



Department  
for Education

# **Faith designation reforms for new and existing free schools and special academies**

**Government consultation**

**Launch date 01 May 2024**

**Respond by 20 June 2024**

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## Introduction

High quality multi-academy trusts are key to driving education standards for pupils, teachers and leaders. The best trusts enable the most effective leaders to support a greater number of schools and deliver school improvement, by directing resources to where they are needed the most. This underpins our focus on continuing to improve standards in schools, providing the best education for children, including for those from disadvantaged backgrounds and with special educational needs.

This Government has significantly reformed the school system. As of 1 April, 50% of state-funded schools are academies (including free schools, university technical colleges and studio schools). This means there are 10,839 academies today, compared to 203 in 2010.

The free schools programme continues to be an important part of the Government's plan to improve educational standards and respond where there is need for more school places. The programme has delivered hundreds of new schools and provided thousands of good school places across the country. Secondary free schools are amongst the highest performing state-funded schools in the country, providing a world class education to their students.

As we continue to move towards our ambition of all schools being part of strong multi-academy trusts, we need to ensure that we are making the best and full use of the talents of all of our highest quality academy trust providers.

The Church of England, the Catholic Church and other faith school providers are established and long-term partners with the state and have a track record in delivering high quality education in their schools. They, alongside minority faith schools, form a key part of our diverse school system, making up a third of all schools in England. They are more likely to be judged 'Good' or 'Outstanding' by Ofsted. In addition, overall key Stage 2 test results show that a higher proportion of pupils in faith schools achieve the expected standard compared to non-faith schools. GCSE results for pupils in faith schools are also higher than the national average and higher than in non-faith schools, and the average Progress 8 of pupils in faith schools is greater than the national average and the average for non-faith schools. Their providers, including the Churches, are among the largest providers of academy trusts. Many faith schools are very popular with parents. Faith secondary schools are more likely to receive a higher proportion of first preference applications compared to first or total places offered than non-faith secondary schools.

The Government want to create more good school places across the country. To do this, we need to ensure that all of our highest quality school providers, including faith school providers, feel supported in opening new schools. Unfortunately, this is not currently the case. Some of our current policies, such as the 50% faith admissions cap

for free schools, act as barriers to faith school providers from opening new schools. We want to remove these barriers and ensure that in the future we are not preventing any faith groups from providing new high quality schools.

At the moment, the Government currently requires admission authorities for a mainstream free school designated with a religious character to allocate at least 50% of its available places without reference to faith-based admission criteria, when oversubscribed, to foster inclusivity. However, the evidence suggests that this 50% faith admissions cap does not achieve inclusivity and means some high quality faith school providers, such as the Catholic Church and its dioceses, are less likely to establish new free schools due to the 50% cap. By removing the 50% cap, we want to increase the number of good school places, including at new faith schools where there is demand from communities, and deliver real diversity within free schools by ensuring parents have real choice over where they send their child to school.

Among the many children educated in faith schools, there are those with special educational needs and disabilities (SEND). Faith schools have a long and positive history of providing education and support to these children. There are 241 faith schools in England<sup>1</sup> providing specialist units such as resourced provisions, which provide high quality education and support for pupils with special educational needs and disabilities. In addition, a number of faith providers have experience of delivering dedicated special schools in the independent sector, and through the provision of non-maintained special schools with a faith ethos and special academies with a faith ethos. We recognise that there is a need for additional places in specialist provision, and we want to ensure that all faith groups feel able to open special academies and provide high quality places for pupils with complex special educational needs and disabilities, who would be admitted on the basis of their need, not their faith.

The proposals in this document would help to ensure that we can meet the needs of children and the demands of parents for high quality school places by ensuring that high quality providers can respond to demand for places at their schools.

Education policy is devolved, and these proposals apply to England only.

## Who this is for

This consultation is for anyone with an interest in schools with a religious designation in England. This includes, but is not limited to:

- Parents, children, and young people

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<sup>1</sup> 241 faith schools designated with a religious character have resourced provision, 4% of all faith schools: [Source: GIAS, January 2024](#)

- School staff
- School leaders including governors, academy trusts and trustees/directors of academy trusts
- Site trustees
- Faith school providers
- Local authorities

## Issue date

The consultation was issued on 01 May 2024.

## Enquiries

If your enquiry is related to the policy content of the consultation you can contact the team via email at:

[faithschools.consultation@education.gov.uk](mailto:faithschools.consultation@education.gov.uk)

If your enquiry is related to the DfE e-consultation website or the consultation process in general, you can contact the DfE Ministerial and Public Communications Division by email: [Consultations.Coordinator@education.gov.uk](mailto:Consultations.Coordinator@education.gov.uk) or by telephone: 0370 000 2288 or via the [DfE Contact us page](#).

## Additional copies

Additional copies are available electronically and can be downloaded from [GOV.UK DfE consultations](#).

## The response

The results of the consultation and the Department for Education's response will be [published on GOV.UK](#) in Autumn 2024.

## About this consultation

This consultation document makes two proposals:

- Part one: to remove the 50% cap on faith admissions for new and existing free schools, helping to encourage all faith groups and trusts to apply to open new faith free schools within the tenets of their faith.
- Part two: to allow new special academies and existing special academies registered with the Department for Education as having a faith ethos to apply to be designated as having a religious character.

The first part of the document sets out:

- Proposal, rationale, and technical detail for faith admissions reform for new and existing free schools

The second part of the document sets out:

- Proposal, rationale, and technical detail for the religious designation of special academies

We would like to hear your views on our proposals.

## Respond online

To help us analyse the responses please use the online system wherever possible. Visit [DfE consultations on GOV.UK](https://www.gov.uk/consultations) to submit your response.

## Other ways to respond

If for exceptional reasons, you are unable to use the online system, for example because you use specialist accessibility software that is not compatible with the system, you may request an alternative format of the form.

### By email

- [faithschools.consultation@education.gov.uk](mailto:faithschools.consultation@education.gov.uk)

### By post

Faith Schools Policy Team  
Department for Education  
Bishopsgate House  
Feethams  
Darlington  
DL1 5QE

## **Deadline**

The consultation closes on 20 June 2024.

## About you

The following introductory questions will help us understand more about you and, where relevant, the nature of your business or organisation and the main ways in which you currently interact with faith schools in England. This will help us analyse your responses. We know that not everyone will wish or feel able to answer all the questions in this consultation. However, you will still have the option to answer all the questions if you wish to do so.

## Confidentiality

Information provided in response to this consultation, including personal data, may be subject to publication or disclosure under the Freedom of Information Act 2000, the Data Protection Act 2018, or the Environmental Information Regulations 2004. If you want all, or any part, of a response to be treated as confidential please explain why you consider it to be confidential. If a request for disclosure of the information you have provided is received, your explanation about why you consider it confidential will be taken into account, but no assurance can be given that confidentiality can be maintained. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department for Education.

## Privacy notice

The personal data (name and address and any other identifying material) that you provide in response to this consultation is processed by the Department for Education as a data controller in accordance with the UK GDPR and Data Protection Act 2018, and your personal information will only be used for the purposes of this consultation. The Department for Education relies upon the lawful basis of article 6 (1) (e) of the UK GDPR, which allows us to process personal data when this is necessary for conducting consultations as part of our function. Your information will not be shared with third parties unless the law allows or requires it. The personal information will be retained for a period of 18 months following the closure of the consultation period, after which it will be securely destroyed. You can read more about what the Department for Education does when we ask for and hold your personal information in our personal information charter, which can be found here: [Personal information charter - Department for Education - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/672222/Personal-information-charter-Department-for-Education-2018-2020.pdf)

To help us keep your data safe, please avoid including personal information, such as a child's name, when responding to the questions in this consultation.



## Questions about you

1. What is your name? [Free text]
2. What is your email address? [Free text]
3. Do you consent to the data you provide being held in accordance with UK GDPR as covered in the Department for Education's personal information charter? [Mandatory question - Yes/no]
4. Would you like us to keep your responses confidential? [Mandatory question - Yes/no]
5. In processing your data and meeting legal duties, the Government may be expected to share information about your consultation response. In line with the privacy notice, would you like your response to be kept confidential? [Yes/no]
6. As the Government analyses the consultation findings, we may identify direct quotes to include in the published Government response – may we use your feedback in this way? [Yes/no]
7. Are you responding as an individual or on behalf of an organisation? [Multiple choice: Individual/organisation]

## Individual

8. Please select one description of your current role:  
  
[Multiple choice: Parent; Child or young person; School – non-faith; School - faith; Academy trust central team; Academy trust trustee/director; Site trustee; Governor; Faith group; Charity; Local authority; Other – If other, please describe your role [free text]]

If you are responding as an individual, we will consider the views within your response to this consultation to be your personal views.

## Organisation

9. What is your organisation's name? [Free text]

If you are responding on behalf of an organisation, we will consider the views within your response to this consultation to be those of your organisation and not necessarily your personal views.

# Part One: Faith admissions reform for new and existing free schools

## Background

'Faith schools' is terminology used to describe schools that have been legally designated as having a religious character by the Secretary of State. Around one third (34%) of all state-funded mainstream schools in England are designated as having a religious character. Faith schools are some of our highest quality schools. They are more likely to be judged as 'Good' or 'Outstanding' by Ofsted compared to non-faith schools. 91% of faith primary schools are judged good or better by Ofsted compared to 90% of non-faith primary schools. 84% of faith secondary schools are judged good or better by Ofsted compared to 82% of non-faith secondary schools. They are also popular with parents, who value their strong ethos whether they are of the faith or not.

Broadly, faith schools are subject to the same legislation as their non-religious counterparts but benefit from some specific provisions (known as 'freedoms') that are aimed at protecting and maintaining the particular religion or religious denomination of the school. For example, faith schools are permitted to make some employment decisions based on a person's faith and can provide religious education and collective worship in accordance with the tenets of the religion or religious denomination specified in relation to the school. These provisions enable the school to ensure their religious character is reflected in the life of the school.

The vast majority (around 6,700 or 99%) of existing state-funded faith schools designated with a religious character can give priority for admission for children on the basis of faith within their oversubscription criteria. This means that, where there is demand from parents of the faith, up to 100% of those children admitted may be on the basis of their faith. Many faith schools use other oversubscription criteria aside from faith, and some do not apply faith criteria at all.

### **Free schools and faith designation**

There are currently over 10,000 open mainstream primary, secondary, and all-through academies, free schools, studio schools and University Technical Colleges. Of these, 34% are faith designated at primary, 16% at secondary and 20% at all-through schools. 95 of the 508 open free schools have a faith designation, and a greater proportion of these are minority, non-Christian faiths (Judaism, Islam, Sikhism and Hinduism) than other types of schools that are faith designated.

For entirely new academies with a religious designation that have been opened under the free schools programme, beginning in 2010, a 'cap' was placed on faith-based

admissions to foster inclusivity. It means that when the free school designated with a religious character is oversubscribed it can only apply faith-based oversubscription criteria to 50% of places. At least 50% of the school's available places must be allocated without reference to faith-based admissions criteria. The cap only applies when a school designated with a religious character is oversubscribed, otherwise all applicants must be admitted, in line with standard admissions policy.

Some faith school providers have felt unable to open new schools through the free schools route because of this policy. The policy has therefore acted as a barrier to creating more good schools, for example, the 50% cap has been a barrier for some high quality faith school providers, such as the Catholic Church. The Catholic Church believe that opening schools with the cap would cause them to breach canon law, because the requirement to allocate at least 50% of places regardless of faith may mean that some non-Catholic children are allocated places whilst some Catholic children are not.

We want to maximise opportunities to create new good school places and think the time is right to remove this disincentive to creating new faith schools. The evidence suggests that the 50% faith admissions cap policy has not been particularly successful in achieving high levels of diversity within faith free schools as originally intended. As the table below shows, measured by ethnicity data the intake for free schools designated for minority faiths (Islam, Judaism, Sikhism and Hinduism) is largely made up of pupils of similar ethnic backgrounds. While ethnicity data is not a perfect match to religious affiliation, national census data suggests strong correlations between religion and ethnicity, and it does demonstrate a high degree of diversity is not apparent in faith free schools that are subject to the 50% rule.

### Pupil ethnicity in open free schools

	All Free schools	No faith	Jewish	Church of England	Muslim	Sikh	Hindu	Other Christian	Other faith
Asian	22%	18%	3%	12%	73%	80%	93%	6%	33%
Black	10%	11%	2%	8%	8%	3%	1%	11%	25%
Chinese	1%	1%	1%	1%	0%	0%	0%	1%	0%
Mixed	10%	10%	5%	10%	8%	5%	3%	11%	9%
White	49%	53%	82%	60%	1%	3%	2%	63%	30%
Any other ethnic group	4%	4%	2%	6%	7%	6%	1%	3%	2%
Unclassified	3%	3%	5%	3%	2%	4%	0%	5%	1%

Source: School Census Data, [GIAS January 2024](#). Due to rounding, columns do not all total 100%.

## Proposal and rationale

We want all strong school providers with a track record of high quality to be able to open a new school using the free school route. The application of the 50% admissions faith cap as part of the free school application criteria makes some faith schools providers feel they are unable to open new free schools. It is important that we have a system which is inclusive to everyone and provides opportunity for new schools to open in areas which need them the most and schools which are right for their local community. This is particularly important in the longer term, to fulfil our vision for every school to be part of a family of schools in a high quality multi academy trust.

We propose to amend the free school criteria to remove the 50% faith cap. This would be delivered by removing restrictions on faith based admissions in the free school funding agreement and a subsequent update to the admissions code. This would apply to all free schools designated with a religious character, including open schools. This is not a new proposal. We first explored removing the cap in the 2016 Schools that Work for Everyone consultation. Following that consultation, a number of additions were made to the free school application process to ensure greater diversity and inclusion in school admissions. In addition, a separate capital scheme to support the opening of new Voluntary Aided schools was introduced to allow for the creation of new schools with no faith admissions cap, whilst the 50% cap remained in place for new free schools. This scheme resulted in one new Catholic school which opened in September 2022 and one Church of England school which is currently expected to open in September 2024. There are no plans to run a further round of the scheme.

We have now looked again at this. Considering the above data, which has demonstrated limited impact on increasing diversity in faith free schools, we think the time is right to amend the free schools' criteria to remove the 50% faith cap. This would apply to all free schools designated with a religious character, including open schools.

## Technical detail of our proposal

The funding agreement for new free schools designated with a religious character would no longer be required to include a provision specifying that where the school is oversubscribed, at least 50% of places are to be allocated without reference to faith. Instead, these schools would be able to adopt arrangements within their oversubscription criteria that allow the priority for admission on the basis of faith for up to 100% of those admitted. Footnote 30 in the School Admissions Code currently notes that funding agreements for entirely new academies and free schools include provisions for the 50% cap. This reference would become obsolete once funding agreements are no longer required to include these provisions, so we would update the School Admissions Code at the next available opportunity to reflect this change. Changes to

the Admissions Code are required to be laid before Parliament before the revised Code can come into force.

Existing free schools designated with a religious character who wish to remove the cap would need to apply to vary their funding agreement to affect the change. They would also need to consult on a change to their admission arrangements should they wish to change their faith-based oversubscription criteria as a result.

Where a free school designated with a religious character is not oversubscribed, it must continue to admit all pupils regardless of faith and would be unable to refuse admission to pupils not of the faith.

The application process for new free schools will continue to require applicants to consider how the school will promote cohesion, integration and tolerance in the school community. As already set in regulations<sup>2</sup>, all schools – including free schools designated with a religious character - must promote the fundamental British values of democracy, the rule of law, individual liberty, and mutual respect and tolerance for those of different faiths and beliefs.

## **Part one: Faith admissions reform for new and existing free schools consultation questions:**

10. Do you support the proposal to remove the 50% faith admissions cap for new and existing free schools? [strongly agree, agree, neither agree nor disagree, disagree, strongly disagree]

11. Please provide further details to your answer for question 10: [OPEN]

12. Do you think the proposal is likely to have an impact on equality and/or on those who share a protected characteristic under the Equality Act 2010? [Multiple choice: positive effect; no effect on equality; negative effect]

13. Please explain why you answered in this way [Open]

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<sup>2</sup> The Education (Independent School Standards) Regulations 2014  
<https://www.legislation.gov.uk/uksi/2014/3283/schedule/made>

## **Part Two: Religious designation of special academies**

### **Background**

Under the School Standards and Framework Act 1998, local authority-maintained special schools cannot be designated as having a religious character. They can operate with a faith ethos. The Department for Education's policy on special academies and new special free schools mirrors this position. If groups want their school to have a distinct ethos aligned with a particular faith, they must register that their school has a faith ethos. The ethos can then be reflected within the vision for the school, the values the school represents, and the importance placed on particular beliefs.

Some faith groups are of the view that registering with a religious ethos does not give sufficient protection to the religious character of a school and therefore feel discouraged from establishing and maintaining special academies.

### **Proposal and rationale**

We propose to change our policy so that, once implemented, new special academies that open as part of future free school waves or through the presumption process, or existing special academies that already have a registered faith ethos would be able to apply for religious designation.

This is the right time to think about updating our policy. As we set out in our SEND and Alternative Provision Improvement Plan, many respondents to our consultation reported that the need for specialist provision exceeds the available supply. We want to ensure that all children and young people who need to access a specialist place are able to do so, which is why we have delivered transformational investment of £2.6 billion in high needs capital funding since 2022, to create new places and improve existing provision. In the context of an increasingly academised system, it is important that all strong providers are able to offer a full range of schools to support the system in meeting this need for places. Changing the policy in this way would encourage high quality faith school providers with a track record of high performance to consider applying to establish new special academies and free schools within their multi-academy trusts.

### **Technical detail of our proposal**

The proposal would apply to:

- New special academies established through a free school competition.

- An existing maintained, independent, or non-maintained special school where it is agreed that the school can change or close to create a new special academy; and
- The small number of existing special academies that already have a registered faith ethos.

We anticipate that this proposal would be of interest to and therefore affect, a relatively small number of schools, especially to begin with.

Special academies designated as having a religious character would benefit from some, but not all, of the specific ‘freedoms’ that apply to mainstream schools designated with a religious character, including in relation to staffing, religious education, and collective worship. However, they would not be able to admit pupils based on faith.

### **No change to existing special school admissions**

Special academies designated with a religious character would have different requirements for the admission of pupils compared to mainstream schools designated with a religious character. They would not be permitted to admit any pupils or prioritise the admission of any pupils based on faith, in any circumstances. Instead, all admissions to special academies would be made in line with the requirements of the Children and Families Act 2014 (the 2014 Act).

As set out in the 2014 Act, decisions over placements in special schools are made through the statutory education, health and care plan process. A child or young person may only be placed in a special school if they have complex special educational needs requiring an education, health and care plan, where the plan specifies education at a special school. The responsible local authority must share a draft of the education, health and care plan with the child’s parents or the young person, notifying them of their right to request that a specific school, college, or early years setting be named on it. The local authority must consult the institution and is under a qualified duty to name it, unless:

- it would be unsuitable for the age, aptitude, ability, or special educational needs of the individual,
- it would be incompatible with the efficient education of others or the efficient use of resources.

The statutory education and health care plan placement process already takes strong account of parents’ and young people’s preference. It is already the case that parents can request a denominational school. Parents would retain this right under the new policy and be able to request a special academy that has been designated with a

religious character. However, if the local authority considers the placement would be unsuitable for the individual pupil's need or would not be efficient for the school or the wider system, then the preference can be superseded. We would ensure that these requirements are reflected in specific provisions in the funding agreement for all special academies designated with a religious character.

Aside from the specific freedoms associated with religious designation, such as relating to the employment of staff and the provision of religious education and collective worship, special academies designated with a religious character remain subject to the same obligations as other special academies and state funded schools to promote community cohesion and integration and to teach a broad and balanced curriculum.

## **Part two: Religious designation of special academies consultation questions:**

14. Do you agree with the proposal that special academies should be permitted to have a religious designation? [Multiple choice: Strongly agree, agree, neither agree nor disagree, disagree, strongly disagree]

15. Please explain why you answered in this way [Open]

16. Do you think these changes would affect how easily local authorities find it to place children and young people? [Multiple choice: it would make it much easier; it would make it slightly easier; it would not make a difference, it would make it slightly more difficult, it would make it much more difficult.]

17. Please explain why you answered in this way [Open]

18. Would the designation of a special academy with a religious character, affect parents' choice of which school they prefer their child to attend? [Yes/No]

19. Please explain why you answered in this way [Open]

20. What are your views on the overall impact of this proposal? [Open]

21. Do you think the proposal is likely to have an impact on equality and/or on those who share a protected characteristic under the Equality Act 2010? [Multiple choice: positive effect; no effect on equality; negative effect]

22. Please explain why you answered in this way [Open]





Department  
for Education

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