):					
Age range:			Size:		

RATIONALE FOR PROJECT
<i>(Brief outline of the key priorities facing the school)</i>
RATIONALE FOR LA
<i>(Brief outline of the success of the past interventions and how the creation of a NCT fits into the LA's school improvement strategy)</i>
RATIONALE FOR PARTNERS
<i>(Brief outline of the capacity available from partner(s) and the transformation the Trust will bring to deal with the key improvement priorities)</i>

Signed..... (on behalf of LA)

Signed..... (on behalf of
NCT Lead Partner)**For Modified IEB route only**

The Governing Body of School is committed to undertake the statutory process required to become a NC Trust Foundation School.

Signed..... (on behalf of NC
School GB)

APPENDIX 'C' PROJECT MANAGEMENT PLAN TEMPLATES**NATIONAL CHALLENGE TRUSTS****Route 1. Establishing a NCT through closure and opening**

Stage	Process	Statutory timing	Date for action	Complete	Responsible parties to confirm action
Stage 1	<p>1. Sol approval granted</p> <p>2. Decision letter issued</p> <p>3. Project plan submitted</p> <p>4. Discussions on the establishment of the Trust begun</p> <p>5. Trust partners commence draft School Improvement Plan</p> <p>6. Trust partners/ LA draft & agree in principle the accountability framework</p>	1 & 2 Ministerial approval granted prior to consultation start date		Within one or two weeks of Sol sign-off 4, 5 & 5. by implementation date	<p>1&2 once Minister approved, OSC write to LA (copied to lead Trust partner).</p> <p>3. LA</p> <p>4, 5 & 6 Trust partners/ LA/OSC/NCA</p>
Stage 2	<p>1. Consultation on both the closure of the existing school by the LA & the proposed new Trust school by the Trust partners (proposals must be linked).</p> <p>2. Consultation by strong partner school on acquiring a Trust ONLY if to be part of a shared Trust.</p>	<p>Not prescribed (minimum of 6 weeks recommended)</p> <p>Not prescribed (minimum of 6 weeks recommended)</p>			<p>1. Joint consultation closure led by LA & new school by proposers</p> <p>2. GB of Trust partner school</p>
Stage 3	<p>1. LA publish related statutory notice for closure.</p> <p>2. Trust partners (or LA) publish* related statutory notice to establish a new Trust school.</p> <p>3. GB of strong partner school publishes* own proposals to acquire a Trust (if to be shared Trust – not necessary if strong school is to be a Trust member but</p>	<p>Not prescribed – but as soon as practicable</p> <p>No more than 2 weeks after other stage 2 proposals</p>			<p>1. LA</p> <p>2. Trust partners of new school</p> <p>3. GB of strong school</p>

	not a Trust school itself)				
Stage 4	Representation period (to allow for comments & objections for closure and new school proposals to be submitted) Representation period for strong partner school to acquire a Trust (where applicable).	6 weeks 4 weeks			
Stage 5	1. Decision by LA on both proposals to close & open new Trust school or 2. If LA involvement in Trust or LA publishes proposals for the new Trust school the Schools Adjudicator is the Decision Maker for closure & new school proposals 3. Decision by partner school to acquire a Trust (if applicable)	1. Within 2 months of the end of stage 3 2. LA must refer to the SA within 2 weeks from the end of stage 4. No prescribed time for Adjudicator to decide (but takes approx 6 weeks from referral) 3. Within 6 months of publication date but as soon as practicable			1. LA 2. LA must refer to schools Adjudicator who decides on related closure & new school proposals. 3. GB of strong partner school
Stage 6	Implementation period 1. Establishment of Trust as a company limited by guarantee & registration of Trust with Companies House 2. Trust partners sign off SIP 3. Trust partners/ LA/ GB sign off Accountability Framework and submit to DCSF 4. CRB checks for Trustees and governors 5. LA must transfer land & assets to Trustees 6. Establishment of temporary GB 7. Temporary GB draft Instrument of Government (IoG) for Trust school(s)	All by implementation date			1. Trust partners 2. Trust partners with NCA & NCD 3. trust partners 4. new GB of NCT 5. LA 6. LA 7. Temporary GB of new school &

	stating trust appoints the majority of governors 8. LA make the loG				approved by Trustees. 8. LA make loG
Stage 7	Implementation date Where partner school acquires a Trust all rights, duties, powers & liabilities under or in connection with employment transfer from LA to GB GB notifies LA to pass a statutory resolution enabling support staff to belong to the Local Government Pension Scheme	No prescribed time but proposals must be implemented as published on the implementation date			LA
Stage 8	1. Trust appoints majority governors for new school 2. If partner school acquires a Trust they must reconstitute a new GB which i. asks the LA to pass a statutory resolution enabling support staff to belong to the Local Government Pension Scheme ii. makes relevant changes to staff contracts to reflect the change of employer. 3. GB of Trust school to set own admissions arrangements in accordance with Schools Admissions Code 4. GB of a majority governance Trust school must set up a Parent Council	Within 3 months of implementation date Must consult by March 1 for arrangements the following September No prescribed time			1. Trust Partners i. GB ii. GB/LA iii. GB 3. GB 4. GB

*it is highly recommended that drafters of statutory notices use the notice builder toolkit available at www.dcsf.gov.uk/schoolorg

Route 2. Establishing a NCT through an Interim Executive Board

NB. Where a school is in an Ofsted category the local authority has the powers to impose an IEB after agreement with the SoS. Where schools are not in Ofsted categories, as is the case for the majority of NCTs, the local authority may still go down the IEB route but must first issue a warning notice setting out what action the school must take by a specified date. If the school fails to take the necessary action, the local authority may impose an IEB with agreement of the SoS. The school may, however, appeal to Ofsted against the warning notice.

Process for appointing an IEB for a school which is in an Ofsted category

Stage	Statutory requirements	Statutory timing	Date for action	Completed
Stage 1	LA consults GB	14 days		
Stage 2	LA requests Secretary of State consent for IEB	None		
Stage 3	Approval received & LA issues a 'Notice of Establishment' to GB	None		
Stage 4	IEB established	None		
Stage 5	Establish Shadow GB	To run concurrently with IEB		

Appointing an IEB in a school not in an Ofsted category – through a warning notice

Stage	Statutory requirements	Statutory timing	Date for action	Completed
Stage 1	LA issue warning notice to GB			
Stage 2	GB fails to comply/complies/appeals to Ofsted	Within 15 days of receipt of notice		

Stage 3	Where GB appeal to Ofsted decision may be to uphold or rescind the warning notice			
stage 4	LA use power of intervention & issue 'Notice of Establishment' to GB appointing IEB	Within 2 months of the expiry of the warning notice		
Stage 5	Establish Shadow GB	To run concurrently with IEB		

Route 2 and 3. Acquiring a National Challenge Trust through a change of category

Stage	Process	Statutory timing	Date for action	Complete	Responsibility confirm action
Stage 1	<p>1. SOI approval granted by DCSF and decision letter issued</p> <p>2. Project Plan submitted to Department</p> <p>3. Trust partners commence draft School Improvement Plan</p> <p>3. Trust partners/ LA/ GB draft & agree in principle the Accountability Framework</p>	1 Ministerial approval granted prior to consultation start date		<p>2. Within one or two weeks of Sol sign-off</p> <p>3 & 4 By implementation date</p>	<p>1. Once Minister approves, O write to LA (copied to lead Trust partner)</p> <p>2. LA</p> <p>3. Trust partners/NC/</p> <p>4. Trust partners / LA/OSC</p>
Stage 2	Consultation by GB/IEB to acquire a Trust.	Not prescribed (minimum of 6 weeks recommended)			GB / IEB
Stage 3	<p>1. GB/IEB publish statutory notice *</p> <p>2. GB of strong partner school on acquiring a</p>	Not prescribed but as soon as practicable			<p>1. GB/ IEB</p> <p>2. GB of stro school.</p>

	trust ONLY if to be part of a shared Trust				
Stage 4	Representation period	4 weeks			
Stage 5	Decision by 1. GBs/IEB 2 strong school GB if acquiring a Trust.	Within 6 months of publication date but ideally as soon as practicable			1.GB/IEB 2. strong school GB
Stage 6	Implementation period 1. Establishment of Trust as a company limited by guarantee & registration of Trust with Companies House 2. Trust partners Sign off SI Plan 3. Trust partners/ LA/ GB Sign off Accountability Framework. All documents submitted to the Department 4. CRB checks completed for Trustees and governors 5. LA must transfer land & assets to Trustees 6. GB/IEB determines IOG showing Trust appoints majority of governors 7. LA makes IOG	Points 1-7 all completed by the implementation date			1. Trust partners 2. Trust partners with NCA and National Challenge Team 3.Trust partners/LA/ with OSC 4.Trust partners 5. LA 6. GB/IEB 7. LA
Stage 7	Implementation date All rights, duties, powers & liabilities under or in connection with employment transfer from LA to GB	No prescribed time but proposals must be implemented as published on the implementation date			LA

	GB notifies LA to pass a statutory resolution enabling support staff to belong to the Local Government Pension Scheme				1. LA
Stage 8	<p>1. Existing GB/IEB is dissolved and replaced by new GB with majority of governors appointed by Trust</p> <p>2. Partner school reconstitutes new GB if acquired a Trust</p> <p>3. The GB makes relevant changes to staff contracts to reflect the change of employer.</p> <p>4. GB of a majority governance Trust school must set up a Parent Council</p> <p>5. GB of Trust school to set own admissions arrangements in accordance with Schools Admissions Code</p>	<p>Within 3 months of implementation date</p> <p>Must consult on arrangements by March 1 for arrangements the following September</p>			<p>1. GB (and Trust partner)</p> <p>2. Strong partner school</p> <p>3. New GB NCT</p> <p>4. New GB CT</p> <p>5. New GB NCT</p>

NATIONAL CHALLENGE FEDERATION**Route 1 - Closure of a weak school and establishing a new school in a NC Federation****Closure and opening of new school within a federation**

Stage	Action	Statutory timing	Date for action	Complete	Responsibility action confirmed
Stage 1	<p>1. Sol approval by DCSF & decision letter issued.</p> <p>2. GB of high performing school/ LA/ new school proposers consider report on federation & agree in principal. Commence drafting SI Plan.</p> <p>3. New school proposers, LA & high performing GB consider draft and agree in principle the Accountability Framework.</p>	<p>1. Ministerial approval granted prior to consultation start date.</p> <p>2. 7 days notice of agenda that includes federation proposals must be given to GB of high performing school.</p>			<p>1.OSC write to LA (copied to GB of high performing school & proposers of new school)</p> <p>2. GB of high performing school/ LA/ new school proposers/ NCA</p> <p>3. GB of high performing school/ LA/ new school proposers.</p>
Stage 2	<p>Consultation</p> <p>1. On closure by LA, <u>concurrently</u> with</p> <p>2. On opening new school by proposers NB. it must be clear the new school will be federated</p>	Not prescribed but recommend minimum of 6 weeks for all.			<p>1. LA on closure</p> <p>2. Proposers of new school</p>
Stage 3	<p>Publication of related proposals.</p> <p>1. closure*</p> <p>2. opening new school*</p> <p>3 Federation</p>				<p>1. LA on closure</p> <p>2. Proposers of new school.</p> <p>3.High performing GB on federation & proposers of new school.</p>
Stage	Representation	1 & 2.			

5	<p>period for</p> <ol style="list-style-type: none"> 1. Closure 2. Opening 3. Federation 	<p>6 weeks from the end of the publication date</p> <ol style="list-style-type: none"> 3. Not less than 6 weeks after r publication date 			
Stage 6	<ol style="list-style-type: none"> 1. Decision by LA on closure & new school proposals (where LA are not the new school proposers) OR 2. Referral by LA to School Adjudicator for decision required (LA proposer of new school). 3. Decision by high performing GB & new school proposers/temporary GB if constituted to form a federation. GBs must jointly consider representations & hold separate votes on whether to proceed with federation 4. Draft IoG prepared by GB(s) & new school proposers /temporary GB if appointed (must be approved by any Trustees/ foundation governors/ religious body/ diocesan authority as 	<ol style="list-style-type: none"> 1. Within 2 months of end of stage 4 2. LA must refer within 2 weeks of end of stage 4. No prescribed time for Adjudicator decision – usually within 2 months. No prescribed time but clerk must give GB 7 clear days notice of meeting. 			<ol style="list-style-type: none"> 1. LA 2. LA 3. High performing GB & new school proposers/temporary GB if constituted to form a federation

	appropriate & issued to LA				
Stage 7	<p>Implementation closure/ opening/ federation date</p> <p>1. The pre-existing GB (s)of the federated schools are dissolved;</p> <p>2. LA make the new loG</p> <p>3. The GB of the federation is incorporated</p> <p>4. All land and property, which immediately before the federation date was property held by the GB of a federating school is transferred to and vests in the federation GB;</p> <p>5. All rights, duties, powers & liabilities previously held by GB(s) in connection with staff transfer to federated GB.</p>				<p>1. Pre-existing GB(s)</p> <p>2.LA</p> <p>3. New federated GB</p> <p>4. New federated GB</p> <p>5. New federated GB/ LA</p>

*it is highly recommended that drafters of statutory notices use the notice builder toolkit available at www.dcsf.gov.uk/schoolorg

Route 2. Establishing a NC Federation through an Interim Executive Board

Appointing an IEB in a school which is in an Ofsted category

Stage	Statutory requirements	Statutory timing	Date for action	Completed
Stage 1	LA consults GB	14 days		
Stage 2	LA requests Secretary of State consent for IEB	None		
Stage3	Approval received & LA issues a	None		

	'Notice of Establishment' to GB			
Stage4	IEB established	None		
Stage 5	Establish Shadow Governing Body	To run concurrently with IEB		

Appointing an IEB in a school not in an Ofsted category – through a warning notice

Stage	Statutory requirements	Statutory timing	Date for action	Completed
Stage 1	LA issue warning notice to GB			
Stage 2	GB fails to comply/complies/appeals to Ofsted	Within 15 days of receipt of notice		
Stage3	Where GB appeal to Ofsted decision may be to uphold or rescind the warning notice			
Stage 4	LA use power of intervention & issue 'Notice of Establishment' to GB appointing IEB	Within 2 months of the expiry of the warning notice		
Stage 5	Establish Shadow Governing Body	To run concurrently with IEB		

Routes 2 and 3 - Existing school acquiring a federation

Stage	Process	Statutory timing	Date for action	Complete	Responsibility action confirmed
Stage 1	<p>1. Sol approval granted by DCSF</p> <p>2. Project plan submitted to DCSF</p> <p>3. Proposed federation members commence draft School Improvement Plan</p> <p>4. Federation members/ LA draft & agree in principle the Accountability Framework.</p>	Approval should be granted prior to consultation		<p>2. Within one or two weeks of Sol sign-off</p> <p>3 & 4 by implementation date</p>	<p>1. Once approved, OSC write to LA(copied to GB(s)/IEB of schools to be federated.</p> <p>3. Federation members/NCA</p> <p>4. Federation members /LA</p>
Stage 2	Consideration by GB/IEB to acquire a federation	None prescribed			GB(s)/IEB
Stage 3	<p>Notice of GB/ IEB meeting for both schools issued</p> <p>GB(s)/IEB meetings to consider report on federation</p>	Requires 7 clear days notice to governors before the meeting			<p>Clerk to GB(s)/IEB</p> <p>GB(s)/IEB</p>
Stage 4	Publication of proposals				GB/IEB
Stage 5	Representation period	Minimum of 6 weeks from publication date			
Stage 6	<p>1. Notice of meeting issued to GB(s)/IEB</p> <p>2. GB(s)/ IEB must jointly consider</p>	Requires 7 clear days notice to governors before the			1. Clerk to GB(s)/ IEB

	<p>representations but hold separate votes on whether to proceed with federation</p> <p>3. Draft loG prepared by GB(s)/IEB (must be approved by any Trustees/ foundation governors/ religious body/ diocesan authority as appropriate & issued to LA</p>	meeting			<p>2. GB(s)/IEB</p> <p>3. GB(s)/IEB/ Trustees/ foundation governors/ religious body/ diocesan authority</p>
Stage 7	LA make the new loG				LA
Stage 8	<p>Implementation</p> <p>1.The GB(s)/IEB of federated schools are dissolved</p> <p>2. LA make the new loG</p> <p>3. The GB of the federation is incorporated</p> <p>4.All land and property, which immediately before the federation date was property held by the GB/IEB of a federating school is transferred to and vests in the federation GB</p> <p>5. All rights, duties, powers & liabilities previously held by GB(s) in connection with staff transfer to the federated GB</p>	By date specified in proposals & in loG			GB(s)/IEB

*it is highly recommended that drafters of statutory notices use the notice builder toolkit available at www.dcsf.gov.uk/schoolorg

APPENDIX 'D' SCHOOL IMPROVEMENT PLAN GUIDANCE

Purpose

The School Improvement Plan (SI Plan) is an integral part of the National Challenge Trust and National Challenge Federation intervention process. This brief guidance sets out the importance of the SI Plan to the National Challenge Trust (NCT); what makes a good SI Plan; and, the kinds of issues a SI Plan should cover. [NB we will not be providing a template SI Plan].

Introduction

The aim of a NCT is to enable the transformational change of a National Challenge (NC) school by strengthening the leadership, management and governance, with the involvement of a successful educational partner.

Integral to this will be the SI Plan, developed jointly by the local authority (LA) and the Trust partners. The SI Plan will identify and address the school's performance issues and set out how the Trust partners will drive improvement through the Trust. The LA, as the body commissioning the Trust, should satisfy itself that the plans will lead to long term sustainable change and improvement in the school resulting in permanently improved outcomes for children.

The current National Challenge Adviser will be able to provide valuable information about the problems in the school and the action that has already been taken to address them. The Trust partners should use this information, and take a long term view of the changes needed, developing a clear vision for the school. National Challenge funding is available until 2011 to kick-start changes in the school. Trust partners should consider what they will do to improve the school during that period and in the decade beyond, using all the resources and budget available to the school.

The SI Plan should be developed alongside an accountability framework prepared by the Trust partners and LA (see separate guidance). Both must be approved by the Department for Children, Schools and Families before funding is released.

A good school improvement plan will:

- address whole school improvement
- be robust in its diagnosis of the issues affecting the school's performance and outcomes for young people
- identify actions and objectives to address those issues and transform school performance
- involve the Trust educational partners in its formulation and set out what they, and any other partners will do to raise attainment
- set out clear milestones and measurable success criteria

The plan should identify how expenditure will deliver changes in school performance and student outcomes. The funding identified in the plan should include all the resources available to the school, not merely the NC funding. In addition it should provide an indication of the amount of National Challenge funding needed by the Trust and how that will be spent. National Challenge

Trusts are eligible for up to £750k over the life of the National Challenge, from which any school improvement funding already spent by the LA will be deducted.

Typical things to consider in a SI Plan:

The SI Plan should be designed to deliver long-term sustainable change in the school, but it must not lose sight of the immediate priorities whilst National Challenge funding is available. It should be focused on making rapid improvements with a clear sense of how these are steps toward a long term vision. The plan should consider:

- The strength of senior and middle leadership
- The effectiveness of core subject departments
- The appropriateness of the curriculum and the quality of teaching and learning
- Behaviour and attendance of learners
- How to tackle any barriers to learning, such as community attitudes and aspirations
- The outcomes achieved by children now and in the future, and how to raise standards and achievements
- Any external support needed beyond that provided by the Trusts partners, including needs for wider children's services support.

Linked to the plan, each Trust is required to draw up an Accountabilities Framework to make explicit the roles and responsibilities of all parties involved, i.e. the Trust, the lead educational partner, the school's governing body and the LA. This should also closely relate to the Trust's Memorandum and Articles of Association.

Attached is an outline of the issues which should be considered when drawing up the Accountabilities Framework, although the emphasis will differ for each Trust.

APPENDIX 'E' ACCOUNTABILITY FRAMEWORK TEMPLATE

The Accountability Framework

Stakeholders	Responsibilities / accountabilities	Responsibilities / accountabilities	Assessed by the effectiveness of the:	Timescale
	<i>Pre Trust planning phase</i>	<i>After Trust school established</i>		
Trust partners	<ul style="list-style-type: none"> Partners agree Memorandum and Articles of Association Ensuring the Memorandum and Articles of Association clearly identify the Trust's: <ul style="list-style-type: none"> role in the school's improvement planning process relationship with the lead educational partner commitment to establishing effective governance 	<ul style="list-style-type: none"> Ensuing effective governance Monitoring overall progress of school Evaluating progress against agreed, time specific, goals [During NC Funding phase] Ensuring NC Funding results in agreed outcomes 	<ul style="list-style-type: none"> Completion of preliminary legal processes Procedures for identifying the most appropriate skills set for GB Appointment procedures to ensure GB has range of most appropriate skills Structure / operation of GB sub-committees Nominated governors at GB meetings. Systems for self-evaluation and review. 	•
Lead Education Partner	<ul style="list-style-type: none"> Ensuring the plan: <ul style="list-style-type: none"> addresses the key priorities faced by the school delivers the most appropriate actions in the most appropriate timescale has challenging, but realistic, targets and milestones 	<ul style="list-style-type: none"> Within the Trust ensuring the plan: <ul style="list-style-type: none"> addresses the key priorities faced by the school delivers the most appropriate actions in the most appropriate timescale has challenging, but realistic, targets and milestones Participates in the monitoring, evaluation and review of the plan, including vfm and NC targets. 	<ul style="list-style-type: none"> Involvement in the school's self-evaluation and review Data analyses Regular contact with HT and SLT Systems for monitoring and evaluating outcomes against short-term targets and milestones. 	•
School Governing Body / IEB (if closure, LA responsibilities)	<ul style="list-style-type: none"> Following statutory processes in accordance with LA's delivery plan Supporting GB / IEB decision to establish a Trust 		<ul style="list-style-type: none"> The completion of the statutory processes The access available to data required for the planning process 	•

	<p>in Consultation meetings</p> <ul style="list-style-type: none"> • Supporting the Lead Education Partner and others in developing the NCT Improvement Plan 			
Trust School Governing Body		<ul style="list-style-type: none"> • Holding the school leadership to account for standards, behaviour, etc • Establishing strong systems of governance to ensure that the school has effective systems and procedures for delivering its aims and objectives 	<ul style="list-style-type: none"> • GB's success in fulfilling the Trust's view of priorities and delivering the agreed improvements. 	•
School HT / SLT	<ul style="list-style-type: none"> • Working with GB to plan and deliver required improvements • Working with the Lead Education Partner and others in developing and monitoring Improvement Plans 	<ul style="list-style-type: none"> • Delivering the in-school elements of the Plan • Co-ordinating the work of other partners • Evaluating progress of contractors against agreed, time specific, goals • Ensuring vfm 	<ul style="list-style-type: none"> • The completion of the statutory processes (<i>pre Trust phase</i>) • The access available to data required for the planning process • Performance against agreed outcomes within agreed timescales 	•
School improvement providers (including external contractors and LA and Trust members providing school improvement services)	<ul style="list-style-type: none"> • Engaging in the planning process • Delivering specific agreed actions against agreed outcomes in line the plan 	<ul style="list-style-type: none"> • Delivering specific agreed actions against agreed outcomes in line the plan. 	<ul style="list-style-type: none"> • Systems for monitoring and evaluating progress against agreed outcomes by HT / SLT, GB, Lead Educational partner and Trust • External monitoring and evaluation by LA, NCA, NS and DCSF 	•
LA	<ul style="list-style-type: none"> • Producing delivery plan for undertaking statutory processes • Receives NC funding and channels to Trust partners • If community or voluntary controlled 	<ul style="list-style-type: none"> • Implementing actions to establish the Trust • Providing relevant and effective school improvement support • Receives NC funding and channels to Trust partners • Monitoring and evaluating agreed improvement plans, including effectiveness 	<ul style="list-style-type: none"> • Progress towards delivering statutory procedures • Procedures for monitoring and evaluation which are effective, unbureaucratic and link to existing mechanisms for LA self-review. • Systems for overseeing and reporting progress of Trust and GB in achieving 	•

National Challenge Trusts and Federations Guidance

	<p>school:</p> <ul style="list-style-type: none"> • Ensuring transfer of land to the Trust • Processing the transfer of staff to the GB 	of main school improvement provider	agreed targets and milestones.	
NCA	<ul style="list-style-type: none"> • Ensure Lead Education Partner made aware of the priorities facing the school and its strengths and weaknesses • Assist Lead Education Partner to develop an effective plan 	<ul style="list-style-type: none"> • Point of accountability for the LA and Department on the school's progress 	<ul style="list-style-type: none"> • The school's success in meeting targets • The quality of the school's self-evaluation 	•
DCSF	<ul style="list-style-type: none"> • Ensure NCA is effective • Confirm that the "route" in line with legislation • Ministerial sign-off & release of NC funding • Monitor (and in some cases assist) LAs to design and deliver the project plan 	<ul style="list-style-type: none"> • Ensure NCA is effective • Oversight of the delivering improvement in standards and vfm in NC funding 	<ul style="list-style-type: none"> • Sol and Project Plan • Reports to NCBs • The school's success in meeting targets 	•

Key to acronyms:

NC – National Challenge **HT** – Headteacher **LA** – Local Authority
NS – National Strategies
GB – Governing Body **SLT** – Senior Leadership Team **NCT** – National Challenge Trust
VfM – Value for Money
IEB – Interim Executive Board **NCA** – National Challenge Adviser **NCB** – National Challenge Board Sol – Statement of Intent
DCSF – Department for Children, Schools and Families

APPENDIX 'F' USEFUL LINKS AND INFORMATION

- 1) For the Children's Plan - building brighter futures, click on http://www.des.gov.uk/publications/childrensplan/downloads/The_Childrens_Plan.pdf
- 2) For guidance on establishing a new maintained school <http://www.dcsf.gov.uk/schoolorg>
- 3) For Statutory decision-makers' guidance for closing and opening a maintained school) <http://www.dcsf.gov.uk/schoolorg/guidance.cfm?id=2>
- 4) For school establishment regulations [http://www.dcsf.gov.uk/schoolorg/data/downloads/consolidated EandD regs 20](http://www.dcsf.gov.uk/schoolorg/data/downloads/consolidated_EandD_regs_20)
- 5) For the 2007 Schools Causing Concern guidance on procedures and on intervention powers for all schools causing concern, click on the following link: <http://www.standards.dfes.gov.uk/sie/si/SCC>
- 6) The statutory guidance on acquiring a Trust (which includes statutory decision- makers' guidance) <http://www.dcsf.gov.uk/schoolorg>
- 7) The Trust schools guidance http://www.trustandfoundationschools.org.uk/governors/resources_and_publications.aspx
- 8) National Council for Voluntary Organisations www.ncvo-vol.org.uk
- 9) Charity Commission www.charitycommission.gov.uk
- 10) Companies House www.companieshouse.gov.uk
- 11) The cross-government framework contract: www.ogcbuyingsolutions.gov.uk and follow the links to 'consultancy services'
- 12) Equality duties for Trusts: <http://www.cehr.org.uk>
- 13) The Establishment and Discontinuance Regulations
- 14) The DCSF website for school governors is www.governornet.co.uk
- 15) For further information about School Governors' One Stop Shop (SGOSS) www.sgoss.org.uk
- 16) Help Schools Help Children: www.governornet.co.uk/recruitment
- 17) For more information about Ofsted inspection reports and publications, click on <http://ofsted.gov.uk>
- 18) For the Education Act 2002, please click on: <http://www.hmso.gov.uk/acts/acts2002.htm>

- 19) For the Education Act 2005, please click on
<http://www.hmso.gov.uk/acts/acts2005.htm>
- 20) For the Education and Inspections Act 2006, please click on:
<http://www.hmso.gov.uk/acts/acts2006>
- 21) For the more information on the 21st Century School please click on
http://www.tda.gov.uk/leaders/schoolimprovement_framework.aspx
- 22) A copy of the Regulations concerning hard governance federations -
Statutory Instrument 2004/2042 - can be found at:
<http://www.opsi.gov.uk/si/si2004/20042042.htm>

APPENDIX 'G' GLOSSARY OF KEY TERMS

Charitable objects	Objects describe and identify the purpose for which the charity has been set up. They do not say what the organisation will do on a daily basis.
Director	Charitable companies may refer to directors (instead of trustees).
Due diligence	LAs will want to check that their proposed Trust partners are suitable. Due diligence involves identifying and investigating potential issues so that you can take an informed decision.
FASNA	Foundation and Aided School National Association FASNA has particular expertise on the issues around foundation status and can advise and support schools www.fasna.org.uk
Federation	A particular form of statutory collaboration; hard federations of schools share a single governing body; soft federations may have a joint governance committee with delegated powers. Less formal collaborations can include partnerships and clusters with joint governance.
Foundation	A charitable organisation (popularly referred to as a Trust in the case of Trust schools) that supports one or more schools by holding land on trust and appointing governors. Voluntary controlled and voluntary aided schools already have foundations, as do some foundation schools.
Foundation school	A local authority maintained school where the governing body sets admissions arrangements, employs the staff, and owns the land. Trust schools have the same freedoms, and are defined for the purposes of this document as a foundation school with a foundation acquired under the provisions of the Education and Inspections Act 2006.
GB	Governing Body
Implementation date	The date from which the school will become a Trust school and/or a hard federation. This will be set out in statutory proposals.
IEB	Interim Executive Board
Local authority maintained school	Schools which are funded by the local authority: community schools, foundation schools, Trust schools, voluntary controlled schools, and voluntary aided schools. All maintained schools teach the National Curriculum, act in accordance with the School Admissions Code and employ teachers in line with the School Teachers' Pay and Conditions Document.

Local Leaders of Education	See below National Leaders of Education
Memorandum and Articles of Association.	<p>These are the documents required by Companies House for the purpose of registration of the Trust as a company.</p> <p>The memorandum of association of a UK company sets out a range of information including the company's name, the proposed location of its registered 'office' in the UK and the objects of the company.</p> <p>Articles of association</p> <p>The articles of association (often just called 'articles') of a UK company contain the rules for its internal regulation and management. The articles deal with such things as meeting procedure, powers of directors and members' rights.</p>
National Challenge Advisers	National Challenge Advisers will act as improvement experts, offering support and challenge in the lowest performing schools.
National Leaders in Education (NLE)	NLEs and their related National Support School staff are recruited to work in schools in challenging circumstances (the client school). NLEs aim to provide additional leadership capacity and NSS staff will provide advice, guidance, support and challenge as appropriate. The prime focus of the work of NLEs and NSS is to assist the client school in making significant progress in emerging from an Ofsted category or in avoiding going into one.
OSC	Office of the Schools Commissioner (established 2006) to act as a national champion for the development of Trust schools and to work with potential Trust partners (see also below Schools Commissioner). The OSC will champion Trust schools, identify potential partners and help to match schools and partners. It has a particular focus on schools in deprived areas and also the collection and sharing of emerging good practice.
Parent Council	A forum for parents to put forward their views to the school's governing body. Trust schools must establish a Parent Council if the Trust appoints the majority of the governing body. All schools have a duty to have regard to parents' views, and a Parent Council can achieve this.
Prescribed alteration	Changes to schools which require a statutory process (consultation, statutory proposals, a period for representations and then a decision) but which do not involve closure or reopening. Changing category or acquiring a Trust is a prescribed alteration.

Representations	Comments or objections on statutory proposals (e.g. to become a Trust school).
Schools Adjudicator	Schools Adjudicators were appointed under Section 25 of the School Standards and Framework Act 1998. They are independent of the DCSF. They are decision-makers for statutory proposals (e.g. to become a Trust school or to open or close a school) in some circumstances – usually either if Trust school proposals are referred to them because of concerns about standards or, in cases such as opening and closure, where the local authority would normally be the decision-maker, the Adjudicators will decide proposals where the local authority has an interest. Adjudicators look afresh at all cases referred to them, considering each case on its merits and taking account of the reasons for disagreement at local level in the light of the legislation and the relevant guidance. They must have regard to the same statutory guidance as the governing body or the local authority would in deciding the proposals. Adjudicators' decisions are binding on all parties involved. They can only be challenged through judicial review.
School Admissions Code	Local authorities, admissions forums, governing bodies, appeal panels and adjudicators are required to act 'in accordance' with the Schools Admissions Code – to comply with the mandatory provisions and follow the guidance. This is stronger than the previous duty to 'have regard' to the Code of Practice.
Statutory guidance	Statutory guidance is referred to expressly in statute (primary legislation or regulations), often in terms that 'X shall have regard to guidance issued by the Secretary of State' in performing a given function. There is an obligation to have regard to this guidance; if challenged, the relevant body would be required to demonstrate in court or tribunal why it had not been followed or taken into account.
Statutory proposals	Formal proposals to become a Trust school or carry out any other prescribed alteration or open or close a maintained school. The information that must be included is set out in regulations.
Trust	A charitable organisation that supports one or more schools by holding land on trust and appointing governors. They must be incorporated organisations – either a charitable company or (once the relevant provisions of the Charities Act 2006 come into force) a charitable incorporated organisation.
Trustee	Usually a named individual (although can be a corporate body) responsible for the day-to-day

	management of the Trust, which is likely to include identifying and appointing governors for the school(s) the Trust supports.
Trust members	Can be individuals or organisations. They take decisions about the organisation of the Trust, including how trustees are elected or appointed. They also hold the trustees to account, for example at a General Meeting.
TFSP	Trust and Foundation Schools Partnership – a consortium of SSAT, YST and FASNA
TUPE	Transfer of Undertakings (Protection of Employment) Regulations (2006)
YST	Youth Sport Trust