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Guidance

Free school pre-opening guidance

Updated 16 July 2021

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1. Introduction to the pre-opening phase

1.1 Free schools: the pre-opening phase

Opening a free school is challenging, but also incredibly rewarding. This guidance is for those who are leading the pre-opening phase of a free school, and who are ready, if sets out the legal requirements and better practice that it will be expected to follow during the pre-opening phase.

Through the free schools programme, the Department for Education (DfE) has created thousands of new places, across primary and secondary phases. As of May 2021, there are 583 open free schools, 66 university technical colleges and 22 studio schools, which provide over 240,000 places for children.

The government is more committed than ever to its mission to level up opportunity and ensure that every child and every community is supported to fulfil their potential. Educational, should be a priority for all parents and communities, and they should have their knowledge and skills that set them up for life. DfE's expectation, therefore, is that free schools will be part of the local education system and contribute to improvement of all pupils. The first duties to be taken into account are the Secretary of State and the entity the is legal contract, the funding agreement, with the academy trust. The Secretary of State is responsible for the overall quality of education in England. The trust is also the to be consulted on the proposed sales for money and that the school is part of a strong trust, which will provide the support and challenge it needs to improve from its first day of operation. DfE will advise, challenge and support you throughout the pre-opening phase to ensure that you are ready to open successfully.

For some projects, pre-opening for the pre-opening phase is subject to precise and strict deadlines, and there is little room for error or deviation from the plan set out in the pre-opening pre-opening phase. These conditions often relate to a specific site that will be addressed for the project to proceed successfully. Failure to meet any of these conditions may mean that the project is not in a position of State executive entering to enter into a funding agreement with your trust.

Equally, if you run an existing school, or have another application in pre-opening and a DfE official or external expert DfE notes concerns about if or it is subject to a financial notice to improve, or is in special measures, DfE may ask the trust to pause its work to reconsider the approach of the project, as a result of which it could be deemed or considered that the project is not ready to open successfully. In such cases, the trust should assume that the project will be deemed to have a significant decline in the performance of one or more of your existing schools.

1.2 Free school stages

These stages set out the main points of contact with DfE from assessment through to opening.

Applications and assessment phase

- Application is assessed by DfE.
- Formal interview held (equivalent to stage 3).
- Approval letter issued (if successful in stage 3).

Pre-opening phase

- You will be allocated a DfE delivery officer to support and work with you towards opening the school.
- Free schools capital (FSC) fitout and developers a site for the school.
- Trust developer plans and meets legal requirements.
- An external expert DfE will be appointed to provide professional advice and opinion as you develop and finalise your education and staffing plans.
- Funding agreement signed by Secretary of State.

School opening

- You deliver delivery in your main contract for the school, working with ESFA (on finance and governance) and providing the free schools capital (FSC) team.

1.3 Types of free school

This guidance applies to the following types of free school project in the pre-opening phase:

- mainstream (including primary, secondary, all-through and 16 to 19)
- alternative provision
- alternative provisions

There are some differences between the specific tasks that you will need to complete for certain pre-opening processes, depending on what type of school you are opening (for example, developing admission arrangements). Where this applies, this will be clearly indicated in this guidance.

If you are applying for a primary or all-through free school, there is an assumption that you will be ready to open with Reception pupils. Your application should also clearly indicate the specific provision you would like Nursery to successfully open your nursery.

For academies also applies to presumption free school projects. Once where the local authority has identified the need for a school and run a competition to seek proposers to run the school, is the pre-opening phase. However, there are some differences between the pre-opening phase for a presumption free school project and a free school project (free school), as set out in the relevant sections of this guidance. If you are opening a presumption free school, you should also refer to the Department for Education's (DfE) presumption guidance, as this provides details of the differences to the pre-opening process.

DfE will work closely with the local authorities in which special free school projects are based and will invite local authority representatives to attend checkpoint meetings for these projects. This reflects the fact that local authorities are responsible for commissioning school places in their area, and for school standards.

There is separate pre-opening guidance for 16 to 19 studio schools, and the pre-opening processes that you will need to follow for these projects are different. If you are opening a 16 to 19 studio school, you should ensure that you refer to the correct pre-opening guidance for your project.

1.4 Roles and responsibilities

All trusts will be assigned a delivery officer in DfE. Your delivery officer will help, advise and challenge you to ensure that your school will operate successfully once it opens. Your delivery officer will be your point of contact in DfE and will be your first point of contact, from day one. You should expect regular interactions with your delivery officer, including a number of formal meetings at specified milestones. These formal meetings between trust and DfE will normally be as follows:

- The initial kick-off meeting.
- A checkpoint meeting to determine the provisional opening date, once the site has been confirmed.
- A checkpoint meeting, normally in the December or January before the provisional opening date, to review the trust's readiness to open. This meeting will normally be resolved before the Secretary of State will consider entering into a funding agreement.
- A readiness to open meeting (RtOM), about 3 months before opening, to confirm that the school will open successfully.

At all these meetings, DfE will assess your project's overall progress. Identify any important risks that might prevent the school from opening on time and operating successfully, and agree the actions needed to address these. Depending on the project's speed, DfE may set additional meetings, depending on progress. DfE expert senior representation from the trust during these meetings.

Due to the coronavirus (COVID-19) pandemic, DfE have had to change some of our ways of working, and we will be using virtual meeting technology wherever it is fun to have to hold face-to-face meetings. With the state of publication, DfE are requesting that no meetings should be held face-to-face but will keep this under review and update this guidance if this changes.

You will also be allocated a contact from the Free Schools Capital (FSC) team to assist your site and the buildings for your school. This is covered in more detail in section 11 of this guidance.

Annex A, published on the main guidance page, contains a project tree checklist, which outlines the core tasks that need to be completed during pre-opening. The number of these tasks at the appropriate time is critical to ensuring that your school can open successfully.

It is critical that you put in place robust planning and project management arrangements, and that you keep your project tree checklist up to date and accurate. Your delivery officer will request a copy of your project plan ahead of the first meeting.

DfE recommend that you designate a specific person as responsible for managing your project tree checklist, and that this person should be a senior member of the pre-opening lead. You may use the project development plan (see section 3.2) as your project management support. More information about the procurement of additional project management support is provided in section 7.

1.5 Determining the opening date of your school

One of the important milestones in the pre-opening phase will be to agree your provisional opening date. You must have your provisional opening date for your project, but you must agree with DfE what opening date you should use to market your school and to open your admissions process. Your provisional opening date should be a realistic date, but it should also be ambitious. Your provisional opening date will be needed for obtaining planning permission and completing necessary building works or refurbishment. Your provisional opening date will also be used by your delivery officer and the team that the school identified as assessment organisation to decide when the new classes the school provides will be needed. For these reasons, you may need to agree a provisional opening date before the school is located, as well as for planning purposes.

Once DfE have identified and confirmed a suitable site and carried out that assessment, DfE will normally agree with the trust a provisional opening date. Normally, DfE will place a block in the opening accommodation only in a limited number of exceptional circumstances, details of these are provided in section 6. DfE will normally arrange a site visit to discuss the confirmation of the provisional opening date between the trust and local leaders.

Until a suitable site has been secured, DfE would expect you to maintain momentum by continuing to develop plans in parallel for issues such as:

- admission arrangements
- curriculum
- governance including reviewing memorandum and articles of association

However, DfE would not normally expect you to undertake the detailed work that requires confirmation of a site and provisional opening date, without prior agreement:

- recruiting the principal designate and other senior staff
- carrying out the statutory duty under Section 10 of the Academies Act 2010 to consult on the proposal to open a school
- applying the opening date to the funding agreement and understand the associated legal responsibilities and implications
- inviting applications to your school.

New Schools Network

The New Schools Network (NSN) receives a grant from DfE to provide free advice, tools, guidance and support to help grow your approach to pre-opening, based on the experience of trusts that have successfully opened free schools. For more information about the NSN's services, please visit the pre-opening page and the NSN website, or contact hello@newschoolsnetwork.org.

2. Main risks during pre-opening

DfE's experience from opening over 250 free schools suggests that most projects share a set of important risks that need to be monitored and managed during pre-opening. This section sets out the main risks that trusts should be aware of and how to manage these important risks. You should inform them immediately if you think there is a material risk that may arise in pre-opening, so that they can help to resolve them and enable you to open a good, viable school.

2.1 Summary of main risks

This section summarises important risks.

Leadership

A high-quality principal designate is not recruited in the first or subsequent rounds of recruitment and as a result, is not appointed early enough to support and influence the development of school policies and education plan.

Staffing

Staffing and suitable staff have not been recruited 6 months before opening, so, for example, by the March before a September opening date.

You wish to recruit staff before DfE has agreed to enter into a funding agreement.

Governance

The governing board is not in place, or not governing in accordance with the law, for example, by the end of October for a September opening.

If you run an existing school or have another project in pre-opening and:

- you are in court with a free school application, or
- a DfE official or external expert raises any concerns about if, for example, financial concerns that fall short of the first are still a concern, such as deficits or
- Ofsted judge one or more of your existing schools as either requires improvement or inadequate, or
- there is a significant decline in the performance of one or more of your existing schools (for example, if your Progress 8 or Attainment 8 scores fall below agreed thresholds).

You are not able to confirm complete governance about 10 months before opening, so, for example, by October for a September opening.

Pupils recruitment

Pupil recruitment and enrolment plan targets have not been met, indicating that the school may not provide open opening.

Application numbers, at the application deadline date, indicate the school will not be viable.

Example

Application numbers are below 150 in minimum viable numbers, which are 2 forms of entry with 30 pupils each for primary schools, and 4 forms of entry with 30 pupils each for secondary schools. Where the minimum number to deliver your curriculum structure is the higher.

Accepted offer numbers, as of national offer day, indicate that the school will not be viable. In the case of 4-tier special schools, the number of referrals received from commissioners is low, making the school financially unviable (below DfE's minimum viable numbers).

Local factors

Risks could include:

- the local authority is or becomes uncooperative of the project
- local residents or schools raise significant opposition to your project during or following consultation
- there is negative local or social media attention
- your project is linked to a new housing development and issues have arisen with that development that may result in delays

Finance

Risks could include:

- you are trying to run out of project development grant (PDG)
- a financial deficit of interest is identified when operating PDG (pre-separate guidance on procurement in section 7)
- you are unable to submit a viable financial plan ahead of the readiness to open meeting or other important deadlines as requested

Education

Risks could include that you fail to agree an education plan with your external expert.

Admissions

Risks could include:

- you wish to adopt unconventional admission arrangements
- you wish to adopt your local authority coordinated admissions.

Other risks

The risks which have been presented in this section are not exhaustive. These are the most common risks but each individual project will have its own risks and you should discuss any concerns with your delivery officer.

3. Governance

This section covers governance arrangements.

3.1 Introduction

The competitive framework for governance outlines the 8 most important features of effective governance, which you should consider when formulating your governance arrangements including:

- strategic leadership that sets vision, ethos and strategy
- accountability that drives educational standards and financial performance
- the board's composition, skills, knowledge and capacity
- structures that reinforce clearly defined roles and responsibilities
- compliance with statutory and contractual requirements
- evaluation to monitor and improve the quality and impact of governance

3.2 Guidance for governance arrangements

A trust's governance arrangements are set out in its articles of association. DfE expectations for the trust's governance are set out in its funding agreement. Trusts should use the model articles, church academies model documents. You will need to amend the model articles to reflect your school's specific circumstances, such as the name of academy office, along with the composition certificate of incorporation. Trusts should also use Annex D1.

The governance handbook is guidance published by the DfE and sets the DfE's vision and priorities for effective governance by:

- outlining the core role and functions of the governing board
- summarising and providing a third point of reference of the duties placed on boards, drawing together legal requirements and good practice
- providing information and tools to support and challenge boards.

You should be aware that:

- every free school is run by an academy trust – a charitable company limited by guarantee
- the board of trustees is responsible for trust's overall governance and strategy
- the board of trustees must be constituted to achieve this
- there should be a minimum of 3 members and DfE's strong preference is for trusts to have at least 5 members, and for at least a majority of members to be independent of the trust
- no more than 19.9% of your members and 19.9% of your trustees should be associated with the trust activities.
- no members and no more than one of trustees can be employees of the trust.
- DfE's strong preference is that no employees other than the CEO should sit on trustee bodies.

Whether you are an established trust or a new trust, DfE expect you to adopt our governance arrangements, as set out in our model documents.

DfE's competitive framework for governance and governance arrangements framework sets out the skills, knowledge and behaviours needed for effective governance and clarity.

3.3 Role of academy trusts, members and trustees

All academy trusts, as charitable companies, have both trustees and members whose role is described in detail in the DfE's academy trust governance – structures and roles descriptors and the governance handbook and summarised in this section.

3.4 Members

Academy trusts are founded by members who have a general duty to exercise their powers to further the academy trust's charitable purposes. The trust members are the signatories to the memorandum of association which is drawn up when the academy trust is established. The memorandum of association is a legal document, and the articles of association which set out the trust's constitution and rules.

Members should not be minded to the day-to-day management of the trust but should ensure that they are sufficiently informed about the trust to be able to exercise their powers effectively.

Members have an important role in academy trust governance, based on a number of powers set out in DfE's model articles of association and in company law. Members' powers include the ability to:

- appoint and remove trustees
- elect the academy trustees to act in certain circumstances
- receive the trust's annual accounts (although permission from the Secretary of State is required to dispense with this requirement)

The members' role is similar to that of the shareholders in a company limited by shares. Trusts must be established with at least 3 members, although DfE's strong preference is, wherever possible, for trusts to have at least 5 members. Having more members means that the board can benefit from a wider range of skills and experience to draw on when appointing trustees. It also means that the trust would remain in its charitable objectives if required (where 75% of members agree) without requiring university seeking ministerial approval to appoint new members. Trusts should also consider appointing a University Employee (where at least 1 of the members are a Nexus).

Employees of the academy trust must not be members. No more than 19.9% of members can be trust activity associated (see governance handbook).

As the responsibility to conduct the academy trust's business sits with the academy trustees, it is important that members do not exercise their powers in a way that the trust board's direction when exercising its responsibilities. DfE expects the majority of members to be independent of the academy trust. Members should be in a position to challenge to exercise their powers objectively and reduce the risk of members' group think by the board.

3.5 Board of trustees

The trust board is the decision-making body of the academy trust and is accountable for the academy trust's performance. The board of trustees is responsible for the trust's overall financial strategy and the 3-year business plan, which should be in line with the governance handbook, setting the strategic priorities for the school, holding the senior leaders to account, and ensuring that trust resources are used effectively.

The trustees must ensure compliance with the trust's charitable objects and with company and charity law requirements. The board of trustees is responsible for ensure the members that the trust is operating effective governance. The board of trustees should be constituted to achieve this. The board of trustees is responsible for funding agreement with the Secretary of State. It is the trustees who are therefore responsible for ensuring that the academy trust complies with all its duties as set out in the principal regulator of academies and charities.

The role of trustees requires commitment as well as the right experience and skills. DfE has developed a framework of competencies, published in the governance framework for governance, which are needed for effective governance.

Trusts need to put in place arrangements to ensure trustees understand and resolve conflicts of interest wherever possible. Trusts should have a register of interests for trustees and members, and should make it clear to the board of trustees and chair their expectations in line with the academy financial handbook and Charity Commission guidance.

Parental representation

The trust board must include 2 elected parent trustees. Alternatively, the board may choose to establish a parent governing body to ensure that parents have a voice and be 2 elected parents on each local governing body (LGB) within the trust. Process for electing and appointing parent trustees and parent local governors will be set out in the trust's articles of association.

Employees on the trust board

The trust board should not include staff can be employees of the academy. DfE's strong preference is for no employees other than the principal or CEO to serve as a trustee in order to retain clear lines of accountability through the academy trust's single senior executive leader. No more than 19.9% of trustees can be staff associated.

Committees

An important consideration will be how to make the most effective use of committees, including if you are a trust with more than one school. LGBs. Academy trusts must establish a local governing body (LGB) for each school in the trust. Academy trusts must include attending the academy trust's programme of internal scrutiny. Regular reports from the internal scrutiny should be reported to the board of trustees, the audit and risk committee. Other academy trusts must either have a dedicated audit and risk committee or ensure that the board of trustees undertakes the work. Trusts are expected to have a finance committee to which the trust board delegates financial scrutiny and oversight. Other areas of governance covered by committees may include curriculum and attendance.

Trustees can formally delegate decision-making powers to a committee, in accordance with the trust's articles of association. Trustees can also informally delegate to committees. Other committees may focus on specific issues and make recommendations to the trustees. Non-trustees can be co-opted onto committees and can vote on that committee, but cannot be appointed as the chair of a committee. Non-trustees cannot be members of trustee bodies.

Committees can, therefore, be a helpful way to bring additional expertise to support the board of trustees, and to provide a mechanism for parents and community members to have the views of your trust and the community. Because of its influence, it can be wise to chend down a working group once an issue has been resolved, which avoids unnecessary bureaucracy. Trusts may find it helpful to consider delegation powers to a working group.

3.6 Local governing bodies (LGBs)

Trusts with multiple academies may establish a tier of committee known as local governing bodies (LGB). In some trusts LGBs may be known locally as 'academy committees' or 'school boards'. Trusts may choose to establish local governing bodies (LGBs) and through a Scheme of Delegation will decide the responsibilities delegated to them. This can vary from a high level of delegation to wholly advisory LGBs. LGBs can be set up to cover a single school or a group of schools. The Department for Education has published guidance on setting up local governing bodies.

Governance structures that open more than one school can bring significant benefits and close ties to the need of the skills and experience of your local school.

Where a trust is establishing a free school to be overseen by a LGB, DfE will expect to see evidence of the trust's plan for the governance of the school, including the arrangements, as you would for a establishing a board of trustees for a single free school.

3.7 Clerk (governance professional) to the trustees

4. Staffing

This section covers staffing.

4.1 Introduction

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- strategic leadership that sets vision, ethos and strategy
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The role of trustees requires commitment as well as the right experience and skills. DfE has developed a framework of competencies, published in the governance framework for governance, which are needed for effective governance.

Trusts need to put in place arrangements to ensure trustees understand and resolve conflicts of interest wherever possible. Trusts should have a register of interests for trustees and members, and should make it clear to the board of trustees and chair their expectations in line with the academy financial handbook and Charity Commission guidance.

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14. Special educational needs and disabilities

This section covers special educational needs and disabilities.

15. Funding agreement

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16. Preparing for the first day of school

This section covers preparing for the first day of school.

17. Preparing for the first year of operation

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18. The transition to month 13 and beyond

This section covers the transition to month 13 and beyond.

19. Exit from pre-opening

This section covers exit from pre-opening.

20. Exception of information

This section covers exception of information.

21. Annexes

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You are required to appoint a suitably qualified and experienced person to advise and support the governance of the trust. This person should be independent of the day-to-day operations of the trust. They should be able to advise the trustees on their responsibilities, as they have a governance professional set administer and support board meetings and provide advice and guidance on the board's compliance with legal requirements, and to support the board to be compliant with wider governance.

The governance professional is also responsible for ensuring that each meeting of the board of trustees is formally recorded and clear on the matters discussed and the actions agreed.

The governance professional will also keep the board understand its role, functions and duties, and keep the board up to date with any changes to governance, legislation and statutory guidance. Many. Detailed information on the range of skills, knowledge and professional behaviours of the governance professional can be found in the Institute of Chartered Secretaries' framework.

Consider these matters relating to governance arrangements:

- what type of governance support does the board need, how much, and how frequently, now and in the future?
- what are the skills and experience you require of the professional?
- how will you source this?
- how will they work with the board, including the chair, to ensure that the board is fit for purpose?
- how will the Chair oversee the performance of the governance professionals in their role and support?
- how committed are the board to supporting the development of their governance professional?
- what professional development will the governance professional require to ensure their knowledge and practice is kept up to date?

3.8 The 7 principles of public life

As explained in the academies financial handbook, there are 7 principles of public life that set out the standards of behaviour expected of anyone who holds a public office, including all those who are involved in the management of academies. These are: integrity, objectivity, accountability, openness, honesty and leadership. You can find out more about the 7 principles of public life.

3.9 Summary of the main tasks

This section contains a summary of the main tasks.

Making sure you have established your governance structure

The academy trust will be the legal entity and the governing agreement the legal owner of various assets. Setting up your academy trust allows you to open a company (and charity) that will own the assets and be responsible for governance and risk. Companies House and the Charities Commission are the regulators for these organisations.

The articles of association describe your trust's constitution and establish the governance structure, including the roles and responsibilities of those who are required to follow each practice in charities, charitable and school governance. The expectation is that you will adopt our model articles to establish your academy trust. Our model articles are kept up to date with changes in legislation and are written in language that is easy to read by people with no governance experience and reflect the time-zones to cap the funding agreement for their new free school. Establishment of a new academy trust is a complex process and it is important that you set up a school and you have the necessary skills in academies, if they are not already in the other model.

If your group is an existing academy trust and therefore has its own articles of association. DfE would expect you to adopt the latest model articles if this is not the case. Your existing articles will need to be updated to reflect the current model. Your articles differ and comply with any particular governance issues that you may need to consider. The model articles are flexible enough to accommodate most governance arrangements. Your articles should be kept up to date with changes and to be satisfied that your articles of governance are in line with our latest model articles and reflect your current governance arrangements. Your articles will also be set out in the funding agreement to open your free school. Your delivery officer will ask to see a copy of your articles of association, and will check that they are in line with our model articles, and look at any particular governance arrangements and any issues you may have. The plan should be submitted with a completed checklist, signed by the lead governor responsible for the school and the chair of the governing body or trustee board. Your delivery officer will ask you if the proposed governance arrangements are in line with managing the transition from pre-to-post opening. You should talk to your delivery officer if you think you need to make changes to your governance arrangements. You will also need to submit a first-year-to-second-6-months-before-opening. Plan and a third-year-to-January-for-a-September-opening-up-to-August-for-an-April-opening. It is possible that your delivery officer will ask you to make changes to your plans.

3.10 Size of your board of trustees

Consider these points for your governance plans.

Members

Consider these following questions relating to members:

- are there at least 5 DfE-strategic recommended at least 5), including:
- independent members and senior employees and local authority associated individuals?
- whether there is significant separation between members and trustees to enable effective challenge and oversight?
- do the plans demonstrate a clear understanding of the role of the members and to not their roles?
- if the trust is a multi-academy trust, is a DfE approved sponsor? (Corporate members are considered in one-to-two-tiers, check with your delivery officer)

Trustees

Consider these following questions relating to trustees:

- is the trust board an adequate size to maintain the strategic business of the trust?
- will the majority of members be independent from the board and if there is cross-over, is it proportionate and does it not compromise independence?
- do the arrangements reflect the governance and practice?
- is there a chair of the trust board to date, including, do they have the right skills and experience to be effective?
- are the other trustees suitably skilled, independent, have the right skills and academic results for other schools with trusts/we have been involved?
- do the trustees have the right skills, knowledge and experience, including whether they will be able to pass a basic for trustee training and accountancy?
- if any trustees are employees of the trust, including the CEO, is the total number of them less than one-third of the total number of trustees? (Note: the DfE recommends that no more than one-third of governance/governance roles to signify senior executive leader - more information on this can be found in the governance handbook, page 30 paragraph 9.8)

The number of trustees you need should be determined by the needs of your particular trust. The minimum number of trustees is 3 (plus the CEO, if they are a trustee). Ensure the full range of skills is met by the trustees. Between 7 and 12 trustees is usually should be sufficient to manage your trust effectively. Any specialist knowledge can be provided by co-opted trustees. Co-opted trustees should make up the majority of governance positions (the trustees or the trust's legal status).

While there are no legal limits to the size of your board, you should expect your delivery officer to challenge you if your board is larger than 12 members. Boards of more than 12 DfE and will want to ensure that your board size is justified and will want to see the details of running your free school. Your delivery officer may suggest that you establish a local governing body to ensure that the board of trustees is not too large to be ineffective. Ensure that the size of the group is fit for purpose.

In establishing an LGB, you should ask yourself the same questions about size, skills and structures as you would when setting up a board of trustees for a multi-academy trust school. You should also consider what, if any, responsibilities should be delegated from the board of trustees to the local governing body. Responsibilities should be clear and the board in holding people leaders to account. These should not be a cross-over written scheme of delegation published on your website. While you may delegate responsibilities to the LGB, the board of trustees remains fully accountable. Please separate LGBs and for trustees who are members of the trust board.

Ensuring you are recruiting the right people as trustees

You need to ensure that the board as a trust meets understand the requirements of the role and have the commitment, experience and skills to be effective. Your delivery officer will be looking for evidence that you have the competencies needed for effective governance and accountability through the trust's single senior executive leader - more information on this can be found in the governance handbook, page 30 paragraph 9.8).

The definition of school governance will be particularly important for trustees who are recruited as part of your start the board. The chair's relationships with the principal and other senior leaders will be critical to the effective governance of the trust. Ensure that the chair is able to meet the 3 members and board of trustees. DfE and National Governance Association (NGA) guidance creating governance, the role of the governing board in a multi-academy trust. Ensure that the chair is able to meet the board to be a true and fair view and help them within the role as governance.

The trustees of a free school need to be assured that its financial systems, transactions and risks are being adequately assessed and managed. Trustees are also responsible for establishing internal controls that recognise public expenditure about governance, financial and risk management. Trustees are required to follow the Academy Trust Handbook (ATH) a compulsory officer and Parliament. Non-compliance with the free school can check their financial and other controls and operating effective internal controls. Trustees are responsible for:

Your delivery officer will want to see evidence of the steps you have taken to ensure that the trust board includes individuals from a range of different backgrounds, so that it can make the most of the skills and experience available to it. Your board of trustees should ensure that includes the broad range of the majority of people in the community that the board has sufficient relevant challenge to the decisions it makes and how it operates. Ensure that the board of trustees is not too large to be ineffective. Ensure full diversity of the school's cultural and religious context and that of the school's serves.

Parent trustees are elected by their parents or carers, not the trust, but they are expected to act in the best interests of the trust in the same way as all other trustees. Your delivery officer will want to see evidence of the steps you have taken to ensure what you can to ensure that candidates understand the role and have the necessary skills and commitment. The term of office is 4 years.

Most free school governors are volunteers, and the DfE's trustee training - committing to governance - is a useful guide. Trustees are required to consider appointing a CEO-that's up to one of the governance leadership development programme and are available in every region. Enrolment takes place on a regular basis.

Finding trustees

DfE funds governance governance and Academy Ambassador to support boards in finding suitable trustees. Ensure that the board of trustees is not too large to be ineffective. Trustees who are interested in volunteering as a governor, and for board a smaller trusts seeking to recruit new trustees. Academy Ambassadors provide a bespoke tailor-making service to match suitable candidates to governor and trusts. Trustee is a successful academy governing board.

In recruiting your board of trustees, you should aim to have recruited a capable chair and vice-chair who are able to lead the board of trustees and ensure it is a well-governed academy trust. The chair and vice-chair are important trustees, who you can support during the first term and opening. Your delivery officer will challenge you on progress and will want to see evidence of the steps you have taken to ensure that you have an important focus of your roadmap to open meeting, where the board of trustees is to play a full part in the discussion, alongside the principal designate.

You may be tempted to appoint a trustee, individuals who may bring contribution to the pre-opening project team. This can be appropriate, but only if you are confident that the individual is able to fulfill the role of a trustee, and that they will not hinder their skills and experience. If there are other ways to involve a suitable person in a people a say over the running of the school, for example as non-trustees sitting on committees, or an advisory working group, it may be better to do so.

Trustees' commitment, post-opening

The board of trustees should be composed with sufficient capacity, particularly in an opening and the early years of the trust, to undertake their contribution and the role which can be significant.

The burden on individual trustees can be reduced through effective use of committees and working groups. They can work on behalf of the trustees to explore specific areas of work and report back to the board of trustees, or take decisions on the board of trustees' behalf.

The transition from pre-to post-opening

During pre-opening some trustees can have an additional responsibilities as part of the project team. This contribution can be vital and is welcomed, but it will be important to ensure that the board of trustees is not too dominated by people who are in the school-model towards opening. To support this, having a transition plan in place will help trustees to make the necessary adjustments.

Taking a strategic role in not just about establishing your plans to the project designed to open the school, but also about ensuring that the board of trustees is thinking about how they will monitor and assess the school's strengths, weaknesses and progress, and how they will support and challenge the principal designate and senior leadership team.

3.11 Prompts for your governance plans

Consider these points.

Board structure

You may want to consider these following questions:

- is the board structure clear to all, do trustees clearly understand their role and that of others on the board?
- does it reflect the 3 core strategic functions of a board ensuring clarity of vision, ethos and strategic direction, financial oversight, holding the executive leadership team to account for educational performance?
- is the level at which the responsibilities of the board will be executed or delegated to committees or individuals clear, for example, does the plan include a delegated decision-making matrix that ensures governance understand their responsibilities and the chain of accountability?
- have the terms of reference for committees been developed, including: - are these fit for purpose?
- is the chair clear?
- is their vice-chair?
- is their role clear?

To help your trustees begin to define their role as strategic leaders, DfE recommend the governance in the governance handbook, and the National Governance Association (NGA) guidance on governance. Ensure that the board of trustees is not too large to be ineffective. Ensure full diversity of the school's cultural and religious context and that of the school's serves.

Parent trustees are elected by their parents or carers, not the trust, but they are expected to act in the best interests of the trust in the same way as all other trustees. Your delivery officer will want to see evidence of the steps you have taken to ensure what you can to ensure that candidates understand the role and have the necessary skills and commitment. The term of office is 4 years.

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3.12 Leadership

Senior executive leader

The trust board will appoint a senior executive leader (SEL) in practice also known as the principal, executive principal (CEO, The SEL must be the person that the management executive chair and lead accountable by the board of trustees for the educational performance of the school. The SEL is also known as the CEO. Although the SEL role must not be called headteacher, unless it is a single academy trust.

The appointment of a SEL does not require an additional process to be employed. There will only one person at the SEL will be the principal. The trust board, and single one school, the SEL could continue to be the principal of an individual academy within the multi-academy trust. The trust board will need to be satisfied that the SEL is able to lead a school. The board must not leave or delay the school's opening because it cannot convince others and cover across the whole trust. The appointment of an accounting officer is a matter for the trust board. The accountability of the board of trustees for the proper conduct and financial operation of the trust.

Accounting officer

Each free school trust must designate a named individual as its accounting officer. The accounting officer is responsible for the trust's financial affairs, and must follow the DfE conditions sufficient training to undertake this role. A single free school, the accounting officer is the principal of an individual academy within the multi-academy trust. Ensure that the board of trustees is not too large to be ineffective. Ensure full diversity of the school's cultural and religious context and that of the school's serves.

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3.13 Conflicts of interest

A conflict of interest can be defined as: Any situation in which a trustee's personal interests, or interests that may seek to another body, may (or may appear to) influence or affect their decision-making.

It is inevitable that conflicts of interest will arise at some time. Even the perception of a conflict of interest can be damaging to the reputation of the academy trust. It is important that your trustees understand their responsibilities for managing conflicts, and that they are set out in detail in the academies financial handbook and include putting the right procedures in place to identify and manage conflicts of interest.

Conflicts are most likely to arise when trustees or their relatives intend to provide services or goods to the academy trust. Trustees should be aware of their fiduciary relationship and, could be open to consequence that could be a breach of the duty of loyalty owed to the trust. Trustees should be aware of the duty of loyalty, for example, a couple who take the role of chair of trustees and finance director, or where a trustee is also a member of staff, or where a trustee's relative is employed by the trust, or a company they are able to be contracted from the trust or academy trust. Trustees should consider an unacceptable high risk of a conflict for your trust, but the responsibility is your and DfE will expect to be satisfied that the following conditions are met:

- any individual or organisation represented as a member or trustee of your academy trust, or connected with a member or trustee, should not be in a position to benefit or to be able to be contracted from the trust or academy trust. Trustees should be open the approach taken by DfE with approved academy sponsors.
- the trustees should be satisfied that the trustee is fit for the role of the model articles, which ensure that trustees are taken without bias and independent decisions are 'conflicted' take steps to avoid influencing a decision
- the trustees should be satisfied that the trustee is able to identify and record potential areas of conflict - the register should be completed and kept up to date by the trustees and any staff with budgetary control, covering them and their family members. The register should be reviewed at every meeting of the trustee board(s) - the register of interests should be a standing item on the agenda for the board meeting.

Trustees and members understand the need for all procurement to follow an open and fair competitive process (see the further information). The trustee board should also produced helpful guidance on identifying and avoiding conflicts of interest

DfE will also ask you to ensure you have in place a register of interests, a register of gifts and hospitality, a register of business and pecuniary interests for academy trusts in advance of the opening of your academy.

Related party transactions

The academies financial handbook sets out reporting and approval requirements for academy trusts in advance of transacting with a related party.

Your delivery officer will want to see evidence that you have put in place approved systems publishing the transaction with a related party supplier to the DfE. This includes agreements being renewed with a related party supplier.

Academy trusts do not need to declare income transactions with related parties. For expenditure related party transactions with a new supplier, academy trusts must confirm whether they have previously received a donation from the related party.

In line with paragraph 1.62 the academies financial handbook, salaries and other payments made to staff who are related parties to trustees, members or governors, through the academy trust payroll, are not in scope of this requirement.

Academy trusts must continue to report all related party transactions, regardless of value, in their annual financial statements as set out in the Regulatory accounts guidance.

Academy trusts must seek prior approval from ESFA where a:

- single proposed contract or agreement with a related party exceeds £20,000
- cumulative proposed contracts or agreements with a related party exceed £20,000 or
- agreements with the same related party exceeds £20,000 in a financial year

A series of intended transactions with the same supplier can be submitted as a single contract for approval, so long as sufficient detail about each transaction is provided to ESFA for consideration.

Academy trusts must declare in each agreement for related party transactions using Pledge form.

You need to have all your information and documents ready before starting, as it not possible to complete part of the form and return it in 5 days. Please allow for the full range of evidence you may need to provide when seeking approval for a related party transaction.

You need Regulator for ESFA's accounts use the form and to approve other years.

3.15 How DfE will work with you

Your delivery officer will:

- Need confirmation that your free school has been established and that your articles are in line with DfE's latest model.
- Check the proposed size of your board of trustees and request to see the governance structure - they will challenge you on any amendments, or if your proposed board of trustees is not consistent with the plan.
- Ask you to confirm the names of any members and trustees you have already appointed and request to see evidence of their suitability, such as a copy of an appointing a director (or trustee and your directors) and to collect DfE's DBS. A copy of any change (appointment or removal) of any trustee or member of the academy trust. Your delivery officer will also want to see evidence that you have set out to register the trust with the Commission or provide the details of which of your members and trustees).
- Challenge you should any concerns arise about an individual's appointment, including where DfE has a concern about a potential conflict of interest.
- Expect you to have set out plans for how your board of trustees will operate, including plans for committees. They will also want to have how your plans for governance will ensure that the board of trustees is able to fulfill its role. Your delivery officer will also expect you to have put in place effective processes for managing conflicts of interest, including setting up a register of interests.
- Expect you to have a clear succession plan in place for the chair of trustees and for your board of trustees. You will have completed an initial trustee skills audit as part of your application to open a free school. Your delivery officer will want to see how successful you are now trustees are in your board and what gaps you have to recruit and train your trustees. They will also want to know what plans you have to recruit and train your trustees. Your delivery officer will want to see evidence of the steps you have taken to ensure that you have a clear succession plan in place for the chair of trustees, for updates on trustee appointments, and for a non-portrait of each new trustee, setting out their skills and interests.
- Expect you to have recruited the chair of trustees at least 6 months before your school opens, and for the chair of trustees to have a clear vision for the school and have identified a plan for the majority of remaining trustees and support staff (such as the clerk, and a responsible officer). As a minimum, you will need to have a workable plan to fill outstanding vacancies.

In recommending to ministers that they enter into a funding agreement, your delivery officer will want to see evidence that you have put in place governance arrangements that are appropriate and sound, so that you have recruited a high calibre trustee.

As the school moves towards opening, your trustees should be working with the principal designate on the board of trustees' important documents and protocols ahead of the first board of trustees meeting. These will include the school's development and business plan, the school's scheme of delegation, the school's financial regulations, the delegation of operating and other decision making powers from the board of trustees to committees or employees).

3.16 Further information

- Table 2 Governance: checklist of activities (Annex A)
- Academy trust governance
- Governance handbook and compliance framework
- Academy trust governance - structures and roles description
- Academies financial handbook
- Check an school or academy
- Find and manage a school or academy
- Referral process of governance
- Closed academies
- Academy trust governance
- Education inspection framework
- DfE expectations for a governing body to ask itself
- Charity Commission guidance on potential conflicts of interest
- FAQ school practice guidance and expectations for growth
- NGA's resources and guidance about ownership academy trusts

4. Due diligence

Proposers must comply with the 7 principles of public life that set out the standards of behaviour expected of people who hold public office, including those who work in education. The 7 principles of public life are: selflessness, integrity, objectivity, accountability, openness, honesty and leadership. You can find more information about the 7 principles of public life.

DfE will carry out a number of checks on those applying to establish a free school to provide reassurance of the suitability to manage public money and to ensure that they will include due diligence checks, financial checks, Disclosure and Barring Service checks and checks on the suitability of those who are to be members, trustees and set up so that those who are suitable and able to do so.

There are several distinct actions for members and trustees to take as part of the due diligence process. Your delivery officer will provide more information and support in the process to assist delegy in the Secretary of State opening a funding agreement with your trust or opening your school.

4.1 Action required – for the chair of trustees

The chair of trustees is responsible for ensuring that:

- They apply for a unique URN check. This includes a new enhanced DBS check provided by the DfE's supplier, as well as checks on their identity and right to work in the United Kingdom. This is necessary regardless of whether they are named by other DfE-requirements.
- All trustees or members have completed the suitability and declarations form and hold a basic qualifier or an enhanced DBS certificate (provided by any DBS Registered Body).

The following sections provide more information about what is required and the process.

4.2 Suitability and declarations form

DfE carries out suitability checks on members and trustees of a trust setting up a free school while they are in pre-opening. All members and trustees, when appointed must complete the suitability and declarations form. This does not apply to members of LGBs unless the individual is also a trustee. The chair of trustees must take responsibility for ensuring that all sections of the form are complete, declaration pages are signed, and a passport-sized picture for each individual is provided to DfE. All completed documents should be scanned as a PDF and emailed to due.diligence@education.gov.uk.

During the pre-opening phase if there are any changes to the members and trustees, the chair of trustees must report these changes by email to the delivery officer as soon as possible. Once a free school is open there is no need to send in suitability and declaration forms for new members and trustees.

4.3 Disclosure and Barring Service (DBS) checks

The Independent Schools Standards and Keeping children safe in education require that the chair of trustees must hold an enhanced DBS certificate provided by the Secretary of State's approved supplier (part of the suitability checks).

All other members and trustees must hold an enhanced DBS certificate provided by any DBS Registered Body. On appointment, new members and trustees must obtain a new enhanced DBS certificate, even if they already hold one. All other members and trustees must have an enhanced DBS certificate. The chair of trustees must ensure that these requirements are met. The chair of trustees must also assess whether any offences or police information disclosed on a certificate are such than an individual is not suitable to hold the role of member or trustee.

In the case of the principal designate, checks should be performed as they would be for any other employee of the school. DfE does not require a copy of the certificate. The school is required to ensure that all relevant checks (including vetting and barring checks) are conducted in line with safeguarding requirements.

4.4 Applying for an enhanced DBS check

Chair of trustees

Academy trust chairs of trustees (not a chair of a local governing body) must complete a suitability check with the ESFA as soon as they are appointed. This is to comply with legislation and to keep children safe in education. The academies financial handbook sets out a requirement to update governance information (including direct contact details) within 14 calendar days of a change. Free schools in the pre-opening stage will not be able to do this as the school will not become available on GIAS until a successful Ofsted pre-registration inspection has been carried out.

There's further guidance which explains the process to apply for a suitability check. This includes:

- an identify check
- evidence to prove your right to work in the United Kingdom (UK)
- the outcome of a new enhanced DBS check performed by the DfE's approved supplier
- if you have lived outside of the UK, an overseas criminal records check or certificate of good character

When completing a suitability check DfE, will consider any further information available to us, including where individuals are barred from teaching or the management of a school.

All other members and trustees

Members and trustees (other than the chair of trustees) who already hold an enhanced DBS certificate dated within the past 2 years should email a scanned copy of the certificate to the chair of trustees. The Secretary of State requires the chair to ensure that all members and trustees present an up-to-date DBS certificate at all times, and DfE reserves the right to request sight of members' DBS certificates at our discretion

On appointment, new members and trustees must apply for an enhanced DBS certificate, using the DBS umbrella body directory, even if they already have a certificate which has been issued within the last 2 years.

Once received, the certificate should be scanned and emailed to the chair of trustees.

4.5 Further information

- Suitability and declarations form
- Table 4 Due diligence: checklist of activities (Annex A)
- DBS checks
- Keeping children safe in education

5. Statutory duty to consult

By law, your trust must meet its statutory obligation to consult under Section 10 of the Academies Act 2010 (the Act) about your free school proposal.

Section 10 of the Act requires the trust to consult with the people they think appropriate, on whether to enter into an arrangement with the Secretary of State to set up and expand the free school.

It is worth recognising that there are some instances where this may not apply as set out in Section 10(1) of the Act.

The statutory consultation should inform appropriate persons about the project. This process is very useful as you will be able to use and build on the feedback and suggestions you receive. It should also help to raise awareness of your project and your marketing activity could help to increase pupil numbers.

You should speak to your delivery officer if you experience significant opposition by local residents during or following the consultation, or if the local authority becomes unsupportive of the project.

There is no requirement on you to carry out a Section 10 consultation in respect of a nursery that is part of your free school. However, it would be useful to mention the nursery as part of your consultation, as responses could help provide evidence of viability or highlight risks. It could also help marketing and local awareness-raising.

The duty to consult rests solely with you. DfE does not direct or provide specific advice to trusts on how you should go about it. There are some general themes you might want to think about, which are set out in the following paragraphs. You may also wish to refer to the Cabinet Office good practice consultation guidelines.

5.1 Summary of the main tasks

It is important to invest some time to plan how you will run your consultation, to ensure this complies with your statutory duty. Your consultation must be thorough and transparent.

You also need to decide whether you will carry out the consultation yourself or bring in additional resources to do this on your behalf. Above all, you will need to decide when to carry out your consultation, how long it will take, whom you will consult with, the policies and information about your school on which to consult and how you will collect responses to the consultation. You will need to be ready to consider any responses received and whether it is appropriate to adjust your plans, taking into account any concerns resulting from the consultation.

You should report and present your findings and conclusions to those that have responded, the local community and DfE. The report should be submitted to DfE with a completed checklist, signed by the lead proposer or chair of governors. You should ensure your report contains an appropriate level of detail.

The question you should ask those you consult with is whether your trust should set up the free school. You should provide information on the particular proposals for your free school.

Who needs to be consulted

The Act states that you should consult such persons as the trust thinks appropriate. This includes any groups or individuals that may be affected by the opening of your school. Examples include nearby schools, the local authority, any surrounding local authorities, local community groups with an interest, the local population and faith groups.

How long the consultation should be

This is not specified but must be adequate to allow people time to consider the proposal and respond.

When you should consult

It must be done before the funding agreement can be signed, but when plans are sufficiently advanced, to enable those whom you consult to have sufficient understanding of the school that you are proposing.

What to consult on

Examples of areas to consult on include staff recruitment, admission arrangements, special educational needs (SEN) and other policies and the site for the school (or at least a general location).

How to consult

It is important that you give as many people as possible an opportunity to respond. You may therefore use a variety of channels, such as mailshots, leaflets, social media, open meetings, media announcements or a combination of all of these. Many trusts set up websites for the consultation, but you should make sure that the consultation is also available to those without a computer or the internet. You may also want to consider translating the consultation materials into other languages if the school being proposed is in an area with a diverse population. Finally, you should be able to provide accessible versions, for example a braille version of the consultation, on request.

How to deal with responses

You need to build in time to consider responses and whether it is appropriate to make any changes or additions to the plans for the school.

How to report on the outcome

Once the responses to the consultation have been analysed you will need to consider how the findings will be presented to both DfE and other interested parties. The most effective way is to produce a report of the important findings that provides quantitative and qualitative information, details of methods, timings, who you consulted, the questions you asked and any steps that have been taken because of the responses. You will then need to consider how you will publish the outcome of your consultation.

5.2 How DfE will work with you

When the time comes to decide whether to enter into a funding agreement with your trust, the thoroughness and transparency of the consultation will form an important part of that decision.

The Secretary of State is required under Section 9 of the Act, to complete an assessment of the impact that the opening of the free school will have on maintained schools, academies, institutions within the further education sector and alternative provision in the area in which the institution is proposed to be, or is, situated. This will incorporate any related evidence from your consultation. You do not need to do this - your delivery officer is responsible for carrying out the impact assessment at the appropriate time.

The New Schools Network has produced some guidance on how to carry out a Section 10 consultation.

5.3 Further information

- Table 9 Statutory consultation: checklist of activities (Annex A)
- Section 10 of the 2010 Academies Act
- Model funding agreements
- NSN pre-opening information

6. Funding and finance

6.1 Introduction

This chapter provides information on the project development grant (PDG), financial governance and accountability, risk protection arrangements and school financial planning.

6.2 Summary

Note that:

- the funding that projects receive is public money and you will need to be able to demonstrate that the way you use it meets high standards of propriety, is transparent and defensible and secures good value for money
- you must effectively plan and manage expenditure during pre-opening, including meeting the terms of the PDG agreement
- you must put in place robust governance arrangements and accounting procedures to allow the school to manage public funding responsibly once open
- you must develop a financial plan that demonstrates the school's viability on opening within the available funding based on a realistic and evidenced number of pupils, realistic staffing requirements and an up-to-date estimate of expenditure, which should be considered jointly with the development of your curriculum

6.3 Risks

Mainstream free schools are funded on the basis of pupil number estimates while they are growing. When a school recruits fewer pupils than estimate or funded for, ESFA will recover the associated funding. This will be based on the October schools census and any excess funding will be clawed back in the following year. It's important to note that if this affects your school, you will need to make sure you are able to pay that amount back the following year; if not, this can lead to financial problems.

Schools that have under-recruited pupils can also have financial viability issues if their plans do not have sufficient flexibility. DfE will not open a school where it does not believe the school will recruit enough pupils to be financially viable.

The pupil recruitment, funding arrangements and risks involved in opening special and alternative provision free schools are different, but DfE will assess these risks and will not open such schools if the financial viability is in doubt. Your delivery officer will discuss these with you as a minimum at the main checkpoints.

Projects in pre-opening receive PDG to cover all pre-opening costs (minus capital). If a trust runs out of PDG, DfE will not provide additional funding, except in exceptional cases.

This is a summary of the main funding areas. There's more detailed information in the sections that follow.

Project development grant (PDG)

Note that:

- this is for essential non-capital pre-opening revenue costs
- rates depend on type of school
- there's an initial allocation of £30,000
- full allocation only given once provisional opening date agreed and heads of terms have been agreed for site
- projects need to submit budget profiles and statements of expenditure as requested by delivery officer

Financial plans

Note that:

- financial plans should be based on delivered educational outcomes
- plans are assessed by DfE at important points during pre-opening
- DfE must be satisfied that the school will be financially viable before entering into a funding agreement

Understanding financial management

The academies financial handbook sets out financial management and governance requirements.

Financial statements submitted to ESFA

Note that:

- the academies account direction describes the form and content of statements
- you need to be aware of the main submission and publication deadlines

6.4 Essential information you need to provide to DfE

Throughout pre-opening, projects will be required to provide DfE with the following:

- budget profiles and statements of expenditure for PDG
- financial plans with supporting assumptions, demonstrating the school's financial viability when it opens

6.5 Project development grant

In the run up to opening, DfE will provide a fixed-rate PDG to cover essential non-capital costs up to the point at which the school opens. Your trust will need to profile and effectively manage spend of the PDG funding. The rate of funding is set out in this table. You will be issued with a grant agreement setting out the terms under which the PDG will be paid. You must read these terms before signing the agreement and returning it to DfE. Your trust will need its own bank account into which the funds can be paid. You cannot use a personal or other similar bank account. If your school is part of a trust with more than one school, the trust account may be used.

The PDG will be formed of 2 elements. You will be given an initial allocation of £30,000 and the balance of the PDG funds will be paid in instalments after the provisional opening date has been agreed. This initial £30,000 should be sufficient to meet all the pre-opening costs likely to be incurred by your trust up until the site solution is confirmed and DfE have agreed a provisional opening date with you in writing. The remainder will be allocated at this point, with the schedule of payments modelled around the budget profile you provide for the remainder of time in pre-opening. The exception to this is for projects where heads of terms for site and provisional opening date have been agreed at the point which the project enters pre-opening, in these cases, the initial £30,000 allocation will not be provided separately and will instead be included in the overall PDG payment schedule.

You must provide regular budget profiles and statements of expenditure throughout the pre-opening phase. Your delivery officer will advise when it will be necessary to provide these returns, but, as a minimum, you are required to provide a budget profile and statement of expenditure at least once a year. Details of future returns and templates are provided as part of the grant agreement.

Future payments will be delayed or stopped at any time if the terms of the grant are not upheld (for example, by not making timely expenditure returns, through inappropriate use of public funds, or if your project does not make satisfactory progress). You must escalate to your delivery officer if you forecast to overspend on the PDG.

If your project is cancelled before the school opens, you must not incur any further expenditure and must return any unused PDG funding, in accordance with the conditions of grant set out in the grant agreement.

If you have any PDG funding left over when the school opens, you should roll this over into the school's budget. Unspent PDG cannot be held by the trust. The level of PDG has been set based on previous free schools' costs in the pre-opening phase. DfE would not anticipate that schools will roll substantial amounts into their school's budget beyond any unspent contingency, which is likely to be small. DfE do not expect schools to assume that they will carry forward any funding into their funding plans for the open school

After opening, free schools can reclaim VAT on expenditure incurred during the pre-opening phase from HMRC. More information can be found on the HMRC website You should seek advice from your local tax office on reclaiming VAT once open, DfE and your delivery officer are not able to advise on tax policy. The school can also retain any VAT it recoups from HMRC on PDG expenditure. Note that the terms of other grants may differ.

6.6 Project development grant rates

The amount of PDG you receive will vary depending on the type of school you are opening (for example, secondary, primary, AP).

If your trust is opening a single school in an academic year you will receive the full PDG rate for the type of school you are opening. Once you have been approved to open more than one school in a given academic year, you are expected to realise efficiencies in areas such as project management, educational services, administration and office costs. You will therefore receive full PDG funding for the first school and a reduced amount of PDG funding for each additional school.

Where you are opening multiple schools, the amount of PDG will be determined by the provisional opening date of the school agreed with DfE. This is regardless of when the project was approved to pre-opening. The current rates which are payable to projects in the pre-opening phase are set out in the table below.

> These amounts are subject to review and may change.

Type of school	PDG funding for first school opening in a given academic year	PDG funding for each additional school opening in the same academic year
Primary mainstream	£220,000	£150,000
Secondary and all-through mainstream	£300,000	£200,000
Special	£220,000	£150,000
AP	£220,000	£150,000
16 to 19	£250,000	£170,000
Local authority presumption schools	£25,000	£25,000

The numbers of schools that a trust is opening in a single academic year will include any schools approved to pre-opening.

In cases where the provisional opening date is deferred, additional funding will not normally be allocated to the project. The project will retain the PDG rate that it is already receiving (although the payment profile may be amended to reflect the longer pre-opening period). Trusts will need to re-profile their budget expenditure plans and resubmit them to DfE.

Planning your project development grant budget

You must ensure that all spending is essential to the development of the school during the pre-opening phase and provides good value for money. DfE does not expect to provide any other funding to meet pre-opening costs. You should therefore think very carefully about how to allocate your budget before committing to any expenditure.

The PDG is intended to cover all revenue costs up to the opening of the school. It is not intended for the purchase of resources that the school will need once open such as books and curriculum materials. Capital costs to secure and develop the school's site and ICT to support the curriculum are provided by FSC and should not be funded from the PDG.

Typically, projects will use their PDG funding to pay for the following:

- project management (support to coordinate all work leading to the development of the school, excluding site related issues)
- educational services
- staff recruitment (including the principal designate)
- salary costs (which often include the principal designate, finance or business manager and administrative support in advance of opening)
- marketing costs
- consultation costs and open evening costs
- pre-opening office costs
- administration of admissions (including applications and appeals)
- trustee induction and support

Many projects also use their PDG to purchase the financial and management information system that the school requires in advance of opening. Where possible, it is good practice to maintain a contingency in your initial financial plan to cover unexpected costs. As set out above, if any grant funding is left when the school opens it should be rolled into the school's budget.

It is up to you to decide how you allocate your PDG spending. Requirements vary from project to project depending on the local context, the school and the wider resources available to the trust. The New Schools Network provides a budget planning tool, which you can use to plan your spending during pre-opening. This includes examples of how different types of proposers have used this funding in the past.

The funding you receive is public money and you will need to be able to demonstrate that the way you use it meets the highest standards of propriety and secures good value for money. The principles of good governance described below should apply throughout the project to open the school.

One person within the trust should have overall responsibility for managing the financial plan and PDG expenditure. They should be accountable to the trust and DfE for ensuring that funding is used properly and that the budget is managed well.

You will receive the PDG grant letter shortly after the project enters the pre-opening phase. Your delivery officer will monitor the progress of the project and check expenditure returns are received and appropriate. They will challenge projects, where necessary, on their use of PDG funding, and can arrange for payments to be delayed or stopped where necessary. Requests may also be made by your delivery officer to see evidence of the spend, for example, invoices.

6.7 Governance and accounting arrangements

Before opening, your trust will need to put in place effective systems for managing the public funding that it receives. Putting good governance arrangements in place at this stage will help develop a strong framework for the school on opening.

You will need to ensure that the trust's spending choices and decisions are in the school's best interests and are transparent and defensible. Your trust will need to be able to demonstrate sound financial procedures, the capacity to handle public money, and good governance arrangements. You must consider the potential for conflicts of interest and have an agreed policy in place setting out how you will deal with them. Your delivery officer will consider the progress made towards developing effective financial governance arrangements for the open school. You must escalate to your delivery officer if you have identified any potential conflicts of interest when spending your PDG.

You will need to agree how you will manage payments and any related decisions, such as how you will award contracts. You will also need to retain original copies of all receipts, invoices, contracts and tender documents, which DfE may review at any time.

Your trust will need to have a robust framework to manage its funding and ensure proper accountability and procedures are maintained. At the pre-opening phase, important tasks to deliver this include:

1. Setting out the role of the Chief Finance Officer (for example, a finance director or business manager) and recruiting an appropriate person.
2. Forming the finance committee of the governing body, agreeing its terms of reference and making sure that the committee's membership includes appropriate financial expertise and a process for checking its financial systems, controls, transactions and risks. This programme of risk review and checking of financial controls can be managed in the way that the trust deems most appropriate to their circumstances. Further information on internal scrutiny can be found in the academies financial handbook.
3. Ratifying the appointment of the accounting officer (normally the principal for a trust with only one school and the SEL for a trust with more than one school).
4. Securing formal governing body approval for the first year's budget.
5. Developing policies and manuals covering procurement (including competitive tendering), delegation of responsibilities, financial procedures, internal control (including a split between purchasing, authorising and payment roles) and management of conflicts of interests.

The governance section of this guide gives further advice on some of these tasks.

6.8 School resource management

Effective schools make the best use of resources, ensuring that every pound is used to have maximum impact for their pupils and the school. Schools that do this well tend to:

- plan their curriculum and finances in a combined exercise, known as integrated curriculum and financial planning (ICFP) which allows them to base their financial planning on delivering educational outcomes, rather than as a separate consideration - ICFP can help analyse the most effective deployment of staff, for example, it can help model the impact of flexible working arrangements on your budget to make the best decision for your curriculum and finances while being inclusive of staff needs
- have a strategic approach towards financial planning for the longer term (3 to 5 years)
- deploy their staff effectively and efficiently, linked to their long-term plan
- have robust challenge from financially skilled governors and headteachers
- have skilled staff responsible for managing finances, who have experience of seeking best value for money when procuring
- have transparent financial systems and processes that encourage constructive challenge within and between schools

School resource management collection offers a variety of resources and guidance for schools and academies to help them reduce costs so that they can invest their resources into areas that make the most difference to pupil outcomes.

It includes approved frameworks which can help schools save money on regular purchases such as:

- printers, photocopiers and IT equipment
- Schools Switch, an energy comparison service for schools, to ensure they are getting the best deal
- the supply teacher and agency worker deal which makes fees and mark-ups transparent and removes the temp-to-perm fee after 12 weeks of working with you

Other tools that support excellent resource management include the, financial benchmarking service, which allow schools to compare their spending patterns to schools in similar circumstances, and the View My Financial Insights (VMFI) tool which gives schools an insight into their financial performance, identifies areas that may require further attention and matches the data with relevant guidance and resources.

The Teaching Vacancies site allows schools to advertise their vacancies for free.

There is also support and guidance on financial efficiency to help school leadership teams, including a curriculum planning tool.

Through the Get Help With Technology page, schools can get support to access laptop, tablets and internet solutions, get their school set up on a free digital platform and

access the EdTech Demonstrator network of schools and colleges providing peer-to-peer support on how to make best use of the technology available to schools.

The schools resource management: top 10 planning checks for governors guidance contains information to help schools manage their resources efficiently to deliver good educational outcomes. In particular, you will want to use the important metrics contained within the planning checks to consider the affordability and value of your proposed curriculum and staffing plans.

To receive regular updates about the school resource management tools, support and guidance, schools can sign up to DfE's schools business professionals contact list

The academies financial handbook

The academies financial handbook, together with the funding agreement, sets out the financial management and governance requirements for academy trusts.

You must comply with the handbook throughout the pre-opening phase and once open. This is outlined within the grant agreements underlying any funding you receive from DfE or ESFA. Non-compliance with the handbook is considered a breach of contract and may trigger various sanctions.

The handbook is aimed at trustees, accounting officers (principals, chief executives and SELs), chief financial officers (finance directors, business managers or equivalent), clerks and governance professionals to the board of trustees, local governing bodies of trusts and auditors.

The handbook clearly articulates that the accounting officer is personally responsible to Parliament and to the accounting officer of ESFA for the resources under their control. This personal responsibility extends to ensuring regularity, propriety and value for money. The accounting officer also has responsibilities for keeping proper financial records and accounts, and for the management of opportunities and risks.

Financial statements

Free schools with a funding agreement with the Secretary of State and an open academy at any point during the accounting period must submit audited annual report and financial statements to ESFA, for each year ending 31 August, by 31 December. The academies accounts direction prescribes the form and content of the financial statements. Prior to signing the funding agreement financial statements should be prepared in accordance with company law.

Trusts should set their accounting reference date to 31 August at Companies House. This is the date to which their financial statements will be produced.

The accounts must also be filed by 31 May (within 9 months of the end of the accounting period) with Companies House. Further information can be found at Companies House.

Other financial returns

Trusts must also submit the following financial returns to ESFA once open:

- budget forecast return outturn in May and the budget forecast return 3-year in July
- audited financial statements for the year ending 31 August by the following December
- academies accounts return for the year ending 31 August by the following January
- financial management and governance self-assessment submitted to ESFA within 3 months of opening. The self-assessment highlights the main requirements academies must have in place soon after opening

Trusts are responsible for keeping up-to-date with the latest deadlines and requirements. More information is available on academies financial returns.

You can also keep up-to-date through the ESFA update.

6.9 Insurance cover: risk protection arrangement (RPA)

Risk protection arrangement (RPA) is an alternative to commercial insurance, whereby the government covers any losses that arise. The RPA will cover losses that are in scope of the RPA membership rules.

The RPA membership year runs from 1 September to the following 31 August, however members can join at any time. Please note, free schools can join the RPA scheme and receive cover prior to opening; there is no cost or premium to join the RPA in pre-opening. In the pre-opening stage, you should have discussions with your delivery officer regarding RPA and inform them if you wish to opt into the RPA scheme at an early stage.

Once a school is open, ESFA funding will deduct the per-pupil cost at source from your free school's general annual grant (GAG). Until 31 August 2021, the cost of RPA is £18 per pupil per place per year; from 1 September 2021 it increases to £19 per pupil per place per year.

Free schools do not have to enter the scheme and are free to make their own alternative insurance arrangements: however, there will be no additional funding provided should extra costs be incurred. More information on RPA can be found at risk protection arrangement.

6.10 Funding for open schools

DfE will assess your school's financial plan before entering into a funding agreement, and in advance of issuing your indicative funding letter, which will set out the level of funding you should expect upon opening. DfE will not enter into a funding agreement if it is not confident that the school has a viable financial plan.

You must escalate to your delivery officer if you are unable to submit a viable financial plan.

Developing your school's financial plan should be an ongoing process, which should be considered jointly with the development of your curriculum. Plans should be updated as further details of funding arrangements become available, staff are appointed, site plans are firmed-up, the projected number of pupils become clearer and other costs are more confidently established.

Further updates should take account of the number of staff required to cater for these pupils. This may change over time and updates should ensure staffing structures are affordable and appropriate.

The assumptions boxes on the plan should be used to set out the basis for any estimates of pupil numbers and pupil characteristics, income from sources other than ESFA, and expenditure (including service contracts and salaries).

Guides to free school revenue funding are available on the gov.uk website, for mainstream, 16 to 19, special and alternative provision free schools. These explain how funding for new free schools opening in 2021 to 2022 is calculated and also contains details of how the post-opening grant, which is provided to new schools as they build up to full capacity, will be calculated.

The free school financial templates are updated in spring each year to reflect the changes in national and local funding rates. The latest version of the templates can be found on GOV.UK. The rates in the template you used when you made your application may not be the ones for the year in which you will open. You will need to ensure that you refresh your financial plan in the spring before opening when the new rates are available. Your delivery officer will keep you updated on any changes.

The approval of your application to the pre-opening phase is therefore conditional on you submitting revised financial plans at important points during pre-opening so that DfE can be assured that your school is on-course to be financially viable. In particular, you may be asked to share your current financial plans with DfE before entering into a funding agreement, which should also include a version modelled around the lowest viable number of pupils for your first year of opening. This information will be used to prepare draft funding allocation packs for issue.

Your delivery officer may ask you to revise your plans or give further information if needed to show that the school will be viable and efficient in using resources to deliver pupil outcomes, both during your early years of operation, when pupil numbers are building up and when your school is operating with all year groups. They will need to see that the school has developed robust and consistent curriculum, staffing and financial plans, and strong financial governance arrangements. Plans should demonstrate clearly how the school will minimise non-staff costs and that the school will be efficient, viable and not go into deficit in any year.

Mainstream schools: developing a viable financial plan

Once the school is open, it will be funded by the ESFA. Funding will be paid monthly in equal instalments. With the exception of the school's first month of opening, when the school will be paid on the sixth working day of the month, the ESFA pays schools their funding on the first working day of the month. The funding for free schools is set at an equivalent level to funding for all other state-funded schools. Funding is largely based on a payment for each pupil who attends the school, but the detailed funding methodology may vary over time with changes to the funding of the school system as a whole.

The government will ensure that any new free schools that are not yet open but are in the pipeline, or will enter the pipeline during 2021 to 2022, are funded consistently with other schools.

In 2021 to 2022 local authorities will remain responsible for setting individual schools' budgets through a local funding formula. Free schools are encouraged to speak with their local authority about their plans for implementation of the NFF. Funding for schools in 2022 to 2023 will be announced in the summer and funding in future years is subject to the next spending review.

Financial (and, therefore, educational) viability is dependent upon you admitting a sufficient number of pupils. In order to provide a sustainable, broad and balanced curriculum, there is a presumption that primary provision should have a minimum of 2 forms of entry of 30 pupils, and secondary provision have a minimum of 4 forms of entry of 30 pupils. DfE do not expect financial plans to be based on fewer pupil numbers. If you expect this to be the case, then please contact your delivery officer to discuss the rationale.

Once open, if the October schools census shows the school has not admitted the predicted number of pupils, any excess funding will be clawed back in the following academic year. Where more pupils are recruited than have been funded for, ESFA will carry out an in-year reconciliation and pay any additional funding in the current academic year.

More information can be found in the guide to mainstream free school revenue funding.

16 to 19 free schools: developing a viable financial plan

Once the school is open, it will be funded by ESFA. Funding will be paid monthly in equal instalments. With the exception of the school's first month of opening, when the school will be paid on the sixth working day of the month, the ESFA pays schools their funding on the first working day of the month. 16 to 19 free schools are funded on the basis of the post-16 national funding formula.

Funding is largely based on a payment for each student who attends the school, but the detailed funding methodology may vary over time with changes to the funding of 16 to 19 provision as a whole. Financial, and therefore educational, viability is dependent upon you admitting a sufficient number of students.

Securing financial viability can be particularly challenging for 16 to 19 institutions. If you are proposing a 16 to 19 school with a broad curriculum of A levels (or A levels and vocational qualifications), you will need to consider whether this would be achieved by being the following size:

- a larger school of at least 1,000 students
- a smaller school within a trust with more than one school, so that nearby schools in the trust can share expertise, teaching staff or other resources, such as back office services, to produce economies of scale, or where existing local 11 to 16 schools in the trust could be 'feeder' schools for the 16 to 19 school – a school in a trust where only back office services are shared might need to have up to 900 students, whereas one where there was also extensive sharing of teaching staff and facilities with neighbouring schools in the trust might be viable at a smaller size

If you are proposing a smaller specialist school with a narrow or niche curriculum, you will be best placed to achieve this where you have significant support from a partner organisation that will help to attract students. DfE would expect a suitable partner organisation to be well-established, stable and known as a leader in its field. The partner organisation will need to commit to close involvement with the school, such as through financial support or by providing teaching for courses in the specialist area or additional opportunities for students, such as high-quality work experience or access to teaching in a different institution.

If you are proposing to include a sixth form within a secondary school, you should consider the following:

- size - an expectation of around 200 students or more, either in the institution or through partnership
- breadth - an expectation that a student should be able to choose from around 15 A levels across a range of subjects, either in the institution or through partnership
- demand - including any shortage of post-16 places, and assessment of the quality of level 3 provision overall in the area and the impact of the new provision on other providers
- financial viability and value for money - including testing financial resilience should student numbers fall and considering the degree and impact on 11 to 16 education of cross-subsidisation of funding from the school's other budgets

You may be eligible for a programme weighting funding uplift if you offer a curriculum that is particularly expensive to deliver, such as engineering. You may also be eligible for funding uplift if you anticipate higher disadvantage levels than the local authority average. If these criteria apply, you will be asked to provide a business case to establish any additional funding you might attract in order to reflect the extra costs associated with technical programmes of study or high levels of disadvantage.

Note that as students are able to hold multiple offers, an adjustment of at least minus 30% must be applied to financial plans to take account of a potential drop-out between accepted offers and start date.

Once open, if the October schools census shows the school has not admitted the predicted number of pupils, any excess funding will be clawed back in the following academic year. Where more pupils are recruited than have been funded for, ESFA will carry out an in-year reconciliation and pay any additional funding in the current academic year.

More information can be found in the guide to 16 to 19 free school revenue funding.

Special free schools: developing a viable financial plan

Once the school is open, funding will be calculated and paid in the school's first year by both ESFA and local authorities commissioning places at the school.

Funding will be paid monthly in equal instalments. With the exception of the school's first month of opening, when the school will be paid on the sixth working day of the month, the ESFA pays schools their funding on the first working day of the month.

As of 2019, funding for special free schools is included in local authorities' high needs allocations. The number of places to be funded at special free schools from their second year of opening onwards will be agreed with the local authority through the place change notification process.

Funding in special free schools comprises:

- funding from ESFA for full-time equivalent places. The flat rate per-place funding will be paid for a number of places, which will be subject to regular review by the local authority in whose area the school is located, and dependent on local authorities' commissioning of the places for those pupils with education, health and care (EHC) plans
- per-pupil top-up funding paid by the local authority (the top-up funding comes from the local authority commissioning the place and is determined by the local authority in negotiation with the free school based on the pupil's assessed needs and the cost of meeting those needs in the school) - this top-up funding is paid for as long as the pupil attends the school and will flow directly between the local authority and the special free school
- pupils without EHC plans can only be admitted to special schools in certain circumstances - you should refer to the SEND code of practice and your funding agreement for further details

Special free schools, like other special schools, can also receive funding from local authorities and other schools for commissioned services, for example, to provide specialist teaching support for pupils in local mainstream schools.

In all cases, the income that special free schools receive and their future viability will depend on providing the places needed locally and on local authorities' willingness to place pupils with EHC plans at the school and pay for the costs of the special provision on offer. Local authorities often have standard rates of top-up funding for pupils with different levels of need, which they use for maintained special schools and special academies. DfE have encouraged local authorities to publish information about their top-up funding arrangements. Special free schools should expect to operate on similar levels of funding from local authorities.

More information can be found in the guide to special free school revenue funding.

Alternative provision free schools: developing a viable financial plan

Once the school is open, funding will be calculated and paid by both ESFA and those commissioning places at the school. Funding will be paid monthly in equal instalments. With the exception of the school's first month of opening, when the school will be paid on the sixth working day of the month, the ESFA pays schools their funding on the first working day of the month.

Alternative provision (AP) free schools are established in response to demand by local authorities or local schools. Evidence of this demand is needed to support the establishment of the school. Local authorities are responsible for ensuring that adequate AP is available for pupils in their area who are not at a mainstream or special school. The detailed funding methodology may vary over time as changes are made to the school and high-needs funding systems.

From the third academic year after an AP free school opening, ESFA starts to deduct an appropriate proportion of the place funding from the high needs funding block within the dedicated schools grant (DSG) of the local authority where the pupil resides. This is because some AP free schools accept pupils from local authorities other than the one in whose area they are located, or from schools and academies in other local authority areas.

Funding in AP free schools comprises:

- funding from ESFA for each full-time equivalent place for pre-16 pupils. Like all funding, this will be subject to regular review
- per-pupil top-up funding paid by the commissioner (local authority or other school. Top-up funding is agreed between the provider and commissioner and paid to the provider directly by the commissioner for each individual pupil. Top-up funding is to meet any costs in excess of the base funding threshold)
- per student funding from ESFA for students aged 16 to 18
- any other funding received for commissioned services (such as outreach work in local schools) from the local authority or school commissioning the service

AP free schools' continuing financial viability depends on both the ongoing support of local authorities and schools or academies, in terms of a commitment to commission placements and services, and their willingness to provide associated funding. It is therefore important that you are able to show evidence before you open that your commissioning authorities and schools have committed to commissioning places at your school. Schools' commitment to commissioning places at your school should be accompanied by a recognition of the costs of the AP and the value for money the school will offer, an understanding of how those costs will be met by local authorities and schools in the area, and an assessment of the affordability of the provision based on these factors.

More information can be found at AP free school revenue funding.

High needs funding overview

High needs funding is allocated from the local authority's dedicated schools grant (DSG) high needs block to provide support for children and young people with special educational needs and disabilities (SEND) and to meet their statutory needs. Mainstream pre-16 free schools are expected to meet the first £6,000 per annum of additional costs that may arise for supporting a SEND child from its own delegated budget A special free school with a unit or resourced provision would fund SEND children in the same way for those occupied by pupils on roll and £10,000 per place for the reminder of special school places; and an alternative provision (AP) free school would receive high needs funding for pre-16 school places at £10,000, based on a FTE equivalent pupil roll number.

The support could be provided through a statutory assessment or via an education, health and care (EHC) plan, but local authorities also have discretion to provide top-up funding to those children without an EHC plan up to the age of 19. Local authorities will provide top-up funding to individual children in mainstream, special or AP free schools when the support costs exceed more than £10,000. Local authorities bear the ultimate responsibility for decisions on top-up funding, as they are accountable for spending from their high needs budgets. However, DfE expect the level of support and rates to be discussed and agreed in writing with individual schools.

More information on high needs funding can be found in the High needs funding operational guide 2021 to 2022.

Funding for free school nurseries

If your free school includes a nursery, it will be funded on the same basis as other early years provision not using the same formula as any other free school. This is because the Secretary of State does not enter into a funding agreement in respect of the nursery, as it is instead funded by the local authority or parents paying for places. Our expectation is that the school and the nursery should each be financially viable without reliance on cross-subsidy.

All 3 and 4-year-olds, and some 2-year-olds whose parents receive certain benefits, are entitled to 570 hours of funded early education each year. Since September 2017, 3 and 4-year-olds have been eligible for an additional 570 funded hours per year where both parents are employed and earn above the minimum or living wage for 16 hours per week but neither has a taxable income over £100,000. Further information regarding the criteria for funded childcare can be found at get childcare. A nursery cannot put conditions on the free hours (for example, only allowing parents to access their free entitlement if they agree to taking additional paid hours or pay for lunches).

Where parents choose to take their free entitlement in a nursery that is part of a free school, the local authority will fund that provision from their DSG allocation at an hourly rate agreed by the local schools forum. The local authority is only required to fund the children who attend the nursery; they are not required to fund empty places.

During 2021 and 2022, this formula includes a minimum hourly funding rate of £4.44 for the 3- and 4-year-old entitlements and a requirement for local authorities to pass 95% of funding directly to providers. The EYNFF also established a Disability Access Fund, which pays £615 per year for each eligible child, to enable them to access the free entitlement, and it also places a requirement on local authorities to establish a special educational needs inclusion fund (SENIF), to support children with SEN to achieve good outcomes in the early years. Further information on the EYNFF can be accessed at early years funding 2021 to 2022.

To receive funding for the free early years entitlements, your free school nursery must be registered on the Early Years Register, or be a school that is exempt from such registration (see section 15 for further details). When these criteria are met, the local authority must ensure that free childcare is made available at the early years provider (including nurseries) of the parent's choice, provided that the nursery is willing to provide the funded places, accept any terms of payment, and accept any requirements that would be imposed by the local authority (for instance, requirements in respect of SEN, safeguarding and maintaining Ofsted quality standards).

A free school nursery may charge parents for additional hours above the free entitlement and is free to decide its own rate for this additional provision, but it cannot charge for the free hours that are funded by the government. Free school nurseries are allowed to make a profit, but the accounting must be separate from the school's General Annual Grant and the provision must be set up as one of the following:

- direct provision by the free school – any surplus can be reinvested into the school
- a not-for-profit charitable company – the company can retain any trading surplus as a reserve, or reinvest this into the school
- a for-profit company – the profits can be reinvested into the school once the company has accumulated a prudent reserve

For nursery funding arrangements and details of support available to nurseries during the Coronavirus pandemic, please refer to guidance at coronavirus (COVID-19): early years and childcare closures - this guidance is subject to change.

6.11 Other sources of information

The academies financial handbook sets out the funding arrangements and financial management requirements that your school must follow. You must refer to this handbook alongside your funding agreement for information about the financial systems and controls that your school is required to have in place.

6.12 Further information

- Table 5 funding checklist (Annex A)
- HMRC website
- NSN budgeting tool and guidance
- Academies financial handbook
- Academies accounts direction
- Funding arrangements for free schools
- Schools financial efficiency: top ten planning checks for governors
- Schools resource management

7. Procurement and additional support

7.1 Purchasing goods and services

Academy trusts are classed as public bodies and must comply with public procurement regulations. It is important that you understand the requirements when you are planning any purchase. Essentially, the rules are about using a fair and open procurement process to help ensure that you achieve the best outcomes for your free school and the best value for money.

Schools need to buy a wide range of goods and services and they may use different suppliers, such as public sector buying organisations, procurement consultancies and local authority traded services to help them do so. This diversity can offer opportunities for schools to improve their efficiency but navigating the system can be complex. Detailed guidance on buying for schools is available. The Schools buying programme 2020:prospectus 2020-2025 outlines the support available to help schools improve value for money from their non-staff spend.

7.2 Summary of the main tasks

You will need to make sure that you understand the rules and regulations on buying procedures and procurement laws governing public spending and decide early on how you will make any spending decisions. As a general guide, the higher the value of the purchase and the more public money you are spending, the greater rigour and scrutiny you should have to the procurement rules.

It is a good idea to set out the trust's approach to procurement within your financial management policy. This means thinking about how you will approve and review your expenditure and how any financial powers will be delegated, so that it is clear who is responsible for what.

You will need to be clear about how best to use your project development grant. You should review your group's capacity and capability to decide what you can deliver for no cost and to estimate the total value of what you need to buy. Remember that value for money is not always about the lowest price but involves getting the right balance between quality and cost. Think about how you will measure both of these when you specify and evaluate your purchase. You are spending public money and need to be able to demonstrate that you are using it well. It is always useful to ask yourself if your procurement decisions can be satisfactorily defended in public. There is more detail on typical areas of project expenditure in section 6.

Having a good range of expertise in your group can help you to decide what you can do for yourselves at no cost and when you will need to buy in support because your capacity or capability is likely to be stretched. It will also help you to negotiate and push back on costs to get a better deal.

Good procurement decisions will help you get the right support and achieve value for money. Conversely, if you do not follow a fair and transparent process and apply criteria consistently, you are less likely to identify the best proposals from potential suppliers. Poor procurement decisions risk wasting time and money and slowing down progress. They also risk reputational damage if potential suppliers think you are not being fair and if people think you are not using public money properly. If you have not followed the requirements of public procurement policy you could be open to legal challenges from suppliers. If challenges are successful, this can lead to contracts being cancelled, competitions having to be re-held and financial penalties incurred (compensation).

Guidance is available on buying for schools to help you plan and implement the most appropriate process for your school procurement need.

7.3 How DfE will work with you

Trusts are accountable for their decisions and expenditure. Your delivery officer will monitor the progress of the project and check that expenditure returns are received and appropriate.

7.4 Further information

- Buying for schools – guidance and support for buyers in schools
- Buying procedures and procurement law
- Schools buying programme 2020:prospectus 2020-2025
- DfE Find a Framework – recommended frameworks for schools
- Table 2 procurement and additional support: checklist of activities (Annex A)
- Academies financial handbook
- NSN 'Offers for free schools'

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8. Site and buildings

8.1 Introduction

This section explains how free schools capital (FSC) will work with you to find and secure a suitable site for your school. More detailed guidance on how this fits into a programme for delivering the site and buildings for your school, and the other stages in that process, is included in the customer journey: building your school booklet.

8.2 Important messages

Finding the right site for your free school is very important. It can also be the most time-consuming, complex and frustrating aspect of your project. However, it is important not to get distracted by the site at the expense of the important tasks during pre-opening. Clarity of roles within your proposer group is crucial in relation to this. It is recommended that there is a person who leads on the site and works with FSC to prevent people from worrying about the site unnecessarily.

The earlier a site is secured, relevant planning permission obtained and building works agreed, the better. Having these in place can be very useful when marketing your school to prospective parents, pupils and staff.

The length of time to a secure a permanent site will vary for each free school project. Important factors for finding a site are your school's operational requirements and the location. Some areas have better site availability than others. It is difficult to find suitable sites in some areas of the country and for this reason, you may need to be flexible about where the school is located (as well as about the year of opening). FSC will only look at temporary accommodation in exceptional circumstances.

The average time taken to secure a suitable site is around a year, while the normal lead time for acquiring and delivering sites ready for a school to open is around 3 years. Therefore, unless a site is already secured and requires little work and no planning approval, opening in a shorter period will be extremely challenging. Whilst it is important to secure a site that is appropriate for the school, DfE must also achieve value for money for the public purse.

You should not announce the site that has been chosen for your school until your project director has confirmed the site has been secured and that it is appropriate to do so. This is because commercial negotiations are highly sensitive and can be undermined by premature public announcements about acquisitions.

8.3 Finding a site

Free schools can be located in a wide variety of premises. They may not look like traditional school premises and sometimes are located in unusual premises. Free schools can be located in a building that has been used for other purposes such as office accommodation, as well as new build premises. DfE has adopted a presumption in favour of using existing premises for free school proposals, as set out in the following the Chancellor of the Exchequer's budget announcement in 2011.

Sites should be selected based on suitability for office construction. There are a range of terms which have been used for offices construction. It is the responsibility of the assembly of construction components, standards or sub-assemblies which are then put together on site. The term "off site" is used to describe the process of construction establishing if a project is suitable for office construction, such as wood frame or height restrictions preventing the pre-assembled components being brought to site, or not. The term "off site" is also used to describe the process of building components are available in the DfE's Free School Procurement Framework.

After the approval of your proposal, FSU will join your project kick-off meeting with your project team. This will be a meeting to discuss your project and to establish the most appropriate site solutions. Before this meeting, FSU will have reviewed the feasibility and availability of any sites you have proposed in your application and identified the most appropriate. Factors to consider at the outset of the review for the site are:

- commercial viability(LCF), to undertake a site search, and considered alternative sites if required;
- contracted the relevant building authority (local planning department)
- considered the availability of government buildings

FSU realise you may already have a preference for a particular site. Please be aware however, that it may not be the most feasible one. Common reasons why that might be the case include the following:

- It is too small or too big for the number of pupils
- It is too far away from the area of the demand
- It is too expensive to buy, lease or maintain
- It requires too much work to be affordable
- It is too far away from the area that we plan to get the appropriate planning permission for a school
- It is a school structure (assuming planning for change of use and works is required) and the school structure is not suitable for conversion (e.g. it is a listed building, ongoing maintenance of a listed structure and restrictions of using listed buildings is expensive and restrictive for the trust)

Keep an open mind regarding sites. Just because a site doesn't look like a school, it doesn't mean it cannot become one.

8.4 FSC and LocatED responsibilities in finding a site

During the site search stage of the project, FSC will communicate LocatED where appropriate to the following:

- contact local authorities and provide you with a collective site search
- FSC will work with the local authorities and LocatED and access the preferred site, provide a high level view of the sites and of any construction work required, including any constraints required and likely costing ranges
- FSC will provide a summary of the site suitability and good value for money. FSC or LocatED will start negotiations to secure the site

If a market site is to be acquired, it will be LocatED's decision to secure sites based on a commercial basis. LocatED will provide a summary of the site suitability and good value. Trusts will be given an opportunity at the start of the process to review the site and commissioning instructions. It is important that you take this opportunity to feel in your site and to ask questions about the proposed site. Once the site has been secured, the site LocatED will be required to obtain confirmation from the local authority that the original commissioning instructions has been met prior to LocatED finalising their purchase. LocatED will then transfer the site and lease the trust involved throughout and inform you of the site selected.

8.5 How the trust can help

If you have any information or knowledge that you would like FSC property managers or LocatED to be aware of as part of the site search, you should feel free to share this information. This information could be anything from a site that you have been approached with into opportunities on sites, as doing so would accelerate the negotiating position of the search sites are commissioned to do that. More importantly, it could be something that you have contributed to a project to have been extremely approval.

You must not announce the site that has been chosen for your school until your project director has confirmed that it has been secured and that it is approved by the DfE. Any announcement made before this will be premature and may cause the site to be undermined by premature public announcements about acquisitions.

You will also need to inform your FSC advisor about local developments and how they affect your site options, for example, new build development and their contribution to basic need or UtS site provision.

In collaboration with FSU, FSC has developed a number of resources that provide an overview of the property management process in securing a site. These are accessed from the Schools Portal.

You should work with your project director throughout the process, to ensure that the site secured is the most appropriate and suitable site available for your school. Flexible, as it is not always possible to achieve a site and buildings that is your first preferred specification every, due to constraints such as cost, size and time.

8.6 Securing a site

Securing a site can be complex and time consuming. However, since FSC have found a site for your school, the process should be straightforward. Although this process represents step-by-step, the FSC property team or LocatED will keep you informed. It is important to. This is main ways of doing that are:

- peppercorn rent leases (delivered by FSC property and legal teams), A peppercorn lease is usually agreed at a nominal rent i.e. £1 per year and is therefore considered a free lease
- SOA site (delivered by FSC property and legal teams), A SOA is an agreement between a local authority and a developer that commits a developer to providing land and/or infrastructure to mitigate the impacts of a development. The local authority facilitates construction by providing the land or prepared construction site and paying in part or fully for build the house. When a developer agrees to the s106 agreement, the local authority will sign it.
- peppercorn lease (delivered by trust lawyers - delivered by FSC property and legal teams)
- commercial lease (delivered to Local Authority)
- leasehold purchase (delivered by LocatED on behalf of FSC)
- commercial lease (delivered by LocatED on behalf of FSC)

As with buying a new home, there will be sensitive negotiations around securing a site for your school. Site owners want to secure the best possible deal for themselves while FSC / FSU / LocatED want to secure the best for the taxpayer.

It is vital that you check with your FSC project manager before discussing or revealing details of the site you are considering with anyone else. Site owners, for example, are very commercially sensitive and public disclosure can seriously compromise the negotiation process and the ability to secure the site at a good price.

Subsequent planning applications can also be affected if information about sites is released at the wrong time. Securing planning approval is of crucial importance to opening your school buildings and all the appropriate time FSC will welcome the support of the trust in securing planning approval. Premature announcements can lead to local elected members or the general public objecting to the application.

Your project manager will tell you when you can publicly confirm your sites (permanent, temporary or both), and the appropriate or premature consultation.

8.7 FSC responsibilities on securing a site

It is the responsibility the FSC property manager or LocatED to undertake negotiations with the site owner or the agent representing them and seek to agree terms for the acquisition of the site. This will include:

The FSC property manager or LocatED or the FSC project team will do: agree terms, estimate the total costs for the site and seek approval from its investment committee and, where required, ministers, to complete the acquisition.

Lawyers will carry out checks on the tenure, ownership and any restrictions affecting the site and will also carry out the necessary searches and checks on the site property to prepare, depending on planning and other issues affecting the property.

8.8 Interim site solutions

In some cases, free schools have opened in a temporary site before being relocated to their permanent buildings, but this should only happen in exceptional circumstances. Where this is the case, the trust will need to submit a business case to the DfE for approval (this is not a new bid process). When securing the permanent site, FSC will work with you whether opening in temporary or permanent site is appropriate. DfE will consider the business case and will take into account the following factors when evaluating the viability of a proposed temporary solution. Testing whether there is a viable permanent site option, including a detailed search for a permanent site. Ensuring provided when compared to the cost of a permanent site. Ensuring the temporary accommodation is suitable for teaching purposes and is compliant with all relevant standards. Ensuring the trust's current and future financial position is not adversely affected.

- curing a building on the permanent site when other buildings are in construction
- community buildings such as a church hall or community centre
- part of a neighbouring school
- temporary accommodation on the permanent site
- a local office building

Temporary sites for opening for the entire project. DfE do not want to spend any more than is necessary on temporary accommodation, so will try to avoid this as a solution that requires minimal alteration.

The procurement and costs associated with temporary site costs (such as the rental of temporary classrooms) will be managed by FSC, with the Secretary of State entering into required contracts.

8.9 Difficulties in securing sites

If a project has spent considerable time in one geography without a site being secured, therefore potentially wasting resources, and DfE do not feel it is viable, sufficient progress despite numerous interventions, we may contact you to inform you that we are considering a change of sponsor. This is a last resort. The Secretary of State is required to make a particular decision, taking into account the representations of those affected and allow trusts to respond to this before a final decision is made by the minister to cancel the project.

8.10 The site and your statutory consultation

Section 10 of the Academies Act requires the Secretary of State to consult formally with those three bodies approved. The statutory consultation must be completed before the Secretary of State can sign the lease. (see section 10)

Ideally, this process should start when FSC have secured your permanent site, but in practice this may not happen.

If it is not, you could identify a particular catchment area for the free school, such as a postcode, or a particular area of a city or town. At the same time, you can start to undertake underhand site negotiations, so FSC will agree with you what information you will need to provide.

8.11 The site and your funding agreement

Other than in exceptional circumstances, DfE will not enter into a funding agreement until trusts of terms have been agreed for the permanent site and any temporary site if relevant. DfE will need to be confident that there is a strong prospect of securing a permanent site before they will enter into a funding agreement with a trust.

As part of the funding agreement, there will be a set of site clauses. These aim to protect our public investment in acquiring and developing the land, and to ensure you (the trust) continue to meet your legal obligations as set out in the funding agreement.

Note that the:

- land clauses in the funding agreement must reflect the relevant model drafted by DfE (our delivery office will confirm the land clauses and on any bespoke legal arrangements for the site)
- legal obligations extend to the reasonable stewardship of the site and buildings under standard legal and maintenance requirements in s106 leases / detailed planning permissions, and that the site management is contained in your public funding agreement for schools (SOFS)

8.12 Further information

- Sales Site guidance: Handing of surplus Areas 2
- HTFC website
- Free School Procurement
- Academies Financial handbook
- Funding agreements for free schools
- Free school feasibility assessment
- Public procurement procedures for free schools

9. Pupil recruitment and marketing

9.1 Summary

Ensure you have a marketing focus on recruitment and have an effective marketing and recruitment strategy in place.

Focus on frequent face-to-face contact with parents, children or young people. Where coronavirus (COVID-19) restrictions make this difficult, consider other ways, such as online local community or parenting forums, or working closely with, for example, children's centres, GP surgeries, faith groups, or other community groups. The effectiveness of your plan will be constant review by considering the number of applications received.

You must market your schools to encourage applications from pupils from a range of different ethnic, religious and socioeconomic backgrounds, including those from disadvantaged backgrounds. Its promote a pupil intake that reflects the diversity of your wider local community.

9.2 Risks

It is essential to attract sufficient pupils to ensure your school is viable. Evidence of high levels of demand for your school will also automatically equate to higher levels of applications as references. Similarly, do not assume that when you offer places that all these offers will be accepted.

9.3 Recruitment and marketing

Successful pupil recruitment is an essential element of the pre-opening period. DfE know there will be many calls on your time, and many other pressing matters, but attracting sufficient pupils to ensure your school is viable is essential. Financial viability, standards and the quality of teaching and learning are all affected by recruitment.

You should not assume that high levels of demand for your school when a coverage that support will automatically equate to large numbers of applications or offersies. Similarly, do not assume that when you offer places that all these offers will be accepted. Do not take for granted that you will be successful.

You may have best very high levels of interest in your free school, but you need to convert this into applications or offers. During the pre-opening period, your marketing activity should increase and build on the publicity and interest you have generated. Ensure that the school's ethos and educational offer is clear and that school is having fun the most large. A full-days gives them confidence in the school's ability to encourage them to make an application or referral. It will also give you the chance of demonstrating the school's ethos and educational offer. Whether or not the school's ethos and educational offer is clear is a key marketing.

Placement and fit to the pupils

It is important that you analyse the types of responses you have had to date and assess where and how best to concentrate your efforts. for these reasons:

- some applicants will be more easy to attract than others, because they have engaged, even after you have offered them a place. to ensure they accept the place, you need to continue to engage them in meaningful communication. Ensure that ongoing contact is maintained that interest into application.
- some people will not have been particularly interested, but as you move into pre-opening, you can capitalise through to engage them as much as possible.

An adjustment of circuss 30% must be accepted to financial plans for fit to project to take account of a potential delay amongst applicants and offers accepted.

Faith designated free school projects, projects registered with a religious ethos or projects with a religious character (faith free school projects)

It is important that your marketing strategy is about supporting your school to meet the local community, not just those of your faith group. Therefore, you must market the school to all the local community, including those who are of a different faith or those that you demonstrated during the application process.

Alternative provision projects

Having entered the pre-opening phase, your marketing activity should increase, building on the publicity you will have achieved by being approved. You will also have generated a lot of interest in your school, and this should be used to build on the early stage. It will also give people a sense of urgency that they need to make sure they will not have paid much attention or so fail and would be interested now the school is becoming a reality.

You may find it useful to analyse the types of responses you have had to date and assess where and how best to concentrate your efforts.

- because some commissioners will have made a firm commitment, and you need to engage them in meaningful communication.
- because some commissioners will have expressed interest without making firm commitments for places, and you need to convert that interest into actual referrals
- because some commissioners will have expressed interest in your school, but will move into pre-opening, you should build a relationship with them. to engage them as much as possible

Special free school projects

It is essential to engage with commissioning local authorities to ensure that their need for places is met and that your school is viable. Ensure that you are in regular contact with the local authority and that you have established with some your school. Ensure that it is helpful that you have the trust and support of parents and prospective students. Ensure that the school's ethos and educational offer is clear and that school is having fun the most large. It is important, nevertheless, that parents are not offered places for their children and young people that their local authority is unwilling to support, or that, or this can be contested by conflict and unnecessary tribunal referrals.

9.4 Recruiting sufficient students

To provide a broad and balanced curriculum, there is consumption that primary provision should have a minimum of 2 forms of entry of 30 pupils, and secondary provision should have a minimum of 5 forms of entry of 150 pupils. Your local independent advisor number 2000 to achieve this number. If you expect this to be the case contact your delivery officer to discuss the rationale.

When recruiting, you:

- should regularly update you delivery officer on the number of applications you have received
- must provide to your delivery officer if the number of applications you have received, deadline date, or the accepted offer numbers by national offer day, but short of the number required to achieve sustainability
- should confirm with your marketing officers throughout the process, to ensure that there can be a drop of around 30% from applications received to the number of students who will accept places.

Hit to Hit statistics

Secondary financial viability can be particularly challenging. See section 6 for further information.

9.5 Promoting integration and community cohesion

Promoting integration and community cohesion is a priority for the government. All schools should promote the rule of law, democracy, and liberty and tolerance of British, Welsh and other British institutions. Free schools should be genuinely welcoming of all children and families from all backgrounds, including those from disadvantaged backgrounds. Free schools may you can encourage applications from families belonging to different ethnic, religious and socioeconomic backgrounds, including those from disadvantaged backgrounds.

To ensure that your marketing plans will support integration and community cohesion, you will first need to understand the demographics of the local community. Free school will serve, for example, the main ethnic and faith groups represented within the local community. Free schools should be genuinely welcoming of all children and families of different backgrounds. When considering your marketing plans are appropriate, you should consider:

- the characteristics of the school that are emphasised in publicity materials. these should not discourage parents from particular racecourses, ethnic or religious groups from applying to your school.
- where marketing events are advertised and held, are prospective parents from a representative range of backgrounds likely to know that these are being place. could you do something to ensure that the right people are aware of the events and activities
- where publicity materials are distributed to constituencies, are the materials clear and accessible to prospective applicants from a range of backgrounds that reflects the diversity of the wider local community
- for secondary schools, whether your marketing activities are targeted at your primary schools, for example, do the pupil intakes of these schools reflect the diversity of the wider local community
- whether you have engaged with representatives of the major faith communities represented within the area, to seek their support for the school

9.6 Marketing guidance

If there are continuing restrictions associated with the coronavirus (COVID-19) outbreak, some of the following activities may not be possible to undertake face-to-face. You may wish to consider developing online or virtual alternatives to engage your audience.

There are some general principles and lessons learned by previous program groups that should help you get the most out of your planned activity. It is important to be clear on what you want to achieve and how you will measure success. Be realistic about what is achievable given your resources, time and budget, and that you publicise important, relevant information. Ensure that your marketing campaign is ongoing and that you may want to consider the suggestions in the following sections.

Understanding your audience

When preparing your application, you will have looked at local context, such as where your pupils will come from and what other local schools are performing. You should use this information now to target your efforts.

Understanding the particular forms of disadvantage that affect the local community in which your school will be based

You should use this information to attract applications from disadvantaged groups, for example, by ensuring that your marketing materials are accessible to families with a low level of disadvantage in literacy. Re-affirming targeting disadvantaged groups will contribute towards closing the attainment gap for disadvantaged pupils, by ensuring there is benefit from the high-quality education that your school will provide.

Pupil Ambassadors

You will be aware of the number of young people locally who are not in education, employment or training (NEET) and the skills gap identified by employers. You can use your pupil ambassadors to help you with this. For example, you can work with the local Learner offer to target NEETs.

Engagement with local authority

Engage with the local authority in which your school will be based so that the provision of your school is well known. Ensure that your school is included in the local authority's directory of provision and promotion for special schools, but also applies to mainstream schools.

Sponsorships

It is a good idea to have a dedicated spokesperson so you have a consistent profile, especially as far as local decisions and media are concerned, but also to share the workload.

Local radio

Local radio is a cheap, free way to reach a large local audience, and it may be worth a little well-crafted interview. Ask your local and get feedback before recording any creative ideas for programme content, such as offering a spokesperson for an on-air debate or phone-in programme.

Planned contact for public relations

When dealing with the media, try to set up a planned contact. Find out who is the education correspondent for your local newspaper, or the relevant programme producer for local radio and television. Make sure you have a "story" to tell, and provide them with information, and who is your group they can contact if they need to.

Local feeder schools

Engage with local feeder schools, if applicable. Offer to speak at assemblies or have a presence at school events such as parents' evenings and transition days.

Faith schools

If your school is a faith school, you may make contact with and have the support of your religious body and, if relevant, broader local religious organisations.

Newsletters

Consider producing regular newsletters. You can distribute printed copies locally, or on email to your contact list. You can use an online email marketing company to send out newsletters, either at a fee or free.

Landline and mobiles

Use a landline for your assessment line, you will not have a landline. Rather than use a mobile number as a contact point, which can create a sense of impersonality, there are programmes you can use to 'convert' your mobile number to a landline number – which you can then continue to have as your contact.

Translations into other languages

Make sure you translate your leaflets and newsletters into languages which reflect the make-up of your local community.

9.7 Online

It is essential that you have comprehensive information available on your website, and that the website is updated regularly. It will help to have a dedicated member of the team who is responsible for the website. Your website should be clear, and should be rather than an individual's, to avoid a more professional image. Make sure that all enquiries are followed up quickly and are correspondents if they are happy to add their email addresses to your contact lists for information and updates.

Consider setting up an online forum for parents, young people and, in the case of primary schools, their children to discuss issues and ask questions. Be prepared to respond to these or any questions or concerns. Please ensure now have such a forum, or discussion forum, or social media site with some information about your school. Begin, if you have not already done so, to develop a presence on social media, such as a blog, Twitter or Instagram account with regular updates and photos.

You can also maintain your profile locally and nationally, especially with the media, by ensuring that you have a dedicated section on your website for news and events, and that you have a mailing list of people who want to receive updates, such as announcements on your website, and issue timely reminders about meetings or events. Consider using Twitter to tweet about events and achievements. Facebook is a great school's page to DfE free school, then Facebook can be an effective way to target messages (by location and interests).

9.8 Face-to-face

During coronavirus (COVID-19) restrictions, holding face-to-face events may not be possible. You may want to consider developing online or virtual events as an alternative and have online versions of application forms available.

Previous program groups have found that face-to-face contact with parents and prospective students is important. Ensure that you have a dedicated section on your website or online information you have produced. It can be as simple as including an open date concerning question and support. Be prepared to set in time and effort to engage with the community as whole and make your presence known.

Events provide an effective platform to display your free school and can provide an opportunity to demonstrate the school's ethos and educational offer to a large audience. Make sure you have specific information available at these events, for example, leaflets or a presentation, and have a dedicated contact.

Previous groups have found that holding parent events with a theme can attract more people and give them a 'flavour' of the school's ethos and offer. Ideas for open days and enrichment days that demonstrate the school's pedagogy (for example, creative approaches to teaching and learning) have been very popular. Consider using professional face-to-face support.

After the announcement of GCSE results, and when KS2 level results (or core statistics which schools or colleges after year 12), it is useful to have a stall in a public place to recruit students and to publicise this a service.

9.9 Further information

- Free School Procurement

10. Admissions

10.1 Introduction

This section will provide you with tools to help ensure you have a clear, fair and compliant admissions referral process. It will set out the admissions processes for the different types of free schools.

You have set out the service offer, which may be in response standards in a particular area or address a deficit of places; your admission arrangements can help you achieve this. For example, if you want to attract pupils from particular socially disadvantaged families and you can demonstrate this by giving priority in your arrangements to children eligible for the pupil premium.

10.2 Summary of this section

- You must have admission or referral policies that comply with the school admissions code of the relevant jurisdiction (depending on the type of school).
- You must use the relevant admission template in drafting your policies.
- You must not arrange for your school to be included in the local authority co-ordinated admissions process without seeking prior agreement from your delivery officer.
- DfE will offer you advice on developing your school's first set of admission arrangements (consultation in 18 to 24 months), or your referral policy (alternative process or special free schools), but you are responsible for getting your policy right. You must also ensure that your admission arrangements are clear and for admission or referral purposes.
- If you are opening a mainstream free school, DfE expect you to consider how you could use your admission arrangements to enable pupils from different backgrounds to access the school, to promote a pupil intake that reflects the diversity of the wider local community.

10.3 Risks

Your admission or referral arrangements must be strong enough to withstand challenge. Unsound admission arrangements can result in significant issues:

- complex or overly prescriptive admission arrangements could put off potential applicants
- previously, a significant number of admission arrangements and admission appeals were found to be unfair, unclear or misleading
- schools that have set the admissions law broken.

10.4 Essential information you must provide

During the pre-opening phase, you have to provide your delivery officer with a copy of your proposed admission policy, referral policy and statement of provision, including any contested area maps and distance tables.

10.5 Mainstream free school admissions

Because your school will be an academy, the trust is the admission authority. This means it is responsible for:

- making sure your school's admission arrangements comply with the school admissions code and other relevant legislation, including the school admissions law that forms part of the equalities duties in the Equality Act 2010
- consulting on the proposed admission arrangements, before you open, as part of the consultation you will carry out under the Free School Rules
- complying with the mandatory requirement to admit all pupils with an educational health care plan (EHCP) naming your school, as the local authority will have 10th code of practice 9.
- determining/ensuring the school's admission policy, once you have your funding agreement in place
- consulting on and determining future admission arrangements after the school opens, in accordance with paragraphs 1.42-1.49 of the admissions code
- ensuring that admission arrangements are in place for the school to be able to gather its managing the process directly, or agreeing that the local authority under 15 and the local authority will do this as part of its co-ordinated process in accordance with paragraph 1.
- organising an independent admission appeals panel (or contract out, subject to compliance with the school admission appeals code).

Every mainstream free school admission process within the trust for access protocol. This is established by the local authority to ensure that, outside the normal admissions round, children who are not in a school, but need a place, are offered a place at a suitable school as quickly as possible.

10.6 Nursery admissions

The school admissions code does not apply to nurseries, including those that are part of a school. However, the school must ensure that its admissions to nursery are fair and clear, and have clear criteria.

It is possible for schools to prioritise children, for admission to reception year, who attend a nursery that is part of the school, or established and run by the school, in their admission arrangements. Nurseries that are part of a school can also be used by local authorities when they need to send their child to nursery, fully subsidised by the local authority. The availability of reception places in the area and the number of children who are eligible for a reception place will determine how many, in most cases, such arrangements are likely to be unfair, and excluded children who live or in places are available to other children once those attending the nursery have been accounted for. Nurseries that are part of a school can also be used by parents who our nursery admission policy is the same or similar to your school's admission in reception, to minimize the risk of objection. You must discuss this with your delivery officer and local authority if your admission to reception is consistent with the school admissions code.

Within any priority given to nursery children, the school may prioritise those children who are looked after and children who are adopted from care, and children who are previous to the service premises above other children attending from the nursery (paragraph 1.38 of the admissions code).

Pre-paying nurseries cannot be named as a feeder institution to your free school. However, it is possible to give priority to those paying fees for their child's nursery education, subject to the additional provision above the Free 15 or 30 hour funded early education offer.

10.7 The admissions process (including co-ordination)

If your first year of opening, our normal expectation is that you either:

- operate your own admissions process
- arrange for the local authority to process admissions on your behalf

Either way, this should be done outside the local authority's co-ordinated admissions process. This is because, in most cases, it is unlikely that the local authority will be able to process admissions process without seeking an agreement from you to do so.

After your first year of opening, your admissions should be handled through the local authority's co-ordinated admissions arrangements, like all other schools in the area. Although, in most cases, it will be unlikely that the local authority will be able to process your admissions process without seeking an agreement from you to do so. Schools have entered into a funding agreement with the trust. This is because, it has delegated the admission function to the trust, as the admission authority.

Your delivery officer will ask the Secretary of State to enter into a funding agreement for your school until we are confident that it will open successfully on the proposed date.

It is important to make sure parents applying for your school are not left without a school place. This is why we need to be sure that your school will be ready when school is opening is delayed. Parents should make an application for their school, as well as yours, by submitting the common application form (CAF) in their local authority area.

Unless you choose option 2a, you will need to produce an application form and set out your admission arrangements, including your oversubscription criteria, in your applications. Pre-consultation date, and where to submit the application form.

Option 1: the school to handle the application process in-house

Parents make a common application form to express their preferences for the school. The school will provide an application form, set the application deadline and offer dates and manage the process of processing applications and making offers.

You should encourage parents who apply to your school to submit a CAF to their local authority, in case they do not get a place at your school. This will ensure that they are not left without a place if they want to apply to schools after the day, you set for your conditional offer, while parents can accept the place accepted the local authority of their first preference school. Parents will need to be informed of the deadline, which is agreed by the national offer day, you will be able to make this offer.

Even if you manage the application process yourself, the local authority must still coordinate the admission process for its composite prospectus and offer day.

Option 2: the school's local authority to handle the application process for the school

There are two ways the local authority could manage the process for your school. Local authorities will be able to tell you which option they are using. Local authorities may also have a funding agreement in place, so if you want to do this you will need to secure agreement from your home and neighbouring authorities.

Option 2a

The local authority handles the admission process as if the school were in a maintain. This means it will include your school in its composite prospectus, and ask parents to make a common application form and send it to the local authority in the usual way. Parents would then be asked to rank their preferences, in order of preference, and the local authority would make a conditional offer for the free school alongside offers for other schools in open school.

Parents would submit the CAF to their home local authority, naming the free school as their preference, and the school deadline would apply (31 January for secondary schools and 15 January for primary schools). Parents would be encouraged to name other preferences as well, in case the free school does not open.

This option is unlikely to be open to free schools where their admission policies are not in line with the local authority's. Local authorities will be able to tell you if this option is proposed in body in any. If local authorities included in a pan-London agreement (the process administer the 33 London boroughs, the City of London Authority, North London Partnership and the London Borough of Barnet Education Partnership Education partnership, because this process administer the Barnet local authorities. Not are permitted a conditional offer to be made alongside a firm offer for another school.

Option 2b

The local authority handles applications for the school outside co-ordination.

Parents would fill the school's application form and submit this to the local authority along with a CAF expressing a preference for other schools. In case the free school does not open, the local authority will decide whether to use the national deadline and offer days or specify different dates.

10.8 Composite prospectus

Local authorities have a statutory duty to provide information about school choices in their local area and must publish a composite prospectus each year by 31 September (secondary schools) and 15 January (primary schools). This is a tool that local authorities put together to ensure that parents are given the choice is expected to be. At the point, on the local authority should take steps to ensure information about the free schools in their area is included and that include your school's admission policy once it is finalised.

The local authority is required to keep the composite prospectus under review and may publish a revised version if it feels it is necessary to ensure that it continues to provide information on relevant schools. Among other things, this means it will need to take steps to comply with the school admissions code. It should be determined as first and foremost by the local authority, but free schools will need to work with the local authorities code to provide information on schools opening during the year and to update its website to provide information on your school's admission policy.

10.9 Your admission arrangements

DfE have developed comprehensive guidance free school admissions to help you develop your admission arrangements. This guidance includes a model admission policy, drafting an admission policy and use the oversubscription criteria/admission process within the template where drafting the policy. Arrangements, including application forms, must be clear, fair and objective, and must comply with the school admissions code.

Promoting integration between people from different ethnic, religious and socio-economic backgrounds is a key part of the school admissions code. Although school's overall admission policy is based on the proximity, DfE's view is that free schools's intake might not represent the diversity of the wider local area. Your delivery officer will work with you to ensure that your admission arrangements are fair and that admission criteria will enable pupils from a range of backgrounds that represents the diversity of the wider local community to access the school.

10.10 Appeals

Parents whose children have not been offered a place at your free school have the right to appeal, and your admission arrangements must include information about this.

It is the responsibility of the trust to set up an independent appeals panel in accordance with the school admission appeals code. The trust can contract out this function to a local authority, ask an appeals panel and you may want to consider how you will set up this to run your appeals.

If you want to manage your school's own appeals, you should be prepared to commit resources to ensure that it is fair. You will need to ensure the appeals panel is entirely independent of the school and trust. Whether or not you contract out the service, it is important that the appeals panel is independent and that its decisions are fair, based in accordance with the requirements of the school admission appeals code. Additional non-statutory advice on school admission appeals is available for admission appeals panels, school admission appeals, and parents and guardians.

10.11 Consulting on your school's admission arrangements

In the pre-opening period, you should include at least an outline of your proposed admission arrangements as part of your Section 10 consultation and stakeholders who account any responses you receive. Once the school's funding agreement is signed and you are in the pre-opening period, you will need to consult on your admission arrangements, unless the school admission code, school admission code.

Once your school is open, you will need to consult, in accordance with the school admissions code, on your admission arrangements if you propose a change, or at least every seven years even if you do not want to make any changes. You will have to consult on your admission arrangements, if you want to make a change to your school's offer. This means if there is need, a new year group search period before you start children accepted by any changed arrangements.

10.12 Special free schools

Recruitment and admissions for special free schools is via an EHC plan made by a local authority, which names the school. The only exception to this is where the Secretary of State has made a direct payment to the school, in accordance with a request made by the local authority in an EHC plan. See the SEND code of practice for details. Such innovative proposals will only be approved on an exceptional basis, and only if a strong case can be made.

It is important to remember that as the admissions authority for your school, it is the trust's responsibility to get things right. This includes:

- Setting out the school's age range, number of pupils and EHC plans provided for pupils with SEND in your part of the consultation under the Free School Rules Section 10 of the rules
- Complying with the mandatory requirement to admit all pupils with an EHC plan that names the free school and to have regard to the SEN code of practice
- Publishing the school's SEN 'statement of provision' on the school's website. You must draft your policy using the statement of provision template. Additional guidance on special free schools is also available.

Children with EHC plans

Local authorities have a statutory duty to, where necessary, identify, assess and arrange provision for children who have SEND and to make sure that children's needs are assessed and decided to issue an EHC plan. It will issue a draft plan to parents. Parents can request the local authority to name their preferred choice of school in their EHC plan. The local authority must consult the school, and the school must respond to the local council with a school where it intends to name the school in the plan. It will issue a final decision on the school to be named with the local authority responsible for maintaining the EHC plan.

A special free school could be a child where the school's number of places is filled by EHC plan, even if the child's SEN is not a type of SEN for which the school is designated. A special free school can also be designated for children with specific SEN, but not be designated for specific types of SEN and the new designation will be in place from the 50% rule of practice. Once a school's open, approval from the Secretary of State is required for any proposed change to the school's designation. Local authorities will be in a much better position to commission and capacity online.

A school has a duty to comply with an EHC plan. If a school disagrees with being named on an EHC plan, it can appeal to the Secretary of State through the SEN tribunal. Parents do so if attempts have already been made to receive disagreements at the local level, and the school's response to the local authority's request for a place. Parents can also ask the school unsuccessfully to be named to carry out one of its inspection functions, and the school's response to the local authority's request for a place.

If parents disagree with a school being named in their child's EHC plan, they have a right of appeal to the First-tier tribunal (SEND). Decisions of the tribunal are binding on both parties.

If a special free school is allowed within its funding agreement to admit children without an EHC plan, the process for admitting these pupils must be set out in an admission arrangement. Local authorities commission places. Delivery officer will be able to provide more information on this.

Consulting on your school's arrangements

In the pre-opening period, DfE advise that you set out details of the size and type of the provision your school will offer and any proposed admission arrangements (if admitting children without an EHC plan) in your Section 10 consultation. Once your school is open, you must have a period of any responses to your consultation, publishing your final arrangements in your website and signed your funding agreement, you should not make any changes to the arrangements.

Once your school is open, you will need to consult on your admission arrangements for your school, if you want to make a change, or at least every seven years even if you do not with the school admissions code and at least every 7 years even if you do not want to make any changes. You will have to carry out your consultation in the academic year before the school year in which the arrangements are to be in place, and you must seek a period before and children according to any changed arrangements.

If you wish to make any changes to the type of special needs the school specialises in or to admit children without an EHC plan, you will need to consult on these and seek the funding agreement to be agreed with the ESFA on behalf of the Secretary of State since the school is open.

10.13 Alternative provision free schools

Alternative provision (AP) free schools must be principally concerned with providing education for pupils who, by reason of their circumstances, are unable to access or otherwise receive suitable education for any period because of illness, exclusion or another reason. This means that the majority of pupils (over 50%) must be of compulsory school age and have an EHC plan, or be in receipt of AP under the Alternative Provision Pupils' Guidance. Alternative provision free schools are not subject to the school admissions code.

Children of compulsory school age can only be admitted to an alternative provision free school by a local authority commissioner (local authorities or schools) using their existing alternative provision or places.

AP free schools have the freedom to select suitable attendees, subject to their parents can choose to apply for a point 16 place, but this is not compulsory. Applications to AP free schools are made to the school, and the school must inform the local authority applications to fill its 16 places and maintain schools. It is not possible for a local authority to attend a specific school or college post-16, so any referral system for post-16 provision will need to be developed between the local authority and the student to ensure they are able to attend.

The school admissions code does not apply to referrals in post-16 admissions at an AP free school. AP free schools can adopt a bulk conditional point 16 admission policy, but the admission requirement is that they follow our guidance on admissions to post-16 provision in AP free schools.

Schools are required to use the efficiency tool to make sure that when making a decision about admission, they are meeting the needs of the pupil.

Consulting on your referral and admission arrangements

In the pre-opening period, DfE advise that you include your referral and, if relevant, admission arrangements as part of your Section 10 consultation. Once your school's open, if any responses to your consultation, publishing your final policy or your admission signed your funding agreement, you should not make any changes to the arrangements.

If you admit students post-16 through student applications, you will need to be reviewed and published on an annual basis to take account of changing demographic trends. Your delivery officer will provide more information on this. Your admission policy and process each year in September, for the following academic year. For example, your policy for 2022 admissions should therefore be published in September 2021 or as early as possible in advance.

You should also keep your policy in operation under regular review and respond to any demographic changes.

It is possible for people to submit complaints about your referral and admissions policy to the ESFA, and it is important that the policy is fair, clear and objective, in accordance with the funding agreement.

10.14 16 to 19 free schools

As an academy trust, you are responsible for admissions to your free school. This means you will need to:

- making sure the free school's admission arrangements are fair, objective and transparent
- managing applications to the notification (in most cases you will need to manage applications, although in some cases post-16 institutions could carry out admissions processes)
- organising an independent admission appeals process

16 to 19 free schools are not legally schools but independent institutions, your free school is not covered by the school admissions code. However, its admission arrangements must be fair, clear and objective. Post-16 institutions (sixth form colleges) will need a clear underlying ethos and admission policies are offered, rather than the minimum entry requirements, whether there will be a test or an interview as part of the admission process, and whether there will be a fee for the application or for attending the institution. Arrangements should therefore be as straightforward as possible and make clear how criteria are to be applied.

Under maintained schools, there is no reference to conditional deadlines for when applications must be made, but it is important that you make it clear what the deadlines are, and deadlines based on how large an oversubscribed they are (and therefore how long it will take to process applications and make offers). Deadlines should be set with the whole process offers to students in the spring, so students can plan their next steps. Information about any academic conditions you will place on their offer sufficiently in advance of letting know they are meeting the academic conditions might help them.

- Invite applications from the autumn, with an initial application deadline no later than early spring
- Gift applications and apply selection criteria during the spring term.
- Make conditional or unconditional offers before Easter, so students are clear what requirements they will need to meet.
- Confirm places once students have received their GCSE or A-level results in August, or after offering unconditional places or places based on predicted grades.

You will need to include your timeline in your admissions policy, making it clear to students and parents how and when to apply.

The admissions process

You are required to draft your admission policy using the template on GOV.UK. Your admission policy should be fair, clear and objective. It should be easy to understand, also minimise the chance of potential challenges or complaints. There are two important things all admissions arrangements should include:

- an admission number for the institution, or admission numbers for courses, for each year of the institution – this number sets the minimum number of pupils the institution is prepared to admit
- clear oversubscription criteria
- details of how and when applications can be made
- the admission deadline
- details of accepting bid
- details of your independent appeals process

Oversubscription criteria

If you have more applications than places, you will need to apply clear oversubscription criteria to help you allocate places fairly. As a 16 to 19 free school, you have a great deal of flexibility about how you admit students. You can select by criteria such as ability, aptitude, interest, or by a random ballot. Your admission policy should be clear about how you will make decisions and how students can demonstrate their suitability.

necessary to be admitted.

You can set specific requirements for specific courses, and you can turn down applicants you have offered places to if they do not subsequently meet the academic requirements. Beware of setting your minimum criteria too high or making the application process too onerous for students: you do not want to have empty places in September. If you have more qualified applicants than places, you can sift them by applying your published admissions criteria.

You are required to admit all students with an EHC plan naming the free school. Although you are not required to, DfE would encourage you to give first priority within your oversubscription criteria to looked-after children and previously looked-after children.

You then need to list the rest of your free school's oversubscription criteria in order. You need to think carefully about these and make sure they strike the right balance between admitting the students who will thrive and benefit most from the provision you offer, without being overly complex, burdensome, or inadvertently disadvantaging a prospective student.

Offering places

Once your application deadline has passed and you have applied the admission criteria, you can choose to make either conditional or unconditional offers. Before your funding agreement is signed, you should only make conditional offers, in case there is any delay in opening. You do not need to have signed your funding agreement to make conditional offers, but you should advise your prospective students that they may wish to have an 'insurance' place.

At the point DfE is ready to enter into a funding agreement with you, your delivery officer will want to know how many formal applications have been made, and from March onwards how many conditional offers have been made and how many offers have been accepted. Information about 'expressions of interest' will generally not suffice.

Finalising choices

Unlike a school with a sixth form where students can move into year 12 in the same institution, you need to create opportunities to engage with students after you have offered them a place. It is beneficial to both you and them if you continue to get to know them and help them finalise their plans, such as which A levels or vocational subjects they want to study. This will help you plan timetables and teaching loads and helps ensure students have a strong start at your institution. Subject to government guidance on social distancing, DfE suggest you host a 'getting ready' day for students, much like a secondary school would hold an induction for students moving from primary schools.

It is also important to have opportunities to meet with students individually between GCSE or A level results and the start of term, in case they or you think they might need to adjust their plans.

Waiting lists

You should keep a clear, fair and transparent waiting list and be clear as to how long you will keep it. Our advice is that you should keep a waiting list up until the first day of the academic year - many post-16 institutions choose to maintain it for a longer period. Students on the list should be ranked in line with your published oversubscription criteria.

Appeals

Students who have not been offered a place at your free school should have the right to appeal. Your admission arrangements must tell students about their right to appeal and the process, deadline and contact details for making an appeal.

Local authorities, as well as other organisations, will operate an appeals service for school admissions, and you may want to consider buying into that service to run your appeals process. In doing so, you need to make sure they understand that as a 16 to 19 academy you do not have to abide by the school admissions code or the school admissions appeals code.

If you want to manage your own appeals, you should be prepared to commit time, money and resources to it. You will need to set up an appeals panel, which should be independent of the institution. It should comprise a clerk and DfE advise, at least 2 other people. We strongly recommend you provide training for all panel members.

Administration and verification of information

In operating your admission arrangements, you can request proof that the information provided in the application form is valid. For example, you can ask for proof of address to confirm that a student lives where they say they do but recognise that many students won't have access to the same types of proof of address that their parents would. You must not ask for evidence that includes, for example, parents' financial or marital status, or first languages of the parents and family.

Consulting on your arrangements

In the pre-opening period, DfE advise that you include your 16 to 19 free school's proposed admission arrangements as part of your Section 10 consultation. Once you have taken account of any responses to your consultation and published your final arrangements on your website and DfE have signed your funding agreement, you should not make any changes to the arrangements until the application process is over for the year. It should be reviewed and published on an annual basis to take account of changing demographics in your area. DfE recommend that you consult local people on any changes and publish your policy each year in September for the following September's admissions. Your policy for 2022 admissions should therefore be published in September 2021, or as early as possible after that if this is not achievable.

It is possible for people to submit complaints about your policy to ESFA, which will ensure that the policy is fair, clear and objective, in accordance with the funding agreement.

10.15 Further information

- Table 7 Admissions: checklist of activities Annex A
- School admissions code
- School admission appeals code
- Free schools admissions guidance
- Alternative provision statutory guidance

1 To note: temporary changes have been made to the handling of admission appeals during the Coronavirus (COVID-19) pandemic. These changes are set out in The School Admissions (England) (Coronavirus) (Appeals Arrangements) (Amendment) Regulations 2021. Non-statutory guidance has also been published to support admission authorities in managing their admission appeals.

11. Religious character

11.1 Summary

If you would like particular beliefs to be reflected in the life of your school, and specifically in your curriculum, staffing and admissions policies, DfE require you to seek a 'religious designation'. This is a legal recognition that your school will have a religious character. A faith-designated free school has the following freedoms which will allow you to maintain and develop the religious character of the school:

- apply up to 50% of pupil admissions by reference to faith (when the school is oversubscribed)
- appoint teachers by reference to faith
- deliver religious education and collective worship according to the tenets of the faith of the school

This is a separate application and your school's religious designation will not come into force until you have signed your funding agreement with the Secretary of State and the legal process for religious designation has been completed.

It is important to note that the freedoms set out above are not available to free schools that wish to register as having a 'faith ethos' (a part of the independent school registrations process).

11.2 Applying for a religious designation

For your school to have a religious designation, you will have to satisfy the Secretary of State that the conduct of the school or the provision of education is, or will be, in accordance with the tenets of one or more religions or religious denominations and that one or more of the following applies:

- some or all of the premises to be occupied by the school will be provided on trust in connection with:
  - the provision of education
  - in connection with the conduct of an educational institution in accordance with the tenets of one or more religions or religious denominations
- at least one trustee is a person appointed to represent the interests of one or more religions or religious denominations
- the governing instrument of the school provides that the school shall be conducted or some or all of the education shall be provided, in accordance with the tenets of one or more religions or religious denominations

In advance of approving a religious designation application, the Secretary of State may consult the relevant religious authority, or any other religious body. The Secretary of State will need to be assured that your school will be managed in accordance with the tenets of your faith.

To apply for religious designation, you need to complete the FSRDApp1 form and return it to your delivery officer for processing as soon as possible. The guidance can be found via religious character designation: guide to applying.

Note that 16 to 19, special and AP free schools cannot be designated as having a religious character, although they may have an ethos or worldview that is reflected within the vision and values of the school.

Faith-designated free schools with nursery provision are able to reflect their religious outlook within the life of the nursery, for example, by celebrating religious festivals or using stories based on religious texts. They are not permitted to apply any faith criteria for admissions to nursery places, and the nursery must abide by the same requirements in the funding agreement and regulations as apply to the rest of the school.

11.3 Additional responsibilities for faith free schools

The government is keen for all schools to support inclusivity and integration between communities. All schools must be inclusive, whatever their religious character or ethos. Trusts that are opening a faith designated free school will be expected to provide evidence of their commitment to inclusivity and community cohesion and plans to support this, which will be tested rigorously throughout pre-opening. There are a number of ways you could demonstrate your commitment to inclusivity:

- plans to develop a sustained and structured linking programme with a school of a different or no religious designation, to create meaningful relationships between young people of different faiths (or no faith) – linking could include sharing teachers and resources, conducting joint lessons, assemblies or sporting activities
- having diversity on the trust's board by including one or more members or trustees who is of another faith or no faith
- setting up a mixed-faith trust with schools of different faiths or no faith that will be used to expose pupils in your faith designated school to peers from different religious and ethnic backgrounds

DfE expect faith-designated free schools to appeal to a wide range of parents and pupils. You therefore need to ensure that your school policies are inclusive, your school is welcoming to pupils of other faiths or no faith and that your school is likely to attract applications from all parts of the local community, not just those of your faith. This includes ensuring that your school policies and curriculum would not deter pupils from other faiths or no faith from applying for a place at the school, nor prevent their children from playing a full part in the life of the school. Policies that might deter applicants from other faiths or no faith a combination of the following:

- lessons taught in community languages
- large proportions of curriculum time devoted to faith-related studies
- restrictive dietary requirements
- any separation of pupils, including when they are eating
- the mandatory wearing of symbols or clothing associated with your faith or world view

Parents have the right to withdraw their children from religious education at any age and from collective worship until the age of 16. From the age of 16, the right to opt out of collective worship passes to the pupil.

Like all free schools, you must also adhere to the conditions set out in your funding agreement. You will also need to demonstrate a commitment to ensuring that your curriculum and ethos will prepare pupils for life in modern Britain.

11.4 What a religious authority does and how trusts can find one

Most faith schools will be formed by groups that look to a religious body or organisation for guidance on how their religious character should be expressed in the life of the school. Therefore, in most cases you will have a 'religious authority' who will have two consultation roles:

- identifying who will conduct the inspection of your school's religious education and collective worship (commonly known as the Section 48 inspection)
- providing advice on admission arrangements and specifically consulting with them on how you should define suitable adherence to your faith in your admission arrangements

In relation to inspection of your denominational education or collective worship, the faith bodies that provide inspection services are:

- Church of England or Roman Catholic - the appropriate diocesan authority
- Jewish - Jewish Studies Education Inspection Service
- Methodist - Education Secretary to the Methodist Church
- Muslim -Association of Muslim Schools UK
- Sikh - Network of Sikh Organisations

It is not compulsory for you to use these faith bodies to carry out these inspections but you are required to consult with the appropriate body (if one is listed) before you opt to organise it independently. There is a protocol that you must follow in order to claim grant funding towards the cost of inspection. You will need to draw up a framework and provide details and assurances about the independence of the inspectors you are using and submit the framework and inspection report to DfE before any grant can be considered towards the cost of inspection. Contact your delivery officer for advice.

The religious authorities in relation to admission arrangements are listed in Schedule 3 of the School Admissions (Admission Arrangements and Co-ordination of Admission Arrangements) (England) 2012

If your faith is not covered by any of the bodies listed above, for example, groups intending to seek designation as 'Christian', you will need to identify an alternative body. Please get in touch with your delivery officer for advice.

You should also get in touch with your delivery officer if your faith is covered by the list above, but your intention is to name an alternative religious body.

You should be clear about the role you intend the religious authority to play in the design and running of your school, beyond the consultation role required by law.

Those groups opening a free school designated with a Church of England religious character will also need to agree to the church supplemental agreement alongside their funding agreement. This document provides more detail on the roles of the diocesan board, the trust and DfE and how they will work together on issues relating to land, intervention and support and termination.

11.5 Recruiting teachers before the school obtains religious designation

Being a designated faith free school gives you limited exemptions from the Equality Act 2010 (see section 12). This includes being able to give preference to recruiting teachers of the faith.

To be designated officially, you will need to have signed a funding agreement with the Secretary of State and have successfully applied for designation. If you wish to appoint teachers before you are designated, you will need to be able to demonstrate that adherence to a particular faith is a genuine occupational requirement (such as for the principal designate, or an RE teacher). Where this is the case, you may be able to advertise, hold interviews and employ teaching staff prior to the designation of the free school. However, wherever possible you should refrain from entering into an employment contract until you have obtained religious designation and signed a funding agreement.

11.6 Free schools that register a faith ethos

If you want your school to reflect a distinct ethos aligned with a particular religion, you can register that your school has a religious ethos. The ethos could then be reflected within the vision for the school, the values the school represents and the importance placed on particular beliefs.

Unlike schools that are faith designated, schools registered with a religious ethos are not entitled to any of the freedoms of designated faith schools, except in the appointment of senior leaders where the faith of candidates can be taken into account.

As with all other schools, your school will be expected to be inclusive in its outlook and practices and be likely to attract applications from pupils of no faith and other faiths. Your delivery officer will expect to see evidence of actions you are taking to encourage applications from the wider local community.

Throughout pre-opening, DfE will expect groups who are proposing a school that will have a religious ethos to be able to explain clearly how faith will (or will not) manifest itself in, and influence, the curriculum, school policies and the look and feel of the proposed school. DfE will also expect you to be able to demonstrate how you will make this clear to parents and pupils.

Schools with a faith ethos, in common with all schools without a religious designation, can apply to be exempted from the requirement to provide broadly Christian collective worship. This may be where the belief of the majority of its pupils or the local community is such that another faith would be more appropriate.

11.7 Further information

- Table 8 Faith: checklist of activities (Annex A)

12. Equality duties

12.1 Free schools' duties under the Equality Act 2010

Every child in this country should have the opportunity to get the very best education, giving them knowledge and skills that set them up for life. The free schools programme supports equality of opportunity, through opening high-quality new schools in the areas where they are most needed.

The Equality Act 2010 provides a single, consolidated source of discrimination law and makes it unlawful for your trust to discriminate against, harass or victimise a pupil or potential pupil based on protected characteristics:

- in relation to admissions
- in the way it provides education for pupils
- in the way it provides pupils access to any benefit, facility or service
- by excluding a pupil or subjecting them to any other detriment

Section 149 of the Equality Act 2010 requires all public authorities when exercising their functions and making decisions to have due regard to the 3 limbs of the Public Sector Equality Duty (PSED). These are:

- to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under that Act
- to advance equality of opportunity between those who share a relevant protected characteristic and those who do not share it
- to foster good relations between those who share a relevant protected characteristic and those who do not share it

Meeting your obligations under the Equality Act 2010 is a continuing obligation on your trust and must be considered throughout the pre-opening phase and once the school is open.

The Secretary of State has a statutory duty to consider the potential equality impact (positive and negative) of their decision, before deciding whether to enter into a funding agreement with you.

12.2 Summary of the main tasks

Throughout the pre-opening period, you must consider how the decisions you make will affect people due to their protected characteristics.

The protected characteristics are:

- age
- disability
- gender reassignment
- pregnancy and maternity
- race
- religion or belief
- sex
- sexual orientation

You also need to note that discrimination on the grounds of marriage and civil partnership is unlawful.

A person's age is also a protected characteristic in relation to employment and the Act extends this (except for children) to the provision of goods and services, but age as a protected characteristic does not apply to pupils in schools.

12.3 How DfE will work with you

When making all your important decisions in pre-opening you must ensure you comply with the PSED. Your delivery officer will be looking for evidence that it is being considered throughout the pre-opening phase.

At meetings, you should aim to keep your delivery officer informed about how your equality duties are being met.

To show that consideration has been given to the relevant protected characteristics in the school plans and policies, some examples of the information your delivery officer will need are:

- details of your marketing plan, to show how you will engage with local communities to meet your duties to promote community cohesion
- your staff recruitment policy, to show how you will ensure that all candidates will be treated in a fair and transparent way during the recruitment process
- your SEN policy, to show what provision will be available for the pupils at the school and what other specialist provision will be available

Your delivery officer will keep a record of all pertinent information. This will help the Secretary of State to assess the impact on people with reference to the protected characteristics.

12.4 School food

Since September 2014, all government-funded schools (including academies) must offer free school meals to every infant pupil. DfE is expecting all infant pupils to be offered a nutritious and, where possible, hot free meal.

The Children's Food Trust (CFT) and the Lead Association for Catering in Education (LACA) run a free support service for schools that need help providing these universal infant free school meals (UIFSM). The support service can be contacted on 0800 680 0080, or by email at info@childrensfoodtrust.org.uk.

Schools are encouraged to promote healthy eating and provide healthy and nutritious food and drink. The Requirements for School Food Standards Regulations 2014 apply to all government-funded schools (including academies). Guidance on school food standards is available online. A summary of the standards and a practical guide are available from the School Food Plan website.

12.5 Further information

- Table 10 Equalities duty: checklist of activities (Annex A)
- Section 149 of the Equality Act 2010
- Equality Act 2010: advice for schools

13. Staffing, education plans and policies

13.1 Introduction

During the pre-opening phase, you will need to turn the detailed staffing and education plans in your application into reality to ensure that everything is in place to open successfully, from recruiting high-quality staff to having high-quality education policies and schemes of work in place. You will need to ensure joint planning of finance, curriculum and staffing throughout the process, to deliver an affordable curriculum that meets pupils' needs.

You will need to have some policies in place early for consultation and pupil recruitment. Others will be needed ahead of the readiness to open meeting (ROM) with DfE and the Ofsted pre-registration inspection. You should also consider what you will need ahead of your first full inspection, which will normally take place during the third year after opening.

You will also need to consider how you will ensure a manageable and sustainable workload for all staff as the school expands to aid recruitment and retention by ensuring that demands of staff are proportionate and reflect most efficient and effective practice.

You should be conscious of planning for the wellbeing of all staff, including the senior leader, and the need to implement flexible working practices in a way that promotes good work-life balance and supports teachers and leaders.

Flexible working can help to recruit, retain and motivate teachers, improve wellbeing, and to promote teacher diversity. Consider offering flexible working arrangements to all staff across the school.

13.2 Summary

An external expert (EE) will be allocated to your project and will provide advice through your delivery officer. EEs are external contractors and highly experienced education professionals who have worked in senior education roles, typically as heads of outstanding schools or as Ofsted HMIs.

Appointing a high-quality principal designate is probably the most important thing you will do as a trust during pre-opening. The recruitment process should not take place before the provisional opening date has been confirmed. Getting the right person is of critical importance to the success of your school. The principal designate will be involved in appointing other staff and writing the detailed education brief, education plans and policies and schemes of work you will need ahead of opening. It may take more than one recruitment round before a suitable candidate is appointed and this presents a risk to the successful opening of your school. If you are experiencing difficulties recruiting a principal designate, you must escalate this to your delivery officer.

All serving headteachers and teaching staff will be bound by contractual resignation dates and you will need to factor this into your recruitment plans. Appointments made before a funding agreement is in place should be conditional on the trust entering into the funding agreement and the school opening.

As a trust, you have statutory duties in terms of the policies that need to be in place before opening. DfE has published a guide for schools (including free schools) about these duties. Education plans and policies are not routinely signed off by EEs but they will always review the pupil assessment, recording and reporting policy and safeguarding policy.

It is important that as an academy trust you fully understand your responsibilities for safeguarding the children in your care. You should consult DfE's Keeping children safe in education(KCSIE), Working together to safeguard children and What to do if you're worried a child is being abused: advice for practitioners guidance documents.

Your delivery officer will ask you to report on recruitment of staff (in the context of pupil recruitment and financial plans) and on the development of your education plans and policies, at specific points during the pre-opening process, including ahead of the Ofsted pre-registration inspection and at your readiness-to-open meeting (ROM).

You should consult DfE's recruitment and retention strategy (published January 2019) to help you understand ways to create the right climate to establish supportive school cultures and ensure a manageable workload for all staff is planned for. In creating a culture that promotes flexible working, you have the potential to create new, innovative opportunities for addressing teacher supply, alongside promoting greater diversity in the workplace especially as the schools grows. To support you to implement effective flexible working practices DfE has published guidance and resources (2020) for flexible working in schools.

13.3 Risks

Inspected schools that have not had a change in principal designate are more likely to receive a 'good' or better Ofsted judgement than those that have, so it is vital that you find the right person for the job. It may take a few attempts to recruit a suitable principal designate so it is sensible to consider when to begin the recruitment process very carefully as serving headteachers and teaching staff are bound by contractual resignation dates.

Over half of free school principal designates are new to the role. Where a principal designate candidate has no leadership experience or is a direct appointment, a benchmarking exercise should be carried out by an EE who will advise on the suitability of the candidate for the role. You should also think about the support and mentoring programme that you will provide to support them.

Although many free schools are keen to appoint newly qualified teachers (NQTs), it will be important, particularly for subject specialists in secondary schools, to consider where subject specific support might come from if there are no other specialists in the school in the first and even second year of opening. There might be a similar need for caution when recruiting senior or middle leaders. Having little relevant leadership experience can significantly limit leadership capacity at a time when it is needed to establish and implement school improvement systems.

Once you have your principal designate in post, it is important to get your wider tracking and assessment systems in place. Failure to do this may affect your ability to get a good Ofsted judgement.

13.4 Essential information you'll need to provide to DfE

You'll need to provide DfE with details of your:

- proposed staffing structure
- pupil assessment, recording and reporting policy
- safeguarding policy
- the education plans or policies that are requested by your delivery officer or EE

13.5 Summary of main tasks

Appointing a principal designate

Principal designate appointments can be made either through open national recruitment or as a direct appointment (without advertising). Given the importance of the appointment, you must fully involve your EE in any open national recruitment of the principal designate. You must also notify your delivery officer before going against advice from the EE.

Your EE will:

- work with you to provide advice on the job specification role, skills or specialisms – talking through and agreeing the job specification
- support you by being a panel member by reviewing and sifting applications and agreeing the final candidates to be interviewed
- support you by being a panel member providing advice after the sifts and interviews on the choice of candidate, influencing the recruitment approach to ensure this is fair and transparent

In exceptional circumstances (such as where an experienced trust is behind the project), DfE may agree that an EE does not need to be involved. Your delivery officer will discuss this with you.

Direct appointments can be made where appropriate but, as an academy trust, you will need to be able to show how the appointment was transparent and fair.

Once you have identified a suitable candidate, DfE may suggest that they undergo a benchmarking exercise. This will involve the candidate being interviewed by your EE and having their performance assessed against relevant leadership standards. The results can then be used to inform the design of a development programme, which you can then take forward with the principal designate.

Additionally, you may choose to spend the money you would have spent on advertising the post to put your preferred direct appointment candidate through an assessment to make an informed judgement about their suitability. Most large educational recruitment firms and universities run assessments for school leaders.

NSN has produced resources to help you recruit your principal designate. This includes detailed advice based on the experience of successful free schools.

The principal designate of a free school forming a trust with only one school will also be the accounting officer (in trusts with more than one school the accounting officer will be the CEO or senior executive leader (SEL) of the trust). The role of the accounting officer includes a personal responsibility to the ESFA's accounting officer and to Parliament for the financial resources under the free school's control. Further information about the role of the accounting officer can be found in section 3.

You will need to send a copy of the principal designate's contract to your delivery officer when an appointment has been made. This is to ensure DfE is aware of any costs that could be incurred as a result of the principal designate's salary being underwritten.

Serving headteachers and teaching staff are bound by contractual resignation dates. Appointments made before a funding agreement is in place should be conditional on you entering into the funding agreement and the school opening. You must escalate to your delivery officer if you are experiencing difficulties appointing high-quality teaching staff.

DfE recognise that you may be asked by a potential principal designate for additional security where a funding agreement has yet to be signed and they are being asked to hand in their resignation and accept the job at the free school. In such cases, DfE will underwrite the salary costs, plus on-costs, should the free school not open, or if its opening is deferred by a year.

! DfE will only underwrite the principal designate salary once the provisional opening date has been confirmed and we have started to release PDG beyond the initial allocation.

DfE will pay the principal designate's salary plus on costs, including employer pension contributions and national insurance, for no more than 2 academic terms. This begins from, and includes the remainder of, the term the decision to cancel or defer the project is made, and the subsequent term. In cases where one clear term's notice can be given, DfE will underwrite only one term.

DfE will agree a cap on the underwriting on a case-by-case basis. If required, DfE may pay the salary directly to the principal designate.

The principal designate's employment contract with you must state that, if, after the free school has been cancelled or deferred, the principal designate becomes underemployed, they may be required to take on additional work for the department while their salary is being underwritten by DfE.

The principal designate's employment contract must also state that, should the free school not go ahead, while still being paid by DfE they must take all reasonable steps to seek alternative employment. Furthermore, in the event that they do take up any such alternative employment, DfE will deduct the value of that remuneration from payments to them.

In exceptional circumstances DfE may agree, on a case-by-case basis, to also underwrite the salary costs plus on costs for key essential teaching staff. In considering such cases, DfE will look at the progress you are making on the project. If agreed, underwriting for other key essential teaching staff will be subject to the same conditions set out above. If you are intending to underwrite the salary of your principal designate or essential teaching staff you must speak to your delivery officer at the earliest opportunity.

Finalising staffing structure and recruitment

You will also need to finalise your staffing structure for all staff and recruit those needed in your first year. Alongside your principal designate, you will need to consider other important posts, including senior leaders, who must be carefully budgeted for. You might find it useful to consider the top 10 planning checks for governors, and the integrated curriculum and financial planning resources which provide some tools to help ensure that you are making the best use of resources when planning your staffing and curriculum. Further practical resources for school leaders and teachers to help reduce workload can be found at reducing teaching workload.

As well as teaching posts, it is important to think carefully about who will take on the finance role, to develop the more detailed budget for year one and for pre-opening and to regularly consider staffing plans against financial plans and pupils recruited. Only by doing so will you be able to demonstrate that your proposed staffing structure is affordable, both pre- and post-opening. Additionally, it is important to remember that your staffing structure and recruitment plans should not be confirmed until you have a firm idea of how many pupils you have recruited.

Most free schools advertise for staff in both national and local press. Some find holding their own recruitment fairs a good way of attracting staff. Others have used agencies or organisations with talent pools, but these will often charge schools for this service. Many of the major education recruitment agencies have access to pools of staff. Your EE may also be able to advise you on what you could do to attract good staff. When considering options, bear in mind the principle of effective school resource management.

Teaching Vacancies is a free, national service for searching and listing teaching roles. It is available to publicly funded schools in England. DfE developed the service to address school leaders' concerns about the level of expenditure on teacher recruitment advertising. By using the service, schools can save money on recruitment advertising.

Access to Teaching Vacancies for schools in pre-opening is currently being developed and your delivery officer will let you have details of how to do this once it has been finalised.

Social distancing guidelines may mean it is not possible for schools to hold face-to-face recruitment processes. Interviews should either happen remotely, for example, via an online video or telephone interview, or be delayed to a later date. Schools will need to ensure that all employment laws are met and that applicants have equality of opportunity throughout the selection process. We trust schools to use their judgment in implementing this.

The supply teachers and agency workers deal supports schools to reduce costs when recruiting supply teachers and other agency workers. This deal provides easy access to supply teacher agencies and shows mark-up in a wholly transparent way. As part of the deal, agencies cannot apply fees for making temporary staff permanent after 12 weeks if given 4 weeks' notice and administration time is reduced, as rigorous background checks must have been conducted on all staff in line with our statutory guidance Keeping Children Safe in Education.

All serving headteachers and teaching staff will be bound by contractual resignation dates and you will need to factor this into your recruitment plans. For example, a serving headteacher will have to have accepted a post and resigned by the end of September for a January start, the end of January to take up an appointment in May, and the end of April for a September start. As it may take a few attempts to recruit a suitable principal designate, it is sensible to consider when to begin the recruitment process very carefully, factoring in that you will need confirmation of your provisional opening date first.

13.6 Free school freedoms for appointing staff

As the employer, you are responsible for appointing staff. If you are working with an education provider, you may pass the responsibility on to them but you may still want to be involved in the recruitment process, as you will be the legal employer of all staff. As academies, free schools have some freedoms in appointing staff that other schools do not:

- you are not bound by the national pay and conditions document and you can set your own pay and conditions – for comparative purposes national pay scales are set out in the school teachers pay and conditions
- you are not required to employ staff with qualified teacher status (QTS), with the exception of the SEN coordinator (SENCO) and the designated lead for children in care. However, this freedom does not apply to special free schools
- your principal designate is not required to hold the National Professional Qualification for Headship (NPQH)

If your free school includes nursery provision, you will need to ensure that your staff: child ratio meets the minimum requirements outlined in the early years foundation stage framework (EYFS). Exact ratios depend on the age of the child, the level of qualification of the staff and the type of setting. Your delivery officer and EE will need to satisfy themselves that your planned staffing numbers meet these requirements.

13.7 Free schools' statutory responsibilities

There are some statutory requirements on free schools with regard to staffing:

- the SENCO and designated lead for children in care must hold QTS
- as an employer, you have a statutory duty to enrol all your staff membership into either the Teachers' Pension Scheme (TPS) or the Local Government Pension Scheme (LGPS), depending on whether their role is teaching or support - pension contributions must start with employment, so you should ensure that pension provisions are in place for staff taking up their post prior to the free school opening (during pre-opening))
- with regards to the TPS, you must comply with the TPS Regulations, including making sure those who are eligible are enrolled and also comply with the requirements of the TPS administrator, Teachers' Pensions (TP), for example, to provide data, information, contact details and timely pension contributions – you should contact TP as early as possible for help and guidance on these issues
- if your school is to be a designated faith school and you wish to recruit teaching staff on the basis of faith, you will need to seek designation as a school with a religious character – you can find out more in section 11.

13.8 TUPE (The transfer of undertaking (protection of employment))

TUPE Regulations 2006 (amended 2013) (TUPE) protects employees by providing for their automatic transfer by operation of law under their existing terms and conditions when their work activities transfer from one employer to another. It only applies to employees; it does not apply to volunteers and it does not apply to agency workers (other than in respect of information and consulting obligations).

DfE would not usually expect TUPE to apply to a free school, if it is not replacing an existing school. Most free schools are new and additional schools; the only exception to this basic position is where existing provision (such as existing alternative provision or special schools) convert to become a free school.

The TUPE regulations place a statutory obligation on the employer to inform and consult prior to a transfer taking place. The employer will need to inform their employees' representatives (the recognised union or, if there is not one, elected representatives) of certain matters in writing:

- the fact that the transfer is to take place
- the date of the transfer and the reasons for it
- the legal, economic and social implications of the transfer for any affected employees and any measures which the employer envisages it will take in connection with the transfer, in relation to any affected employees

There is no set period for the information and consultation process but it has to be long enough before a transfer, to enable the employer of any affected employees to consult the appropriate representatives. You should aim to provide the information and to start consulting as early in the process as possible. As a rough guide, DfE suggest this should be not less than 30 days before the transfer, but this is for the trust to determine.

If you know that staff will need to transfer, you will want to have information from the outgoing employer about the employees and any liabilities you may be taking on. The outgoing employer (the 'transferor') is legally obliged to notify you (the 'transferee') of employee liability information of any person employed who would be in scope to transfer. This includes:

- the identity and age of the employee
- the particulars of employment for the employee
- any relevant information such as disciplinary procedures taken against the employee
- any information on court or tribunal claims that the transferor has reasonable grounds to believe may be brought after the transfer
- information as to any collective agreements which will have effect after the transfer that are relevant to transferring employee

Even staff who are in the process of being disciplined will transfer, if in scope, and the transferee will then continue the disciplinary process to its conclusion. Staff can object to the transfer, but if they do so unreasonably, they will lose any right to claim compensation for unfair dismissal or any redundancy rights. The basic assumption is that they are expected, if they are in scope, to transfer to the new organisation. They do so with their continuity of service protected and their terms and conditions protected. After a year, it is possible to harmonise terms and conditions, but only by agreement.

Some matters do not transfer, such as criminal liabilities and terms in relation to pensions. Again, specific legal advice may be necessary. Determining the application of TUPE is complex because a number of factors need to be considered. Each project is different and dealt with on a case-by-case basis. Trusts should always consult their own legal advisors regarding any potential TUPE issues.

13.9 Developing an education brief

It is good practice to put all strategies and statements together into one document, the education brief, that provides detail of how your school will operate. This can be distributed to staff and governors before opening, so that everyone in the organisation understands the vision for the new school, the way that the school will operate, the educational programme that will be delivered, the goals that the school wishes to achieve and its ambitions for the future.

It is important to be clear about what the essential elements that constitute a good brief are, how they may be constructed, and the audience or audiences it will be for and the purpose it has. It is also important to state how it may be put into practice and owned by the entire school, including the trust, governing body, the senior leadership team, staff and pupils and their parents. Details of what the education brief should contain are provided here.

A well-developed education brief will do the following:

- inform your pre-opening planning and timescales
- take you through your Ofsted pre-registration inspection successfully
- help you choose the right staff and governors, and show how you will retain them, with particular regard for developing a manageable and sustainable workload as the school expands - refer to the workload reduction resources which includes a helpful toolkit produced by DfE to support you
- help you create a whole school approach to mental health and wellbeing, and to ensuring that staff wellbeing policy is integrated within the school's culture
- ensure you are effective, safe and secure and achieving from first day of opening
- be accessible and written in a way that you feel confident in sharing it with a wide range of audiences, internally and externally
- be focused on pupil outcomes from the start
- prepare you for your first Ofsted section 5 inspection and help you achieve a good or outstanding judgement

The education brief also provides valuable evidence and reassurance to your delivery officer that you are offering a high quality and inclusive educational offer, and that the school is on track to be educationally viable. This will inform their judgement to recommend the Secretary of State to enter a funding agreement.

13.10 Developing education policies

You have statutory duties in terms of the policies that need to be in place before opening. DfE has published a guide for schools (including free schools) about these duties. This includes details of the policies that your school must have and how frequently they must be reviewed.

Policies may fulfil one or more of 4 requirements:

- a statutory requirement of education law or other legislation impacting on schools
- required prior to the funding agreement and are also a statutory requirement
- required for the Ofsted pre-registration inspection
- related to teaching and learning and may be requested during an Ofsted inspection post-opening

It is imperative that policies are in place by their respective deadlines.

You will be required to submit some policies before your Ofsted pre-registration inspection and an inspector may ask to see others on the day. There will be other detailed plans and policies you will need to have in place for your first Ofsted inspection (normally in the third year after opening). In the checklist of tasks, DfE have set out what needs to be done as a minimum, and by when, in the run up to opening. The checklist is not exhaustive but will give you an idea of what may be required, and when.

Closing the attainment gap for disadvantaged pupils is a priority for DfE. Your education plans and policies should reflect the local context in which your school will operate and be designed to improve outcomes and enhance the life chances of children in the local community.

When planning your curriculum, you should ensure that this is aligned with the needs of children in the local area where your school will operate, including how you will address the specific forms of disadvantage affecting pupils. For example, if your school will be situated in an area where a high proportion of pupils speak English as an additional language, you should ensure that your approach towards literacy reflects this. You should also consider how your approach to teaching and learning will ensure the curriculum is delivered in a robust and effective manner and meet the needs of your expected intake.

When planning assessment monitoring and tracking processes you should pay attention to the advice for schools and governing boards in the making data work report (published November 2018) to ensure excessive data burdens are avoided.

If your free school includes 16 to 19 provision, you might want to consider offering T levels. T levels are high-quality, rigorous, level 3 classroom-based technical study programmes that will sit alongside Apprenticeships within a reformed skills training system. They will support entry to skilled employment in technical occupations and progression to higher education options (including higher technical qualification, higher apprenticeships, degree apprenticeships and technical degrees).

The first 3 were launched in September 2020 with a small number of providers for specific occupations in 3 industries: digital production, design and development (digital industry), design, surveying and planning (construction industry), and education (education and childcare industry).levels in more occupational pathways are made available and T levels are rolled out nationally, DfE expect the majority of funding for 16 to 19-year-old students studying level 3 qualifications to be directed to T level and A level programmes. More information can be found at introduction of T-levels.

Many free schools and academies have also found the overarching structure of the education brief (available in Annex E) helpful, as this brings together all of the school's strategic and detailed education plans and policies.

Exemplar education plans and policies are widely available. Exemplar policies are available on the pre-opening section of the NSN website. You can also find them on local authority websites and from project management companies (where you are using one). You should tailor these to take account of the vision and curriculum plans for your free school.

Non-faith free schools, like other non-faith academies and schools, may apply for an exemption (called 'a determination') from providing a 'broadly Christian' daily act of collective worship. Broadly Christian can be replaced with an alternative daily act of collective worship that better reflects the faith background or backgrounds of the academy's pupils. The determination lasts for 5 years. If you wish to apply for this status, please contact your delivery officer who will provide you with the relevant application pack.

Academies (including free schools) are required by law to publish specific information on their website. Guidance as to what must be included can be viewed at what academies and free schools must publish online. You must also ensure that you have the following documents in place prior to opening.

A scheme of work

This should set out details of the programme of learning, must be written for each subject, or programme or study. These are usually prepared by the subject head of department, or subject or phase co-ordinator in a primary setting.

A school development plan for the opening year

This is a strategic document, typically constructed by the principal designate and senior team, which sets out the main objectives that the school wishes to achieve within the first years. This includes success indicators, actions, staff responsible, timelines and costings for the opening and subsequent years.

You may wish to consider including an annual review of workload and wellbeing into your plans to ensure you are able to fulfil your commitment to a manageable and sustainable work-life balance for staff. An example review is available to download as part of the DfE workload reduction toolkit and what works for wellbeing offers examples on how to measure wellbeing in schools.

> Guidance on how to safely teach children in primary schools during restrictions associated with the coronavirus (COVID-19) outbreak can be found actions for schools during the coronavirus outbreak.

13.11 Promoting integration and community cohesion

The government is committed to building strong integrated communities where people, whatever their background, live, work, learn and socialise together, based on shared rights, responsibilities and opportunities. Schools have a duty to promote community cohesion and integration, with a view to ensuring all children and young people are prepared to participate fully in life in modern Britain. There are a number of practical activities that you could undertake in your school to promote this, to support pupils to mix with those from different backgrounds and equip them with the skills, knowledge and confidence to contribute to the local community as active citizens. You may wish to consider these suggestions.

Establishing sustained and structured linking arrangements with another school

This can help to promote sustained social mixing and create meaningful relationships between pupils from different backgrounds with the aim of fostering more positive attitudes, build understanding of different communities and cultures, and break down barriers to greater integration.

You may find it useful to engage with the linking network, who can provide support and training to help you establish a meaningful and structured linking programme with a suitable school. The connecting classrooms programme also provides opportunities to partner internationally with schools in different countries. Activities or initiatives to support pupils from different backgrounds to mix with each other within the school, for example sport days, arts competitions and music events that bring together pupils from across the school.

Promoting British values

Programmes, activities or trips aimed at promoting the fundamental British values of democracy, the rule of law, individual liberty and mutual respect and tolerance of those with different faiths and beliefs. This will help pupils to value differences, challenge prejudice, discrimination, stereotyping and intolerance of others, and understand the diversity of both the local community and wider society.

This can include activities within classrooms to teach these values, as part of a broad and balanced curriculum and including through the teaching of spiritual, moral, social and cultural (SMSC) education, for example, through subjects such as religious education, citizenship, personal, social, health and economic education (PSHE), and relationship and sex education (RSE), as well as activities outside of the classroom.

13.12 Youth politics or civic engagement

This can help to get young people to think about the role they could play as active citizens in modern Britain. This should be linked to plans for lessons on and ethos around democracy, elections and political systems. Activities could include youth parliaments, school council and mock elections.

Active citizenship' activities, such as volunteering opportunities in the local community, national citizen service, or youth ambassador schemes, to build links between pupils and the local community.

Career programmes and policies

These could focus on improving links between pupils and local employers and encouraging apprenticeships. Large employers often have schemes targeted specifically on broadening access to disadvantaged and more diverse groups, which you may wish to explore.

Different areas will face different barriers to and opportunities for promoting integration and community cohesion. You should consider the appropriateness of your approach towards promoting integration and community cohesion through your education plans and policies based on the characteristics of the local area where your school will be based.

13.13 Measuring pupil performance

In order to demonstrate that your pupils are making progress, you will need to establish a baseline of pupils' current levels of attainment upon entry to your school. As such, you will need to develop a system for baselining before your school opens, otherwise you won't be able to demonstrate that your pupils have made progress. You will also need to implement a system of assessment that enables you to measure pupils' performance and a strategy for improving this.

Once your school opens, it is important that you review your success measures and expectations regularly, to improve your school's performance. This could include benchmarking your assessment data with other schools. As with your system for baselining and assessment, you should ensure that you have developed a robust plan for reviewing your school's performance before your school opens.

When designing your plans for measuring pupil progress, you should ensure that they consider how you will approach the following requirements:

- identify the learning needs of your disadvantaged pupils and inform approaches for tackling the individual issues faced
- use appropriate and proportionate data to inform teaching and drive progression and attainment for all pupils - you should refer to the recommendations of DfE's report making data work to support you in this
- monitor and evaluate whether your approaches for disadvantaged pupils are working
- focus on measuring and improving quality of teaching in the classroom
- involve parents and report progress to them

13.14 Safeguarding

Schools and their staff form part of the wider safeguarding system for children. Safeguarding and promoting the welfare of children is everyone's responsibility. School staff are particularly important, as they are in a position to identify concerns early and provide help for children to prevent concerns escalating.

It is vitally important that as an academy trust you fully understand your responsibilities for safeguarding the children in your care. You should consult DfE's keeping children safe in education (KCSIE), working together to safeguard children and what to do if you're worried a child is being abused: advice for practitioners guidance documents. All governing bodies must have regard to this guidance, that means they should comply with it unless there is good reason not to. When the school opens, DfE would expect it to be meeting the requirements as set out in KCSIE.

Every school must have a single central record (SCR) (for example, in an excel spreadsheet, along with documentation in personnel files). This should record in one central place specific information on every adult employed by the trust or coming into regular contact with children on a voluntary basis. This is a statutory requirement. A senior administrator or gatekeeper should maintain the SCR. The SCR must include for each adult employee, governor or volunteer whether the following checks have been carried out or certificated obtained, and the date on which each check was completed or a certificate obtained:

- an identity check
- a barred list check
- an enhanced DBS check or certificate
- a prohibition from teaching check
- further check on people living and working outside the UK
- a check of professional qualifications
- a check to establish the person's right to work in the UK

You can also find more information about what Ofsted will expect to see in place when you are inspected in their guidance inspecting safeguarding in early years, education and skills. This includes specific references to the SCR. There are serious implications if a school fails to provide a complete an up-to-date SCR when requested. The school can be closed immediately if the SCR is not produced, and staff can be sent home if it is incomplete. The safeguarding checklist in Annex F summarises these requirements and is a useful aide to keep on top of what needs to be in place.

13.15 External experts (EEs)

EEs are contracted by DfE to provide expert educational advice. Access to an EE will only be through your delivery officer.

You will need to have your own educational expertise in place to support you as a trust. As a minimum the EE contracted by DfE will usually do the following:

- attend and contribute to the kick-off meeting
- be involved in the process of appointing the principal designate
- be involved in the process of appointing the chair of governors (unless already appointed) and comment on the quality of the governance plans
- comment on the build-up of the senior staffing structure
- comment on the quality of the education brief (available in Annex E) and education policies, in particular safeguarding and assessment
- attend and contribute to the readiness to open meeting

There is a differentiated approach to DfE's support across free school projects. The EE will be contracted to provide the support on a needs basis. The factors DfE will take into account in determining the level of EE support include the experience within your group and the complexity of your vision for the school. For example, if your educational expertise is limited, or the group has not set up a new school before, DfE may contract additional EE support.

The level of EE support may also change during the pre-opening period. For example, if a project has significant difficulty recruiting a principal designate, the level of support may increase.

may increase.

After opening, an EE will be contracted to provide professional advice and challenge, via your delivery officer, to ensure that your school is delivering a high standard of education to your pupils. An EE may be contracted to undertake first, fourth and sixth term visits to your school, reporting to DfE on your progress until your first Ofsted inspection. You should ensure you check the Ofsted website regularly to keep up-to-date with any changes to the inspection framework.

14. Funding agreement

The funding agreement is the legally binding contract between the trust and the Secretary of State, which contains the terms and conditions upon which a free school is funded.

Entering into a funding agreement is an important decision for both parties so requires careful consideration. Your regional schools commissioner (RSC) will need to be sure that your trust is ready to enter into the agreement and is likely to establish and maintain a popular and successful school.

The contract sets out what the trust needs to do. This includes, for example, a requirement for admissions to be consistent with relevant admissions law. The trust must meet these (and other) requirements in order to receive funding. The funding agreement also sets out the circumstances in which a funding agreement can be terminated.

The Secretary of State will consider signing a funding agreement only if you are able to develop your plans to the required standard during the pre-opening phase. For mainstream (primary, secondary and all-through) schools, the ideal is to enter into a funding agreement at least one month before the relevant national admissions offer day in the year in which the school is due to open, to give parents receiving offers the confidence that the school will open that year.

However, the Secretary of State will not enter into a funding agreement until they are confident, on the basis of advice from the relevant RSC, that the school will be good, viable, sustainable and successful, able to open on its proposed date, sufficiently secure about its permanent site, and that any conditions set during pre-opening or following assessment have been met. The Secretary of State can cancel or defer a project at any point during the pre-opening phase, even after your funding agreement has been signed, if your anticipated pupil numbers are not at a previously agreed level or if they consider that the school would provide an unacceptably low standard of education.

The Secretary of State does not enter into a funding agreement in respect of a nursery which is part of a free school, because nurseries receive their revenue funding from the local authority or fees charged to parents for provision above the 'free' entitlement. However, provisions around the use of the land for the nursery may need to be included in the funding agreement. Further information on nursery revenue funding arrangements is included in funding for free school nurseries.

The funding agreement checklist, available in Annex A, sets out a non-exclusive list of the main tasks you will need to complete in order to begin the process of agreeing the funding agreement for your school.

14.1 Why DfE uses model funding agreements

DfE produces model funding agreements for all types of academy, including free schools. There are different models available to reflect the requirements of different types of free school at the academy and free school funding arrangements. Using model funding agreements helps DfE ensure consistency across free schools.

The terms of the model funding agreement have been developed since the beginning of the free schools programme. The Secretary of State has agreed these terms and is not willing to negotiate different terms for individual projects. The only acceptable variations between different funding agreements are those clauses that reflect the specific circumstances of that school, such as land arrangements, planned capacity of the school, faith/non-faith provision and arrangements for free schools with predecessor schools. The model funding agreement makes clear where these variations will be made and your delivery officer will tailor them accordingly before sending the document to you.

14.2 When you should begin the process for entering into a funding agreement

The timing for entering into a funding agreement will vary depending on the project. Your delivery officer will decide the appropriate time for your project. Funding agreements are usually signed when a project has achieved all its main milestones and the delivery officer judges that the schools is likely to be good and viable upon opening.

There are a small number of circumstances in which DfE might consider entering into a funding agreement before all these main milestones are completed. The most common circumstances are:

- when entering into a build contract for a permanent site
- to enable schools to enter local authority co-ordinated admissions

DfE aim to have all funding agreements in place by the following dates in the year when your school will open, although this will depend on whether the project has achieved its main milestones and is on course to be good and viable upon opening:

- for mainstream schools, one month ahead of national offer day (1 February for secondary schools and 15 March for primary schools)
- for special schools, in sufficient time to enable the school to be listed on a child's EHC plan, which local authorities need to review by no later than 15 February if the school is opening in September or one term before they open if they are opening in a month other than September
- for AP schools, one term before they open (by mid-April for September openers)

Your delivery officer will normally want to arrange a formal checkpoint meeting with your trust to ensure that everything is in place to enable the Secretary of State to sign the funding agreement.

14.3 Statutory duties

Before either party can begin the process of signing the funding agreement, there are certain statutory duties that must first be fulfilled by both parties.

The trust must consult under Section 10 of the Academies Act 2010 – see section 11 for full details. The trust must also have due regard to Section 149 of the Equality Act 2010.

Section 9 of the Academies Act 2010 requires the Secretary of State to complete an assessment of the impact the opening of the free school would have on maintained schools, academies, institutions within the further education sector and alternative provision in the area. The Secretary of State is also required under Section 149 of the Equality Act 2010 to have due regard to needs of the PSED in the opening of the free school before the funding agreement can be signed. These processes will be undertaken by your delivery officer.

In addition to the completion of statutory duties, the Secretary of State will want to be satisfied that the school will be popular and successful upon opening. In making this decision, the Secretary of State will consider the following criteria:

1. Whether the school will deliver a good or outstanding education, according to the Ofsted criteria. Have enough high-quality teachers been appointed or are they likely to be appointed by the time the school opens? Is the school's leadership strong? Are all the school's policies in place?
2. Whether the school has recruited enough pupils to be financially viable; will it be full by the time all year groups will be present?
3. Whether the admission arrangements for the school are compliant with the School admissions code.
4. Whether the board of trustees will be capable and effective. Does the proposed board include trustees with appropriate educational, financial and business experience or expertise? Are there arrangements in place to manage conflicts of interest?
5. Whether the school will open on an appropriate, value for money site.
6. Whether the school is financially viable and efficient in its use of resources to promote pupil outcomes. The recruitment of pupils and an appropriate staffing structure are crucial for ensuring financial plans are affordable. Can the school cope with reasonable levels of change to its income and expenditure?
7. Whether the school's plans for promoting community cohesion are appropriate and likely to be effective for the local context where the school will be based.

14.4 How to enter into a funding agreement: process and people involved

1. DfE sends the trust a signature-ready version of the relevant model funding agreement tailored to school's specific circumstances.
2. The trust consults their lawyers (as necessary) on land specific clauses. All other clauses are non-negotiable.
3. DfE provides advice to the Secretary of State on whether to enter into a funding agreement with the trust.
4. The trust confirms with DfE that they are ready to sign the funding agreement.
5. DfE communicates the Secretary of State's decision to the trust.
6. The trust prints and signs (but does not date) a hard copy (with each Annex attached to it) and sends it DfE.
7. If the funding agreement is approved, DfE arranges for it to be signed, sealed and dated and sends a hard copy back to the trust.

The Secretary of State will not negotiate terms for individual projects and will not accept amendments to the model funding agreement.

To ensure the funding agreement is executed correctly, trusts must arrange for 2 trustees to sign the copy (or one trustee and a witness). In addition, trusts should leave the document undated when they send it to their delivery officer – DfE will date the document at the point it is signed and sealed.

14.5 Duration

The timings for the process will vary, depending on individual projects. However, the stage that most often holds up the process is agreeing the final version of the funding agreement. It is for that reason that DfE asks trusts to focus only on the school-specific clauses (as highlighted by your delivery officer). DfE cannot guarantee that the trust will get their signed funding agreement on the timescale agreed if we are not confident that the proposed school will be successful.

To speed up the process, you should discuss with your delivery officer, at an early stage in the pre-opening phase, your preferred timings for signing the funding agreement, which may include being in line with the local authority admissions process. While DfE cannot guarantee that this will always happen, agreeing a timescale helps to focus both the trust and the delivery officer on ensuring they have completed the necessary tasks in advance.

14.6 Arrangements for trusts with more than one school

Trusts with more than one school require different funding agreements to trusts with only one school. While a s trusts with only one school will have one funding agreement for its single free school, trusts with more than one school require a master funding agreement to cover all schools within the trust, alongside supplemental funding agreements for each individual school. Model funding agreements (single, master and supplemental) are available for mainstream, special, 16 to19 and alternative provision free schools on the gov.uk website. The master funding agreement contains general clauses (such as freedom to set the duration of the school day and year) whereas the supplemental agreement covers those clauses which are specific to the individual school.

If you are an existing trust looking to open a new free school, the models for trusts with more than one school (master and supplemental) will apply to you. Your delivery officer will be able to advise on which model will need to be used.

15. Inspections and registration as an independent school

15.1 Introduction

This chapter summarises the process whereby proposed free schools are formally registered as independent schools based on advice from Ofsted.

15.2 Summary

Your free school must undergo an Ofsted pre-registration inspection and be registered on Get information about schools(GIAS), DfE's formal register of schools, before it can legally open.

16 to 19 free schools are not legally independent schools, but it has been agreed with Ofsted that they will undergo the equivalent of a pre-registration inspection to ensure parity of accountability for all free schools.

Once open, your free school will have more freedoms and flexibilities than other state-funded schools but it will be held accountable in exactly the same way and subject to the same Ofsted inspection regime.

If restrictions remain in place associated with the coronavirus (COVID-19) outbreak, it may not be possible for inspectors to carry out face-to-face interviews or to visit the premises of proposed schools as they usually would during a pre-registration inspection.

> **Example**
>
> For example, for schools opening in 2020, Ofsted carried out remote inspections, reviewing documents and undertaking telephone conversations with project groups. Your delivery officer will provide you with more information about how your inspection will be carried out depending on the circumstances at the time.

15.3 Risks

You must keep to the deadlines set out in this document or provided by your delivery officer if your school is to open on time. If in doubt, please speak to your delivery officer.

15.4 Why you need an Ofsted pre-registration inspection

In order to be added to GIAS and legally allowed to open, the Secretary of State must decide whether or not your free school, when open, is likely to meet the relevant independent schools standards outlined below. Guidance on the standards is available in the independent schools standards guidance. The Ofsted pre-registration inspection informs this decision.

- part 2: spiritual, moral, social, and cultural development of pupils
- part 3: welfare, health and safety of pupils
- part 4: suitability of the proprietor and staff
- part 5: premises and accommodation
- part 6: provision of information for parents, carers and others
- part 7: procedures for handling complaints
- part 8: leadership and management

Part 1 of the regulations (quality of education) does not apply to free schools in pre-opening. Your education plans and policies will be considered throughout the pre-opening phase and in particular during your readiness to open meeting with DfE.

The pre-registration inspection is not like a full inspection, which you will be subject to once open. Instead, it seeks to establish whether the proposed school is fit to open as measured against the standards outlined above.

The full regulations are available at The Education (independent school standards) Regulations 2014.

15.5 Registering a nursery with Ofsted

In the following circumstances a nursery does not need to be registered separately with Ofsted and will be inspected as part of the free school's pre-registration inspection, in the following circumstances if it is provided by:

- the school, is contained within the school's age range, and is for children aged 2 years or older[footnote 2], as it will be covered by the free school's own registration
- a subsidiary company that is completely owned and controlled by the free school

If the nursery is run by a subsidiary company that is independent from the free school, or if the free school does not exercise a high level of control over it, it is likely that the subsidiary company will need to register the childcare separately. Your delivery officer will advise you if this is the case.

Where separate registration is necessary, Ofsted will conduct a number of background checks and a separate pre-registration visit. Following this, it will be inspected under the arrangements set out in Ofsted's early years inspection handbook. Ofsted will also register the nursery provision on the Early Years Register and Childcare Register.

Further detail on registering a nursery is available in the Ofsted guidance on registering school-based childcare provision.

15.6 Timing of pre-registration inspections

Your delivery officer will discuss with you when your inspection should happen. Your Ofsted inspector will then contact you directly to confirm the date of inspection. You will be given notice of when your inspection will take place and you will be expected to make yourselves available on that date.

Inspections, for free schools opening in September, will take place in May and June. For free schools opening at other times during the year, inspections will usually take place in the term prior to opening.

Free schools that have made the most progress towards opening will be prioritised for early inspection, while those that would benefit from having more time before their inspection will be scheduled later. It may seem advantageous to have the inspection as late as possible to give yourselves the greatest possible time to prepare. However, having an early inspection gives you more time to put right any issues identified by Ofsted before your opening day.

15.7 What you need to do ahead of the inspection

You will need to provide the following documents:

- a plan showing the layout of the premises and accommodation of all buildings
- a copy of the school's written policies on
  - preventing bullying - changes to the independent school standards in 2013 mean that it is no longer prescribed that bullying policies must take into account DfE guidance 'preventing and tackling bullying', however, you may still find it useful to consider the advice
  - safeguarding and promoting the welfare of children who are pupils at the school (this should be compliant with the relevant health and safety law)
  - safeguarding and promoting the health and safety of pupils on activities outside the school which has regard to DfE's guidance – health and safety: advice for schools
  - promoting good behaviour amongst pupils setting out the sanctions to be adopted in the event of pupil misbehaviour
- a copy of the school complaints procedures, as outlined in Part 7 of the Education (independent school standards) (England) Regulations 2014
- evidence that the school has appropriate procedures in place for undertaking Disclosure and Barring Service (DBS) checks of staff and recording the results - all schools should have a single central register to record this information. Before registration can take place, as a minimum, the chair of trustees must hold a valid DBS certificate, countersigned by DfE (DBS checks on all trustees and other members should be well underway, if not completed, ahead of registration. Section 4 contains more information)

> You will need to provide these documents directly to Ofsted. Ofsted will provide information on how to do this when they advise you of your inspection date.

If you do not submit the necessary documentation in time, your inspection may be delayed.

Ofsted will contact you directly to advise you of the inspection date and give 5 working days' notice.

15.8 Compliance with the regulatory reform (fire safety) order

You will need to be able to demonstrate to Ofsted that your school is meeting the requirements of the Regulatory Reform (Fire Safety) Order 2005. Trusts should ensure that they comply with the fire safety order and registration will not be agreed until confirmation of satisfactory fire precautions is received.

You will need to inform the local Fire and Rescue Service ahead of opening, although the fire service may decide not to inspect the premises immediately. Note that the fire service is not under any obligation to provide this service before the school opens, though many will to do so. Ofsted will consider alternative evidence such as written confirmation from the Fire and Rescue Service that they have approved your fire risk assessment in principle or one or more of the following:

- documentation/certificate issued by an independent fire safety advisor
- confirmation that you have a fire risk assessment and are complying with the Regulatory Reform (Fire Safety) Order 2005
- a completion certificate confirming construction is in accordance with Building Control Regulations and in compliance with fire safety standards

15.9 The day of the inspection

The inspector will usually spend half a day with your school and will normally need to be met and escorted by the principal designate or the lead proposer. They may also need access to some office space in order to work. While in most cases it is the principal designate who talks to the inspector, it does not have to be. As long as someone else in the group can talk through the policies and plans, the principal designate does not have to be there. Ofsted will not rearrange the date of the inspection simply because the principal designate is unavailable.

Depending on the impact of any existing restrictions associated with the coronavirus (COVID-19) outbreak, Ofsted may carry out remote inspections – reviewing documents and undertaking telephone conversations with project groups. Your delivery officer will provide you with more information about how the inspection will be carried out and the documentation you will need to supply.

In order to make a judgement about each of the standards, the inspector may ask to see other policies on the day. If for any reason a particular document is not available, whomever is meeting the inspector needs to be able to discuss the plans for its development. Similarly, if the work on the site is not completed, you will need to be prepared to talk to the inspector about how the building will develop. If site works are still underway and it is possible for the inspector to be shown around that would be desirable but not necessary. The building work does not need to be completed ahead of the inspection but the inspector will need to see evidence that all the requirements of part 5 of the standards, relating to the premises and accommodation of the school, are being considered and will be met by the time the school opens.

15.10 After the inspection

After the inspection, the inspector will produce an advice note and a checklist.

In the event that the Ofsted feedback indicates that there are issues that must be addressed, known as 'conditions of registration', you must take action to resolve these before the school can open. Your delivery officer will be in touch to make sure that the conditions have been met and that you have evidence to demonstrate this. Your delivery officer will work with you urgently to address the issues and if necessary, will arrange for the school to have a re-inspection. After the re-inspection, the inspector will produce a second advice note and checklist.

DfE needs to be certain whether any conditions have been met. Only then can your registration on GIAS be completed.

If you are not registered on GIAS, you cannot legally open.

Ofsted is responsible for publishing the advice notices. Publication usually takes place in the term your free school opens. If you are interested in seeing what an advice notice looks like, you can view previously published advice notices.

You should be careful about how you communicate the outcome of your inspection to your local community. These inspections are about whether or not the school is fit to open rather than providing any judgement of quality. For example, it would be misleading to say that Ofsted have visited and said that you are 'good' or 'outstanding' just because you have no conditions to satisfy.

15.11 Get information about schools registration

Get information about schools (GIAS) is DfE's database of all educational establishments in England and Wales. Being entered on GIAS automatically generates your free school its DfE number and unique reference number (URN), which are used in a variety of circumstances to formally identify the school.

Your delivery officer will provide you with a GIAS form which you must complete and return to them.

Once the form has been processed, you will be issued with your URN and DfE number. Your school is initially entered as 'pending approval', which means that the school is not yet fully registered and is not publicly visible or searchable.

Your school will not be publicly searchable until your school's status is changed to 'proposed to open' and registration is complete. This will happen when you have a funding agreement in place, any pre-opening ROM actions have been addressed and you have successfully completed your Ofsted pre-registration inspection.

15.12 DfE Sign-in

DfE Sign-in is DfE's portal for systems such as COLLECT (collections online for learning, education, children and teachers) which is used by schools, local authorities and DfE for processing data collection returns, school to school, key to success, ESFA-managed information exchange and GIAS. Access to systems is granted on a user-by-user basis and only those systems that a user has permission to access will be displayed. Not all systems will be available until your free school is open.

Around 2 months before your free school is due to open, your delivery officer will be in touch with you to obtain the details of the person you want to be given the initial access to DfE Sign-In.

Initial approver access will be given to the person you nominate. They will receive their DfE Sign-in details once you have successfully completed an Ofsted pre-registration inspection and your free school's status has been changed to 'proposed to open' on GIAS.

Academies (including free schools) and trust accounts can have up to 20 user accounts and 2 approver accounts per organisation.

The approver can create accounts for other members of staff and add services to accounts such as COLLECT. They also archive accounts when they are no longer in use. It is their responsibility and decision as to who they add to the account.

Once registration is complete, it is important that someone at your school takes responsibility for keeping your GIAS record accurate and up-to-date. DfE will not do this for you. If you do not confirm your school information on GIAS is correct every 60 days, you will get a reminder that you need to review and update your details. This will continue to be issued weekly until you review and confirm details.

15.13 Inspections once open

Once open, mainstream, alternative provision and special free schools are inspected under the same arrangements as maintained schools. Sixteen to 19 free schools are inspected under the same arrangements that apply to other post-16 providers. The first full inspection of a free school normally takes place during the third year of opening (for schools with boarding provision, this will be the first year).

From September 2019, Ofsted refocused inspections of schools, early years settings and further education and skills providers, to make sure that learners are receiving a high-quality education that puts them on a path to future success.

Ofsted inspectors will spend less time looking at exam results and test data, and more time considering how a nursery, school, college or other education provider has achieved their results. That is, whether they are the outcome of a broad, rich curriculum and real learning, or of teaching to the test and exam cramming. Further information is available on Ofsted's website.

Many open free schools have found it useful to buy in support to undertake a trial run inspection ahead of their first Ofsted inspection to identify any outstanding issues. Many providers offer this service and employ ex-HMIs to deliver it. These external assurance exercises will help validate your school's self-evaluations and inform school improvement plans ahead of your first Ofsted inspection.

15.14 School-to-school support

One of the most effective ways of achieving school improvement is by working with other schools. There are now many opportunities for school leaders and governors to work with and receive support from their peers. Further information can be found in the guidance 'Teaching schools and system leaders: get support for you and your school'.

15.15 Further information

- View Table 13 Ofsted inspections and school registration: checklist of activities (Annex A)
- Independent school standards
- Amendment to independent school standards
- Advice on bullying for headteachers, staff and governing bodies
- Keeping children safe in education

- Health and safety of pupils on educational visits
- Ofsted advice notes
- Ofsted website

16. The readiness-to-open meeting (ROM)

16.1 Introduction

You may be invited to a readiness-to-open meeting to confirm that all necessary plans are in place and ready for your school to open. This section summarises the process of preparing for and successfully managing the meeting in the run-up to opening your school. ROMs may be held face-to-face or via Microsoft Teams. In a small number of cases your ROM may be paper based or it might be felt it is not necessary to hold one at all. Your delivery officer will advise.

16.2 Summary

ROMs will normally take place before the end of June ahead of opening in September. ROMs are formal meetings between DfE and the trust designed to achieve the following:

- identify issues and risks that might prevent the school from being financially and educationally viable on opening
- assess whether the school's plans for promoting integration and community cohesion are appropriate and likely to be effective for the local context where the school will be based
- identify actions needed to mitigate risks or address issues
- where necessary, enable ministers to take decisive action (such as to defer) before the opening date

Education and viability will be the main focus of the ROM. DfE will use the meeting to make a judgement on how confident it is that the proposer group will open a successful school.

Attendees from the proposer group should be:

- the chair of trustees (DfE suggest both the local governing chair and the chair of the board from the trust should attend where appropriate)
- the principal designate (head of school or the executive head may also attend where appropriate)
- any other person who can provide information useful to the meeting, for example the chair of finance committee, or business manager
- only those who hold a governance or leadership role should attend, with a maximum of 5 proposer group attendees overall

16.3 Summary of tasks

The principal designate will be required to complete a risk report and return it to the delivery officer at least 2 weeks prior to the ROM. The report will:

- underline any risks or issues and the actions needed to address those issues
- identify areas that require further discussion

16.4 Risks

Those attending from the proposer group must include the chair of governors (both the local governor chair and trust chair should attend where appropriate) and the principal designate (the executive head can also attend where appropriate).

DfE will postpone the meeting unless both the chair of governors and the principal designate are able to attend, or if the information we need is returned too late for us to review before the meeting.

16.5 Working with DfE

Your delivery officer will discuss the format and aims of the ROM with you in advance of the meeting. There will also be an opportunity to consider the content of the risk report to be completed by the principal designate.

The ROM will be chaired by a seniorDfE official and will be attended by your delivery officer and, where appropriate, representatives or representatives from ESFA. DfE will also ask an external expert to attend. DfE representatives will ask questions about progress, risks and issues in main areas of the project and agree with you what actions might be needed for each relevant issue.

16.6 Further information

- Table 14 Readiness to open: checklist of activities (Annex A)

17. Once your school is open

17.1 The final stage of the pre-opening period

The final stage of the pre-opening phase is to prepare for opening, which includes the moving of your free school project to the ESFA link officer who will be the main point of contact for the school on matters relating to finance and governance, and the FSC project director if you are in temporary accommodation or there is still capital work needed on the permanent site.

Once your school opens, you may be allocated a new delivery officer who will have responsibility for monitoring your educational performance

Your delivery officer will ensure that the FSC project director and ESFA are fully briefed on your project so they know what challenges you may experience in your early days of opening.

The expectation is that once your school is open, you have the freedom, autonomy and responsibility to run it, within the expectations and requirements set out in the academies financial handbook and your funding agreement.

17.2 What ESFA does

ESFA is an executive agency of DfE. The role of ESFA is to provide revenue funding and is accountable to Parliament for how funds are used, ensuring the regularity, propriety and value for money of expenditure. To do this, ESFA must be satisfied that academy trusts have appropriate arrangements for sound governance, financial management, value for money and accounting, and that trusts' use of public funds is consistent with the purposes voted by Parliament.

ESFA expects free schools to make the most effective use of their financial freedoms to raise educational standards, operating full accountability for how they spend tax payers' money. Schools are asked to provide financial returns so ESFA can provide assurance that this is the case and that free schools are meeting the terms of their funding agreements.

ESFA supports a free school's compliance with its funding agreement by responding to any requests that you may make of the Secretary of State as required by the funding agreement. This may include things such as approval to enter into a lease or to dispose of land.

17.3 How ESFA will work with you

ESFA has published a guide for newly opened academies, academy trusts and free schools to introduce you to our areas of work and ways in which you through the first few months on matters relating to funding, funding agreement compliance, finance and financial assurance.

The GOV.UK website has information about ESFA for all ESFA customers and a specific area for academies and free schools funding, payments and compliance.

The academies financial handbook sets out the responsibilities and requirements relating to academy trusts' financial governance and management. Compliance with the academies financial handbook is a condition of your funding agreement.

ESFA update is a weekly email bulletin. Articles are brief and focus on important updates and main actions for you.

You can also follow ESFA on Twitter @ESFA_academies.

ESFA aim to provide clear and comprehensive information about all of their areas of work. If there's anything you don't understand, or you need clarification on a specific issue relating to your individual academy or academy trust, the enquiry service will be able to help or point you in the right direction.

17.4 Regional schools commissioners (RSC)

As the number of academies and free schools continues to grow, DfE have considered how the system should respond, to ensure that decisions about the academy school system (including free schools) should be taken closer to the areas concerned, and that education leaders should have a stronger influence on those decisions. The best people to do this are outstanding leaders and heads in each region. Local heads know their areas best and know what is right for academies and free schools locally.

There are 8 regional schools commissioners (RSCs) across eight regions of the country. The RSCs report to the national schools commissioner.

The RSCs and their regions are:

- Sue Baldwin: East of England and North-East London
- Carol Grey: East Midlands and the Humber
- Vicky Beer: Lancashire and West Yorkshire
- Katherine Cowell: North of England
- Dame Kate Dethridge: North West London and South-Central England
- Claire Burton: South-East England and South London
- Hannah Woodhouse: South-West England
- Andrew Warren: West Midlands

A headteacher board (HTB) of 6 to 8 elected, appointed and co-opted members advises each RSC. HTBs are responsible for advising and challenging RSCs on academy-related issues. HTB members are academy headteachers and professional leaders.

RSCs take decisions regarding academies and free schools in their regions in the name of the Secretary of State. All decisions are taken in line with the legislation and our published criteria. Further information on RSCs can be found on the RSC website.

RSCs' general responsibilities include:

- taking action where academies, free schools, university technical colleges or studio schools are underperforming
- intervening in academies where governance is inadequate
- deciding on applications from local authority-maintained schools to convert to academy status
- improving underperforming maintained schools by providing them with support from a strong sponsor
- encouraging and deciding on applications from sponsors to operate in a region
- taking action to improve poorly performing sponsors
- advising on proposals for new free schools
- advising on whether to cancel, defer or enter into funding agreements with free school projects
- deciding on applications to make significant changes to academies, free schools, university technical colleges and studio schools

RSCs' main responsibilities in relation to free schools are:

- advising ministers on which free school applications (including mainstream, 16 to 19, special and alternative provision) to approve
- advising ministers on whether to cancel, defer or enter into funding agreements with free school projects in pre-opening
- tackling educational underperformance in open free schools, UTCs and studio schools

17.5 Important tasks in the early days of opening

You'll need to:

- prepare for an external expert visit in your first term of opening
- ensure that the academy trust has approved an annual budget for the first year of operation and submitted this to ESFA in accordance with the published timetable
- ensure that the academy trust has implemented the requirements of the academies financial handbook

17.6 Further information

- Table 15 Handover to ESFA: checklist of activities Annex A)
- ESFA website
- Academies financial handbook
- Schools and college funding and finance
- Priority schools building programme
- ESFA updates
- Schools resource management

18. Freedom of Information (FoI)

Free schools are subject to Freedom of Information (FoI) requests as trusts are public authorities under the Freedom of Information Act (2000) ('the Act') in their own right. The Act provides a right of access to any recorded information held by public authorities. It does this in 2 ways:

- public authorities are obliged to publish certain information about their activities
- members of the public are entitled to request information from public authorities

If the information is scope of the request is about or details an impact on the environment, such as new school buildings or the change of use of land, then the request will need to be handled under Environmental Information Regulations (EIR). Guidance on this can be found on the Information Commissioner's Office website.

The Act does not give people access to their own personal data (information about themselves) such as their health records or credit reference file. If a member of the public wants to see information that a public authority holds about them, they should make a subject access request to the organisation that holds the data under the Data Protection Act 2018. However, if you receive an FoI request where the information asked for is the requester's personal data, you should inform the requester that the information is exempt under the FoI Act, but at the same time deal with it as a subject access request under the Data Protection Act.

18.1 Summary of the important tasks

DfE cannot advise free schools on how to answer an FoI request. However, if you receive a request and are unsure how to deal with it, you should ask your delivery officer, in the first instance, as they may be able to help you understand what is being asked of you and can point you in the direction of useful resources.

18.2 Other sources of information

It may be helpful, when considering how best to answer an FoI request, to look at the Information Commissioner's Office website. Compliance with the Freedom of Information Act 2000 is overseen by the Information Commissioner's Office (the independent body with responsibility for the regulation of the Act, EIR and the Data Protection Act). If you receive requests for information that is already publicly available, you should direct the requester to where the information is published.

18.3 Further information

- Free school applications
- Revenue expenditure for free schools
- Capital funding for open free schools

19. Checklists

Download checklists (Annexes A to F) from the Free school are opening guide.

1. Temporary changes have been made to the handling of admission appeals during the coronavirus (COVID-19) outbreak. These changes are set out in The School Admissions (England) (Coronavirus) (Appeals Arrangements) (Amendment) Regulations 2021. Non-statutory guidance is available at changes to the school admissions appeal code has also been published to support admission authorities in managing their admission appeals. ↩
2. Schools that take children under two-years-old must register with Ofsted on its Early Years Register (EYR) ↩

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