



Department
for Education

Opening a UTC

**A guide for UTC proposer groups on the
pre-opening stage**

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Introduction

Congratulations! All your planning and preparation has paid off, and the Secretary of State for Education has agreed that your application to open a UTC should move to the next stage of the process – known as the ‘pre-opening’ stage. This is the stage between the approval of your application and the opening of the school.

The setting up of a UTC is a challenging but ultimately very rewarding task and it will require significant commitment and time from sponsors and partners. Your original application set out your plans for establishing the UTC, from the education vision and the admission of pupils to the recruitment of staff and the curriculum. Now your application has been approved, you must begin work to implement these plans.

The letter of approval you received from the Department for Education (DfE) sets out important conditions of approval. It is vital that you consider these conditions carefully in planning your priorities and what you need to focus on next. If you do not meet the conditions of approval set, your project will not proceed any further through pre-opening and will not receive a funding agreement.

The purpose of this document is to give you an overview of the key tasks you will need to complete to turn your plans into reality and to ensure your UTC can open successfully and on time. It is intended to help you navigate your way through the process, but it is important to remember that each project is different and it will have its own planning timetable and challenges. There are, however, some activities that must be undertaken by all projects; and some of these activities will be dependent on other tasks having been completed. We have aimed to capture these for you in this document.

Using this guide

We hope this guide helps you to get your pre-opening preparations off to a good start. We have set out, in separate sections, guidance on each of the key tasks you will need to undertake. We have also included links to supplementary guidance or signposted other sources of help.

To help you plan and develop your timescales for completing the key tasks, we have provided a project tasks checklist (the Annex).

It is important to note that the completion of these tasks is critical to ensuring your UTC will open, and on time. Delays and failure to complete these tasks appropriately may put your project at risk of not succeeding. In some cases, where there is strong evidence to indicate that a UTC may be unable to open on time, there are insufficient pupil numbers and/or the school is not financially viable, Ministers may take a decision to defer or even cancel approval of a project.

Section 1 - Who does what - roles and responsibilities?

- 1.1. The Government's guiding principle is that as committed and capable sponsors and partners, you should have the skills and expertise to open a high quality UTC as quickly as possible – without the Government being prescriptive and without unnecessary bureaucracy. The roles and responsibilities described in this guidance reflect that principle – UTC trusts are in the lead, with support from your lead contact in the Department when needed to help navigate the pre-opening processes.
- 1.2. Setting up your UTC will be challenging and you will need a lot of time and commitment. The support provided by the Department will be proportionate to: the needs of the trust; your experience; your track record; and the challenges you face during the pre-opening phase. We also want to encourage peer to peer support and the dissemination of good practice, and the Baker Dearing Educational Trust can help with this.
- 1.3. UTCs, as an academy, have more autonomy than local authority maintained schools. We encourage you to make full use of the freedoms and flexibilities afforded to academies when establishing your UTC in order to achieve excellent educational standards.

UTC sponsors and partners

- 1.4. The UTC trust is responsible, and accountable, for leading and managing the establishment of the UTC and converting the vision into an operating UTC. The trust is responsible for using any funding effectively and engaging the necessary expertise and support.
- 1.5. Typically, sponsors/partners will carry out the following tasks:
 - **Provide vision, drive, and innovative solutions.** Guiding the development of the UTC.
 - **Manage the Project.** This includes agreeing project management and project steering arrangements and being accountable for your project's successful delivery.
 - **Governance.** Agreeing the articles of association with the Department; and then playing a leading role in the composition of the UTC trust board and appointment of governors/directors/trustees.
 - **Statutory consultation.** Consulting widely on your proposals in line with your statutory requirements.

- **Pupil recruitment and admissions.** Putting in place fair admissions arrangements that are compliant with the School Admissions Code; and attracting and recruiting students to your UTC.
- **Staffing and educational plans.** Developing the curriculum and specialist provision; developing the school policies including admissions and Special Educational Needs policies; and recruiting a principal designate (PD) and the teaching and support staff needed to open.
- **Finance.** Managing the funding you receive in pre-opening efficiently and effectively and securing value for money, and planning and putting in place systems for managing funding when open.
- **Site and buildings.** Chairing the Design User Group (DUG) and contributing to the development of the general requirements for the building and the ICT vision for the UTC, and how these will be delivered.
- **Funding agreement.** Agreeing the terms set out in the funding agreement and understanding the associated legal responsibilities and implications.
- Preparing for and providing information for the **Ofsted pre-registration Inspection** and the **readiness to open** meeting.
- **Keeping the Department informed (via your lead contact)** on the progress of the project.

1.6. During the application stage, you will have demonstrated your capacity and capability to open a UTC and carry out these tasks, many on a pro-bono basis. It is vital that this capacity and capability is now delivered in the pre-opening stage.

The Department for Education

Your main Departmental contact (lead contact)

1.7. You have been allocated a lead contact from the Department who will meet you soon after you enter pre-opening for a 'kick off' meeting. They will also invite your EFA capital project director (see below) to the meeting to combine general pre-opening matters with a first site discussion. Your lead contact will give you feedback on the assessment of your application and re-iterate any specific conditions which will need to be met in order for your project to progress successfully through pre-opening. He or she will also want to discuss your immediate priorities and answer any questions you have about the pre-opening stage. Your EFA capital project director will discuss site options and what will happen next to secure your site.

1.8. Your lead contact is:

- responsible for advising Ministers on your proposals through the pre-opening stage to funding agreement and, assuming that is signed, on to opening. After opening, your main contact will be an official from the EFA; and
- the link to others within the Department that the project may need to draw on, such as Departmental lawyers, procurement specialists, EFA revenue and policy teams.

Other Departmental advisers

1.9. Your Departmental education adviser – who will make contact with you shortly after opening - will be responsible for:

- advising on the educational elements of the UTC trust's planning;
- reviewing the education plans which set out the overall education strategy for the new provision; and
- advising on, and being involved as appropriate, in the appointment of the principal designate.

1.10. Your EFA capital project director (EFA PD) - who will support you in managing all capital elements of the project (including site and buildings). They will:

- set the capital funding envelope;
- provide procurement advice;
- appoint a technical advisor (see below) to work on your behalf;
- attend and advise the DUG as necessary;
- attend and advise the project steering group (or equivalent) meetings as and when required depending on their availability; and
- review and approve the feasibility study and final business case.

1.11. Your technical adviser - who will be appointed by the EFA and will have day to day responsibility for managing the build project, liaising with architects, planners, building contractors. They will:

- manage the range of specialist technical staff required to provide expert services on your project, e.g. quantity surveyors, architects and build contractors; and
- provide the secretariat for the DUG.

- 1.12. The fees for this service will be included in the project's capital budget. In exceptional circumstances it is possible for projects to use their own technical adviser, subject to agreement with the EFA and demonstrating that this provides good value for money. However, it is strongly recommended that projects use the EFA-contracted service in order to benefit from their expertise and minimise costs.
- 1.13. Your EFA ICT adviser - will give advice and guidance on all ICT elements of the project. In so doing, he or she will ensure that there is consultation regarding ICT with relevant stakeholders. He or she will:
- work with you to identify and agree the strategy and ICT requirements to support the education plan;
 - set the ICT capital and infrastructure costs; and
 - support the ICT elements of the feasibility study and support all elements of the ICT procurement, providing advice and guidance, including advice on management information system (MIS) providers and support on the procurement of ICT equipment.

Baker Dearing Educational Trust (BDT) representative

- 1.14. The BDT representative will be able to provide additional support throughout the pre-opening processes up to when the UTC opens. The BDT role will complement the contribution of the Department and its partners and ensure that the UTC that opens complies with the UTC model developed by the Baker Dearing Educational Trust.
- 1.15. Typically, the BDT may focus its contribution on university and industry partner engagement, governance, curriculum design and principal designate appointment. Separately, the BDT may bring together UTC projects to share best practice.
- 1.16. The BDT will not be solely responsible for delivery of any particular strand or phase in the pre-opening phase but will work with the UTC and Departmental lead contact. The BDT representative may join the project steering group meetings at the request of the chair and whenever practical.

The local authority

- 1.17. The role of the relevant local authority (in the area in which the UTC will be situated) will vary between different projects. In some cases they may be the freeholder of the site and/or responsible for entering into the contract for the building work.

1.18. In addition, your lead contact, as part of section 9 of the Academies Act 2010, will write to the local authority where your UTC will be located together with any surrounding local authorities within the catchment area of the UTC to seek their views on the establishment of the UTC.

Section 2 - Managing your project

- 2.1. There is a lot to do before your UTC is given final approval to open. The setting up of a UTC is a challenging task and requires significant commitment from sponsors and partners.
- 2.2. As explained in Section 1, you are responsible for leading and managing the establishment of the UTC and converting the vision into a ready to open UTC. You will need to put in place robust, but proportionate, planning and project management arrangements to oversee a wide range of activities essential to the opening of your UTC. To help you develop a project plan and identify what needs to be done – the key tasks in pre-opening are described below, together with the support available. You will also need to put in place quickly and act upon an effective marketing strategy to engage with parents, the community and key stakeholders. Effective marketing will be vital to recruiting pupils.
- 2.3. The Department will provide a project development grant of £300,000 to help the trust cover some of the essential costs in the run up to opening a UTC. More information on this funding is given at section 8. This will complement the expertise and resources that sponsors and partners will provide.

Key tasks to undertake in the pre-opening phase

- 2.4. Each UTC project is unique, but in all cases you will need to consider:
 - Managing your project
 - Governance
 - Pupil recruitment and admissions
 - Statutory consultation
 - Staffing and education plans
 - Site and buildings
 - Finance
 - Procuring additional support
 - Funding agreement
 - Preparing to open
- 2.5. The sections following in this guidance sets out the main things you will want to consider. We have also included a project task checklist in the Annex.

- 2.6. It is important that you complete the key tasks set out in this guidance as they are critical to the successful opening of your UTC. The timescale for opening is generally very tight, so effective planning and project management is vital. Delays or failure to complete these tasks appropriately may put your project at risk of not succeeding. In some cases, where your UTC may not be able to open on time and/or is not financially viable, Ministers may take a decision to defer or even cancel approval of the project.

Capacity and capability

- 2.7. You will have set out in the capacity and capability section of your application how you intend to manage the project. This will have included the expertise and resources that sponsors and partners will provide. You now will need to agree roles and responsibilities for each person involved in the project; ensuring that everyone understands what is expected of them and within what timescale. You will want to make sure you have a named person responsible for managing the project, bringing together all the various strands of activity and managing risks. You will also need to ensure you have access to appropriate educational and financial expertise. With many people involved, it will also be important to establish how and when significant decisions will be made.
- 2.8. In deciding how to manage these tasks, your trust will need to decide whether to buy in some additional support or expertise (see Section 9 for more information on procurement and additional support). You may also be able to identify organisations or individuals who are willing to provide support without charge. In this respect, you may wish to consult the Baker Dearing Educational Trust (director@utcolleges.org.uk) who can advise you and put you in touch with other UTCs who could share their experience with you.

Project planning and management

- 2.9. It is critical that you put in place robust planning and project management arrangements and invest time to do this very early on in pre-opening. In doing so, you will want to identify the essential tasks you will need to undertake and to ensure you allocate sufficient resources to be able to complete these tasks well and on time. You may use the project development grant to buy in project management support.
- 2.10. It is important that you have in place clear and auditable arrangements for project support, managing public funding and making timely and appropriate decisions regarding the UTC. Many projects call their steering arrangements 'project steering groups' (PSGs). It is up to each trust to decide what project steering arrangements they want to put in place to help them plan and manage their project

and monitor progress. BDT can advise on different models of project management/steering/decision making mechanisms adopted by past UTC projects.

- 2.11. Your DfE lead contact should receive steering group papers and, as necessary, attend meetings in order to advise the trust on formal requirements and share good practice. Your lead contact will also, as necessary, hold other checkpoint meetings with you throughout preopening in order to review progress on the project and your management of the key tasks and hold projects to account. He or she will also use the information gathered through these mechanisms to update Ministers on a periodic basis.

Section 3 - Governance

- 3.1. Each UTC must be underpinned by strong, effective and robust governance arrangements, both during the pre-opening phase and once the school opens.
- 3.2. In pre-opening you will need to:
 - finalise your governance arrangements, including agreeing your memorandum of understanding and articles of association; and
 - recruit the people with the right skills and experience as trustees and establish your board of trustees (also known as the governing body).

Setting up your academy trust

- 3.3. The UTC trust (the trust) is the charitable company limited by guarantee that runs your UTC. It will be the legal owner of the UTC's assets and it employs the staff. Prior to your application you will have established this company, signed the memorandum of understanding and submitted this, together with the articles of association, to Companies House when registering the company. Setting up the trust also allows you to open your company bank account into which the Department will pay your project development grant. As a company, the trust is made up of members and directors/trustees/governors. The section below describes these roles.
- 3.4. The choice of a suitable business name (i.e. the name a UTC goes by and uses in its literature and signage) is a matter for the UTC trust. However, proposed business names using the word 'University' will require approval by the Department for Business Innovation and Skills (BIS). This is to ensure that the members of the public are not misled by a name which implies a connection with an existing University where there is no such connection, or the existence of a university which does not in fact exist. BIS has no role in approving names which simply include the acronym 'UTC' - only in names including the word 'University' in its full form. Your lead contact can advise you on this and seek BIS's approval where necessary.

The meaning of trustee, director and governor

- 3.5. In this document there are frequent references to trustees. This is taken to be the same body of people as both the directors of the company and the governors of the academy; the words are used interchangeably. They are the people responsible under the academy trust's governing document for controlling its management and administration. They have responsibility for directing its affairs,

and for ensuring that it is solvent, well-run, and delivering the charitable outcomes for the benefit of the public for which it has been set up.

- 3.6. Individuals must ensure that they fully understand their duties as company directors and charity trustees. The duties of company directors are codified in sections 170 to 181 of the Companies Act 2006. The role and duties of charity trustees are described by the Charity Commission in their leaflet CC3: The Essential Trustee.
- 3.7. The members of an academy trust are the subscribers to its memorandum of association, and any other individuals permitted under its articles of association. Their powers may include the authority to appoint trustees. Members may have a limited financial liability to the trust, if it is wound up, which will be set out in the trust's memorandum and articles of association. The members of an academy trust have a different status to, and are not the same body of people as, the trustees although there can be some overlap.
- 3.8. Trustees/governors are responsible for setting the strategic priorities for the UTC, holding the senior leadership team to account for the school's educational performance and improvement and running the trust properly. The role requires commitment as well as the right experience and skills. Trustees' roles and lines of accountability must be clear and trusts must put in place arrangements to ensure members and trustees avoid conflicts of interest (see para 3.28 to 3.31).

Memorandum and articles

- 3.9. In finalising your governance arrangements, you must ensure your:
 - articles of association are in line with the Department's model articles; and
 - arrangements for the membership and structure of the board/board of trustees have been put in place, in particular that the majority of the board/board of trustees are nominees of the employer and university sponsors named in article 1 of the articles.
- 3.10. Your articles describe your trust's constitution and establish the governance framework. You must agree the articles of association with the Department before the funding agreement can be signed. The model memorandum and articles for a UTC can be accessed [here](#). The articles of association describe your trust's constitution and establish the framework of your governance arrangements. The Department's model articles have been designed to follow best practice in corporate, charitable and school governance. This is why we expect you to use our model articles to establish your trust.

- 3.11. Your lead contact will need to see your articles and be satisfied that they are in line with our model before recommending that Ministers enter into a funding agreement to open your school. You should send your draft memorandum and articles of association **by the 30 April 2014** to your lead contact for agreement.
- 3.12. In finalising your governance arrangements, you will also want to ensure any comments made by the Department in your approval letter on changes required have been taken into account; that accountability lines are clear.

Recruiting trustees/governors

- 3.13. You will need to recruit trustees/governors with the commitment, experience and skills to hold the UTC's leadership to account, and assure the proper running of the company (the trust). As the UTC moves toward opening, your trustees should be working with your principal designate on the UTC's key documents and protocols.
- 3.14. Once the school opens, UTC trustees will need to:
- use attainment and other data (in particular the Ofsted dashboard and RAISE online) to assess the school's progress, strengths and weaknesses;
 - have the confidence to challenge the senior leadership team, acting as a critical friend to maintain focus on improvement;
 - be independent of mind, with the confidence and experience to drive through change, for example in making the case for and implementing the freedoms open to trusts;
 - use financial and workforce data to inform decision-making about the trust's spending commitments, to ensure the trust makes appropriate and effective use of public money. Recruiting at least one trustee who holds an accountancy qualification is recommended;
 - represent the interests of industry and the rigour of higher education; and
 - maintain the highest professional standards as a trustee, exemplifying the seven principles of public life as set out by the Nolan Committee.
- 3.15. These attributes will be particularly important for the person who becomes chair of trustees, whose relationship with the principal, the other trustees/governors and the members, is key to good communication and effective accountability arrangements.
- 3.16. Parent trustees are elected by other parents, not the trust, but they take on the same responsibilities as every other trustee so it is vital that you do what you can

to ensure that candidates understand the role and have the necessary skills and commitment (the term of office is four years). This will help to avoid disruption caused by parents (or for that matter any other trustee) stepping down early because they had not appreciated the demands of the role.

- 3.17. You may be tempted to appoint as trustees, individuals who make a strong contribution to the pre-opening project team. This can be appropriate but only if you are confident that an individual will make a full contribution as a trustee in the longer term, based on the skills and experience outlined above. If not, there are other ways to involve partners and give people a say over the running of the school, for example as non-trustee members of committees, or on informal working groups reporting to the trustees.
- 3.18. The majority of your trustees should be nominees of the employer and university sponsors named in article 1 of the articles. In addition, SGOSS (formerly known as the school governors' one-stop-shop) helps schools find trustees in their area, including volunteers from Barclays Bank (the bank has made a commitment to provide free leadership and business skills to support UTCs and academies, including encouraging their staff to volunteer as school trustees). Further information on SGOSS can be found [here](#).
- 3.19. However you recruit your board of trustees, you should aim to have recruited a capable chair and identified the majority of your trustees at least 6 months before your school's proposed opening date. This does not include staff or parent trustees, who you can appoint during the first term post-opening. Your lead contact will challenge you on progress on trustee appointments, and governance will also be scrutinised at your readiness to open meeting, where the chair will be expected to play a full part in the discussion, alongside the principal designate.

Board of trustee/governing body induction and training

- 3.20. We recommend that you dedicate some pre-opening grant to trustee training. For example, you will want to consider signing your chair of trustees up to the leadership development programme for new chairs, run by the National College. The programme is delivered by licensed providers in every region, with enrolment on a termly basis and courses taking around a year to complete. It can, therefore, be started by a new chair during pre-opening. The cost of the course is £350 per person.
- 3.21. The Department's National Leaders of Governance (NLG) programme is open to free schools (including UTCs) in pre-opening to help proposer groups put in place effective governance arrangements. NLG support is free and further information can be found [here](#).

Size of your board of trustees/governing body

- 3.22. You will have indicated the size of your board of trustees in your articles in which you will have specified how many trustees will be appointed by the members, and how many additional trustees the board of trustees will be able to co-opt, including parent trustees, the principal and any other type of trustee.
- 3.23. Large boards of trustees should be avoided because they can find it harder to make decisions quickly and effectively. Between six and 12 high-calibre trustees ought to be sufficient to manage your trust effectively, with any specialist knowledge as and when required provided by committees or advisory bodies, or other experts such as the clerk to the trustees or the trust's legal advisers.
- 3.24. You should expect your lead contact to challenge you if they consider your board of trustees is unwieldy and larger than is justified according to the likely needs of the running of your UTC. Your lead contact may suggest that you ask some individuals to stand down if it is not clear that they will bring essential skills, or if they judge the size of the group to be unwieldy.

Trustees' commitments post-opening

- 3.25. As a guide, trustees have in the past tended to commit between 10 and 20 days each year, with three full board of trustees meetings each year, plus committee meetings, which individual trustees may attend. This picture is changing rapidly though, as academies, free schools including UTCs and an increasing number of maintained schools reconfigure their governance arrangements, in many cases requiring more frequent meetings of the board of trustees/board of governors.
- 3.26. The burden on individual trustees can be lessened through effective use of committees and working groups, which can work on behalf of the trustees to explore specific areas of interest, and make recommendations to the board of trustees/take decisions on the board of trustees' behalf.

Clerk to the board of trustees/governing body

- 3.27. You are strongly encouraged to appoint a clerk to the trustees who will administer board of trustees meetings and ensure that all the necessary legal procedures are followed. Each meeting of the board of trustees must be formally recorded so that it is clear what matters were discussed and what action was approved. There may also need to be formal documents produced and circulated before or after the meeting. All of these duties are performed by the clerk. More information on the role of the clerk and how to appoint a clerk can be found on the internet.

Conflicts of Interest

- 3.28. A conflict of interest can be defined as ‘any situation in which a trustee’s personal interests, or interests that they owe to another body, may (or may appear to) influence or affect their decision making.’
- 3.29. It is inevitable that conflicts of interest will arise at some time and even the perception of a conflict of interest can damage your trust’s reputation. Your priority should be to ensure that trustees understand their responsibilities for managing public money, which are set out in detail in the [Academies Financial Handbook](#) and include putting the right mechanisms in place to identify and manage conflicts of interest.
- 3.30. Conflicts are most likely to arise where trustees intend to provide goods or services to the trust that could, will or might be seen to compromise their ability to act solely in the interests of the trust. This could be caused for example where a trustee owns, is employed by or has a personal relationship with, a third party seeking to contract with the trust.
- 3.31. Your lead contact will challenge any appointment he or she feels creates an unacceptably high risk of a conflict for your trust, but the responsibility is yours and we will expect you to ensure that:
- Any individual or organisation represented as a member of your academy trust, or with influence over the trust through other means, understands that they will only be able to bid for contracts from the trust on an ‘at cost’ basis. This is in line with the approach taken by the department with approved academy sponsors.
 - Any individual or organisation expecting to provide goods or services to the trust has no role in nominating the members of your academy trust.
 - Trustees and members comply with the protocols set out at Articles 6, 98 and 99 of the model articles, which ensure that decisions are taken without bias and that individuals who are ‘conflicted’ take steps to avoid influencing a decision.
 - Trustees establish and maintain a register of interests to identify and record potential areas of conflict. The register should be completed and kept up to date by all trustees and any staff with budgetary control, covering them and their family members. This will show that your trust’s decisions are being made free from conflict. The register of interests should be a standing item at every meeting of the board of trustees.

- Trustees and members understand the need for all procurement to follow an open and fair competition. The internet provides guidance on [procurement essentials](#).

Disclosure and Barring Service checks

3.32. It is a requirement of the independent school standards that the DfE Disclosure and Barring Service (DBS, formerly CRB) checks the chair of trustees for all new schools, including UTCs. The DfE does not do any checks on members of the trust or others on the board of trustees. Instead, individual UTC trusts will need to determine for themselves which individuals involved with the trust require a DBS check because they will come into contact with children and young people. In all cases though, the chair of trustees should have an enhanced check and this must be verified through the DfE. The Disclosure and Barring Service website, including link to the umbrella body database, can be found [here](#). Your lead contact can provide more information on DBS checks.

Section 4 - Pupil recruitment and admissions

- 4.1. Your UTC's educational and financial viability is dependent upon the recruitment of pupils. This is particularly challenging as you are recruiting pupils at age 14 which is not a standard age that pupils change schools. We know there will be a lot of calls on your time – whether it be recruiting a principal designate or finding a site – but attracting sufficient pupils to ensure your UTC is viable is essential. Many crucial elements are driven by pupil numbers: financial viability, educational planning, and staff recruitment.
- 4.2. In this section we highlight the importance of pupil recruitment and the marketing activity to support this, and explain your responsibilities in relation to pupil admissions.

Marketing and pupil recruitment

- 4.3. Your marketing activity should increase now you are in pre-opening, and build on the publicity and interest you have already achieved. This will show parents who have already expressed an interest that the UTC is moving to the next stage. It will help give them confidence in the UTC and encourage them to make an application. It will also give you the chance of attracting new parents who may not have paid much attention so far but who would be interested now the UTC is becoming a reality.

Hints and tips on marketing

- 4.4. Each UTC project is different, and so the marketing and pupil recruitment activity that works for one group will not necessarily work for others. There are, however, some general principles and lessons learned by previous projects that should help you get the most out of your planned activity. The key is to maintain momentum, so make sure, for example, that newsletters are issued regularly; online information is up to date; and that you publicise key milestones, such as the appointment of a principal designate or securing the site.
- 4.5. When preparing your application you will have looked at local context such as parental demand, employer skills' needs, and where there is a need for places. You should use this information now to target your efforts. UTCs with large sub-regional catchments must ensure that you consider the audiences across the entire catchment; this will include neighbouring local authorities, schools and colleges, parents and their children. You will also need to consider equalities issues as part of your marketing, for example, to ensure that different ethnic groups in the locality can access the information or that the marketing material is attractive to both males and females.

- 4.6. Local radio is a very powerful tool – you can book paid advertising space but you can also get free publicity.
- 4.7. Engage and build strong links with local schools and colleges as having their support will be invaluable. Some schools will see the UTC as a threat, but if you develop a good rapport with them, describing your vision for the UTC and explaining that it will offer specialist curricula and different opportunities to traditional schools, this can help them to recognise that the UTC will not be in direct competition. These schools can help market your UTC for you through their own networks. Once you have discussed your plans with the schools, offer to speak at assemblies or have a presence at school events such as parents' evenings and transition days.
- 4.8. Produce regular newsletters: you can distribute printed copies locally, or via email to your contacts list. You can use an online email marketing company to send out mailshots. Translate your leaflets and newsletters into languages which reflect the make-up of the local community.
- 4.9. It is absolutely essential that comprehensive information is available on your website, and that the website is updated regularly. It will help to have a dedicated person to maintain the site to keep it fresh. Make sure that all enquiries are followed up quickly, and ask correspondents if they are happy to add their email addresses to your contacts list for information and updates.
- 4.10. You can also maintain the UTC's profile locally and nationally, especially by using social media, eg by creating a Twitter account for the UTC or using Facebook.
- 4.11. Face-to-face contact with parents has proved especially effective, and can build on any written/online information you have produced. Events are a key feature. They provide an effective platform to showcase your UTC, and can also provide an opportunity for parents and pupils to meet the principal designate and teaching staff, and the employer and university partners. Make sure you have application forms available at these events – take parents' details and follow-up with an email or leaflets. Previous groups have also found that holding events with a theme can attract more people and give them a fuller flavour of what your UTC would be like. For example, work based learning sessions; fun science experiments; mini challenge projects, have all proved popular.
- 4.12. It is also helpful to work closely with and through all your partners, including employers, and use their networks and contacts. Many projects have also utilised the experience of sponsor universities who often have particular expertise in this area of marketing to young people and may be well placed to make a particularly significant contribution to this. They have also deployed their own marketing student teams to come up with and deploy marketing strategies as part of their course. Employer partners might also be able to share marketing expertise, or

could be involved in events to showcase the types of careers that might be open to students on leaving the UTC.

Timing of marketing activity

- 4.13. It is also important to consider timing of activity. Whilst marketing should be an on-going activity, here are some key dates when you will need to increase your efforts:
- during your statutory consultation – make sure you tell people what your UTC and UTCs more generally are about and what you are trying to achieve;
 - leading up to application deadlines – these are crucial times for parents, and they will be looking for information; and
 - in advance of national offer days (around 1 March for UTCs), and you need to make sure your school is first in parents' minds if they don't get their choice of school.

Evidence of pupil recruitment

- 4.14. You will be expected to provide regular updates on your progress on pupil recruitment to your lead contact, throughout the pre-opening period. Your lead contact might also ask to see evidence to support your updates.
- 4.15. For trusts running their own admissions process, your lead contact may ask for written confirmation of the number of applications (and then accepted offers) received. They may also ask for scanned copies of applications/accepted offers or for you to bring hard copies to checkpoint meetings, for reference.
- 4.16. For trusts which are part of the local authority co-ordinated admissions, your lead contact may ask you to provide written confirmation from the local authority of the number of applications (and then accepted offers) they have received for the UTC.
- 4.17. To ensure compliance with data protection requirements, trusts running their own admissions should make clear on the top of the application form that the information provided may be used by the Department for Education but that it will not be kept any longer than necessary.

Admissions: your responsibilities

- 4.18. As an academy trust, you are the admissions authority for your UTC. This means you are responsible for:

- making sure your admissions arrangements comply with the [‘School Admissions Code’](#) and the [School Admission Appeals Code](#) (the ‘Codes’) including the overall spirit that the arrangements should be fair, clear and objective, as well as abiding by individual requirements;
- consulting on your proposed Code-compliant admissions arrangements as part of the consultation you will carry out under Section 10 of the Academies Act 2010;
- consulting on and determining (or finalising) the new arrangements if you want to change your admissions arrangements when the school has opened;
- managing applications to the school, either directly (in the first year) or through the local authority’s co-ordinated process; and
- organising an independent admission appeals panel in compliance with the School Admission Appeals Code.

4.19. Your UTC will admit pupils into the school at Years 10 (pre-16) and 12 (post-16) and your admissions arrangements for both years of entry will still have to meet the requirements of the School Admissions Code.

4.20. Every UTC also needs to operate within the local Fair Access Protocol. The protocol is operated by your local authority, but must be agreed with the majority of local schools. It is the mechanisms for ensuring children who are hard to place are allocated a school place quickly. UTC can be required to admit such children over and above their admission number, but places must be allocated equitably across schools in a local authority’s area.

Admissions: local authority responsibilities

4.21. Even though you are the admissions authority for your UTC, the local authority in which the UTC is situated still has a number of responsibilities relating to your admissions process. This means they are responsible for:

- from the second year, operating a co-ordinated admissions process for entry into Year 10 including into UTCs - local authorities have a statutory duty to co-ordinate the awarding of places to all children (below post-16 entry) in their area. UTCs can manage their own admissions into Year 12; and
- submitting a report to the Schools Adjudicator each year on the admissions arrangement for all schools (including academies, free schools, UTCs and studio schools) in their area, and on the extent to which they comply with admissions legislation and the School Admissions Code.

- 4.22. The local authority may not be willing to include the UTC in their co-ordinated admissions process until the funding agreement has been signed, but we have found that many local authorities are willing to include UTCs before that - sometimes with a proviso for parents pointing out that the places are subject to the Secretary of State signing a funding agreement.
- 4.23. The deadline for the local authority to publish its composite prospectus is 12 September, roughly one year before pupils will start at the UTC.

The admissions process

- 4.24. As part of your admissions arrangements, you will need to decide how and when the UTC will accept applications and make offers. The local authority is required to co-ordinate admissions for all state-funded schools in its area, which means they accept applications on their common application form (CAF), manage the admissions process, and make offers. They are also required to publish a composite prospectus containing details of all schools in their area (including UTCs) and to keep the prospectus up to date.
- 4.25. As a UTC, your funding agreement allows you to choose not to be part of the local authority's co-ordinated admissions process and to manage your own admissions process for the first year only. This is in recognition of the timescales involved in setting up a UTC which may not necessarily permit full participation in the local authority's co-ordinated admissions process. UTCs must participate in local authority co-ordination for entry into Year 10 thereafter. The Code allows greater flexibilities for post-16 entry and UTCs can manage their own admissions into Year 12 beyond the first year.
- 4.26. It is important to remember that if you choose not to be part of the co-ordinated admissions process, your UTC should still feature in the composite prospectus (see below). This has the tremendous advantage that information about your UTC is made directly available to all parents who are applying for a place, at the time they are making decisions.
- 4.27. You have three main options for managing your admissions process in the first year:
- a. **Parents make a stand-alone application for a place at the UTC. You will receive applications directly from parents and manage the process yourself.** This allows you to set your own application deadlines and the date on which you will send out offer letters. The UTC will not be part of the local authority's co-ordinated scheme. You will want to make sure that application forms are readily available to parents and that the process for submitting an application form is clear and straightforward. Remember, even if you manage

the application process yourself you can still request that the local authority includes details of the UTC in their composite prospectus. This will help you to attract high numbers of applications. Also, if your funding agreement is not signed by the time you make offers, you would still be able to make conditional offers, while parents could still hold a place at their current school. This affords them some security in that their child is assured of a school place, even if your UTC runs into problems and does not open.

- b. **Parents make a stand-alone application for a place at the UTC but you request that the local authority accepts applications on your behalf.** As with option (a), you will be able to set your own application deadline and offer date and the UTC will not be part of the local authority co-ordinated scheme. However, in this option, parents would submit their application to the local authority that would support you to allocate places and make offers. You will need to discuss with your local authority whether or not they would be able to provide this service – bear in mind they may charge. The application form could be produced by the trust or local authority but it would be a separate form to the CAF. However, not all local authorities will offer this type of support. You may also decide that it is in your interest to receive applications directly from parents so that you are in full control of the process and information provided to parents.
- c. **Choose to be fully part of the local authority co-ordinated admissions process – so the local authority would manage your admissions in the same way as they do for other schools.** Applications to your school would be made via the local authority CAF, and in line with local authority timelines. Once all applications have been received, the local authority will provide you with a list of all applicants who named the UTC as one of their choices. You would then rank them according to the published criteria, and return the list of successful applicants to the local authority. Offers would be made by the local authority on or just after 1 March.

4.28. Please note that if your UTC is included in the local authority's allocation process, but you have not signed a funding agreement by national offer day, it is possible that the local authority could decide not to offer places at your UTC, as they could only be conditional. If this is the case, you would then have to make your own offers to parents that are conditional on the funding agreement being signed.

4.29. You will want to consider which option will help your UTC to secure the highest number of applications. For example, whilst asking parents to apply via the CAF may reduce the level of administrative work you have to manage in pre-opening, it also means you will need to abide by the local authority's application deadlines of 31 October for secondary schools. This might be before you have secured your site or your principal designate has taken up post. As a result, parents may view

the UTC as a risky option and be unwilling to name it as their preferred choice, and this may reduce the number of applications that you receive.

- 4.30. However you choose to manage your admissions process, you, as an admissions authority, are responsible for ensuring your arrangements are administered fairly, clearly and objectively in line with the School Admissions Code and School Admission Appeals Codes.

Your admission arrangements

- 4.31. Your admissions arrangements should make it clear to parents how and when to apply. Criteria should be fair and objective so it is clear how decisions are made – this will also minimise the chance of potential challenges or complaints, for example to the Schools Adjudicator. It is also a requirement of your funding agreement that your admissions arrangements abide by the School Admissions Code (and the Secretary of State will not enter into such an agreement where we have reason to believe that this will not be the case).
- 4.32. Your draft admission arrangement should be sent to your lead contact by **30 April 2014**.
- 4.33. There are some key things all Code-compliant admissions arrangements should include:
- the PAN (published admission number) for each year of entry into the school;
 - clear oversubscription criteria;
 - how and when applications can be made;
 - details of a waiting list; and
 - details of your independent appeals process.
- 4.34. In this section, we go through each of the required elements in turn, and explain why and how they need to be included. You should also refer to the model admissions arrangements which explain more about the options and provides text for you to use in your own arrangements. The requirements are:
- First and foremost, all children who have a **statement of special educational needs (SEN) that names the school automatically get a place**. The statement is made by the local authority and specifies the special educational provision required for that child.
 - You need to include **your PAN for each relevant age group**, i.e. for every year group into which you will admit pupils. For example, a UTC will have a

PAN for Years 10 and 12. It is important to remember your PAN is the number of external pupils you will admit to the school – so for instance, if you have 100 pupils in Year 11 and 120 places in Year 12, and expect all your Year 11s to transfer, your PAN for Year 12 will be 20. In the first few years of opening, you may be admitting into several year groups as you build up to capacity: that should be reflected in your arrangements, and numbers given for each of those years. If you are having difficulty recruiting pupils, you may need to think about reducing your PAN for the first year to ensure your UTC is viable. If you publish a PAN of 60 but only get 40 applicants you need to admit them all. If you decide to reduce your PAN, you must do so as soon as possible, and before you have applied your oversubscription criteria and offered places. Remember you will need to adjust your resources and finances accordingly. It is important to note also that if you have already consulted on your arrangements and want to make any changes you will need to consult again before the funding agreement is signed and let your local authority know. You do not, however, need to consult if you wish to increase your PAN – but you must let your local authority know.

- **Oversubscription criteria:** If you have fewer applications than places – i.e. you are undersubscribed – then everyone who applies will get a place. If there are more applications than places, you are oversubscribed, and will need clear criteria to help you allocate places fairly. It is a requirement of the School Admissions Code that first priority is given to children who are **either looked-after by the local authority, or who have previously been looked-after** (see paragraph 1.8 of the Code). You then need to list your oversubscription criteria in order. We list some of the options you can choose below, and there will be others that are in line with the Code. In our model documents we have included some of the most common:
 - **Catchment:** you can give priority to children who live within a distance of, for example, five miles of the school – but you will need to be clear how that distance will be measured – and how you will distinguish between two children at the same address, in a block of flats, for instance. As UTCs have sub-regional catchments, it will be worth considering describing your catchment in terms of concentric circles, zones or nodal points. Any catchment must be reasonable and clearly defined. It is not lawful to define a catchment area which has the same boundary as the local authority, as it would breach the Greenwich Judgement.
 - **Siblings:** you can give priority to children who have a brother or sister in the school when they apply. You'll need to define what you mean by sibling – for example, whether this will include step-siblings, or foster children etc.

- You might also want to **prioritise other groups or include other criteria** which could reflect your local or individual circumstances:
 - **Distance from a number of nodal points:** with priority given to children who live closest to the nodal point.
 - **Medical/social:** children with a strong medical or social need to attend your school; this should be supported by written evidence from a professional such as a GP or social worker, which shows why your school is essential for them.
 - **Pupil Premium:** the Pupil Premium is given to schools to support children at a disadvantage, such as those eligible for free school meals or in care. You may choose to give such pupils priority.
 - It would also be helpful to make it clear **how you will treat children of multiple births** – if one twin or triplet gets a place, will you automatically admit the others? For example, if you award your last remaining place, and that child is a twin or triplet, you may decide to automatically admit all – or treat them as one application. Alternatively, you could treat them as individual applications, which could result in only one being offered a place.
- **Tie-break:** If you need to distinguish between two or more applications for the same place that cannot be otherwise separated, you will need a tie-break to decide. You can, for example, allocate the place randomly as long as that process is verified by an independent person.
- **Banding:** Banding is an **optional** and permitted way of ensuring that a school's intake includes children of a range of abilities. It is not a way to select children by academic ability or for a particular subject. If you choose to operate a banding system, all pupils will be tested before being offered places. They will be placed in an ability band, and either an equal proportion of places will be allocated to children in each of those bands, or the number of places in each band will be determined by the local or national distribution of ability (which will give more places to the middle ability bands than the high and low levels of ability). Oversubscription criteria are then applied to determine which children within the band are offered places. Your lead contact will be able to give you further information if required.
- **Applications for post-16 places.** As 14-19 schools, UTCs admit pupils to post-16 provision and you must have separate admissions arrangements for entry to Year 12. In doing so you must be clear about the total number of places available, and the number available to external applicants - the PAN. You can either choose to have a PAN of 0, and make clear in your

arrangements that places will only be offered to external applicants if Year 12 is undersubscribed by your own pupils, or you can choose to offer a number of places to external applicants. You must set minimum academic entry requirements for entry to the UTC's post-16 provision (for example, achieving 5 A*-C including English and maths at GCSE). The requirement must be the same for internal or external applicants.

- **Waiting lists:** You need to keep a clear, fair and objective waiting list for at least the first term of the academic year. Children on the list should be ranked in line with your published oversubscription criteria.
- **Appeals:** Parents who have not been offered a place at your school have the right to appeal. Your admission arrangements must tell parents about their right to appeal and the process, deadline and contact details for making an appeal. You can buy in the appeals service offered by your local authority, but are not compelled to do so. There is a cost attached to this – talk to your local authority contact – but it could save you time and possibly money in your busy pre-opening period. You could consider running joint appeal panels with other schools admission authorities – free schools or academies – or contract with other neighbouring local authorities or private providers. If you want to manage your own appeals, you should be prepared to commit time, money and resources to it. You need to set up an appeals panel which must be independent of the school, and comprise a clerk, a chair and at least two other people. You are required to provide training for all panel members. The School Admission Appeals Code is available on the internet. The clerk must have knowledge of the school admissions and admission appeals codes, other law relating to admissions, and be able to offer advice to enable the panel to undertake its judicial function. You will need to make sure that the panel consists of at least one person from each of the following categories:
 - lay people (someone without personal experience in the management of any school or provision of education in any school, except as a school trustee or in another voluntary capacity);
 - people who have experience in education, who are acquainted with educational conditions in the local authority area, or who are parents of registered pupils at school.
- Panel members must not be a member of or employed by the local authority, unless as a teacher or teaching assistant; a member or former member of the board of trustees of the school; or employed by the school.
- **Verification of information:** In operating your admissions arrangements you can request proof that the information provided in the application form is valid. You can, for example, ask for a proof of address (utility bill or bank statement)

to confirm that parents live where they say they do. Again, we have provided examples of wording which you can choose to use if you wish. You must not ask for evidence that does not directly relate to your oversubscription criteria, for example, parents' financial or marital status, or first languages of the parents and family.

Further sources of guidance

4.35. To help you in producing your admission arrangements, your lead contact can provide copies of the following documents:

- model admissions arrangements contain definitions you can use;
- a list of commonly-asked questions;
- a useful admissions checklist; and
- some examples of arrangements used by existing UTCs.

Composite prospectus

4.36. Local authorities have a statutory duty to provide information about school choices in their local area. To be included in the composite prospectus, if you are intending to open in September 2015, you will need to provide your local authority with the information they need to compile the prospectus by 8 August 2014. This is why we have asked you to submit your first draft of your admission arrangements, including how you will manage your application process in the first year, **to your lead contact by 30 April 2014**.

4.37. You will need to provide the local authority with information on how parents can apply to your school, the closing date for applications, and when offers will be made. Contact information and your website address should also be included so that parents know where they are able to find additional information. The composite prospectus will also explain how parents can apply to your UTC.

Consulting on your arrangements

4.38. In the pre-opening period, we advise that you include your Code compliant admissions arrangements as part of your Section 10 consultation. Once you have taken account of any responses for your consultation, published your final arrangements on your website and signed your funding agreement, you should not make any changes to the arrangements without discussing them first with your lead contact. You do not need to consult on increasing your PAN, but you do need

to let your local authority know so they are aware how many places you will be offering.

- 4.39. Once your UTC is open, you will need to consult on your arrangements at least every seven years, even if you do not want to make any changes. You must also consult before making any changes. You will need to allow time for this as you will have to consult in the academic year before the new arrangements would take effect. Any arrangements must be adopted by the board of trustees/governing body by 15 April and notified to the local authority by 1 May in any year after opening.

Section 5 - Statutory consultation

Statutory duty to consult

- 5.1 By law, your trust must meet its statutory obligation to consult under [Section 10 of the Academies Act 2010](#) about the UTC proposal. Section 10 of the Act requires the trust to consult with the people they think appropriate on whether to enter into the arrangement with the Secretary of State. The arrangement in question is the funding agreement that needs to be signed before your UTC can open.
- 5.2 The statutory consultation will inform stakeholders and the local community about the project. This process is very useful as trusts will be able to use and build on the feedback and suggestions they receive. It will also help to raise awareness of your project and form part of your marketing activity to help to increase pupil numbers.
- 5.3 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 agree when to carry out your consultation, how long it will take, who you will consult with, the policies and information about your UTC on which to consult, and how you want those you consult with to respond. You will need to consider any responses to the consultation and whether it is appropriate to make any changes to your plans to take into account any concerns raised in the consultation. You should report and present your findings and conclusions both to those that have responded and to the Department.

What do you need to cover in your consultation?

- 5.4 The duty to consult rests solely with the trust. The Department does not direct or provide specific advice to trusts on how you should go about it. There are, however, some general themes you might want to think about which are set out in the following paragraphs. 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.
- 5.5 The key question you should ask those you consult with is 'whether the trust should enter into a funding agreement with the Secretary of State to open this UTC'. To enable people to provide an informed response to this question, it is recommended that you provide a link to the UTC model funding agreement (the link is given [here](#)) which will be tailored for your particular circumstances.
- 5.6 You should also consider:

- Who needs to be consulted? The Act states that you should consult ‘such persons as the person thinks appropriate’, which will include all groups or people upon whom you believe the opening of your UTC may have an impact. Examples include nearby schools, FE or sixth-form colleges, the local authority, any surrounding local authorities within the wider catchment area, groups with an interest and the local population.
- How long should the consultation be? This is not specified, but six weeks (not including school holidays) should allow sufficient time for people to have a reasonable chance to become aware of the consultation and to respond.
- When should we consult? It must be done before the funding agreement can be signed, but after some other elements are in place, or sufficiently advanced, to enable those whom you consult to have sufficient understanding of the UTC that you are proposing. Examples include admissions arrangements, SEN and other policies, and the site for the UTC.
- How should we consult? Many trusts set up a website specifically for the consultation, but you must take account of those people without access to a computer. 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, open meetings, media announcements or a combination of all of these. You might want to consider producing written materials in different languages depending on the needs of your local community.
- How do we 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 UTC.
- How do we report on the outcome? You will need to consider how you will publish the outcome of your consultation (e.g. by providing the website address where the results will be published). Once the responses to the consultation have been analysed you will need to consider how the findings will be presented both to the Department and other interested parties. The most effective way is to produce a report of the key findings which provides quantitative and qualitative information, details of methods, timings, who you have consulted, the questions you asked and what steps, if any, have been taken as a result of the responses.

5.7 Your lead contact will consider the report of your consultation and the evidence you provide. He or she will use this to advise the Secretary of State on the extent to which you have or have not carried out your consultation in accordance with the statutory duty and how this should impact on his decision whether or not to enter into a funding agreement. This is part of the information presented to the Secretary of State before he signs the funding agreement (see section 10).

- 5.8 The Secretary of State is also required by law, under Section 9 of the Academies Act 2010 to complete an assessment of the impact the opening of the UTC 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. Your lead contact will do this.

Other helpful sources of information

- 5.9 BDT can offer advice and guidance on how to carry out an S10 consultation and the mechanisms employed by other UTC trusts.

Section 6 - Staffing and Education Plans

- 6.1 You will need to turn the staffing and education plans in your application into reality during the pre-opening stage to ensure everything is in place to open successfully – from recruiting high-quality staff to having detailed staffing plans and policies, education policies and schemes of work in place.
- 6.2 You will need to have some policies in place early for consultation and pupil recruitment. Others will be needed ahead of key events such as the readiness to open meeting with the Department 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 year two of opening.
- 6.3 This section sets out what you need to do to recruit and appoint staff and produce the main staffing and education plans and policies ahead of opening.

Appointing your principal designate (PD)

- 6.4 Appointing an excellent principal designate is the most important thing you will do as a trust during pre-opening. Getting the right person is of critical importance to the success of your school. The principal designate will also be involved in appointing other staff and writing the detailed education plans and policies and schemes of work you will need ahead of opening.
- 6.5 Given the importance of the appointment, a DfE education adviser will usually be involved in the recruitment of the principal designate, as an adviser to the trust. PD appointments can be made through open national recruitment or direct appointment ie without advertisement. Direct appointments can be made, where these are appropriate, but as an academy trust you will need to be able to show how the appointment was transparent, fair and equitable.
- 6.6 Most large education recruitment firms and universities run assessments for school leaders. The DfE education adviser may also be available to advise the trust on the suitability of an inexperienced candidate for the principal designate role (e.g. by benchmarking him/her against the criteria for leadership).

Finalising your staffing structure and recruitment

- 6.7 You will 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 key posts. 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, regularly considering 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.

- 6.8 Most UTCs advertise for staff in both national and local press. Some have found holding their own recruitment fairs a good way of attracting staff. Others have used agencies or organisations with talent pools. Many of the major education recruitment agencies have access to pools of staff. Your education adviser may also be able to advise you on what you could do to attract staff.
- 6.9 Remember that all serving head teachers 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 head teacher 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.

UTC freedoms for appointing staff

- 6.10 The trust as the employer is responsible for appointing all staff as they will be the legal employer. UTCs, like academies, 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. However, if you would like to use national pay scales for comparative purposes, these are set out in the Teachers Pay and Conditions Document which is available on the internet.
 - You are not required to employ staff with Qualified Teacher Status (QTS).
 - Your principal designate is not required to hold the National Professional Qualification for Headship (NPQH).

UTC statutory staffing responsibilities

- 6.11 There are some statutory requirements on UTCs with regard to staffing that you should be aware of:
- The SEN co-ordinator (SENCO) and designated lead for children in care must hold QTS; and
 - As an employer, the trust has a statutory duty to offer all of its staff membership of either the Teachers' Pension Scheme (TPS) or the Local Government Pension Scheme (LGPS). Pension contributions must start with employment so the trust should ensure that pension provisions are in place for staff taking up post prior to the school's opening (i.e. during pre-opening).

- 6.12 We recognise that the UTC trust may be asked by a potential principal designate for additional security where a funding agreement has yet to be signed and he or she is being asked to hand in his or her resignation and accept the job at the UTC. Generally, in such cases the Department will underwrite the salary costs, plus on costs, should the school not open, or opening be deferred by a year. The salary would be underwritten for up to two consecutive terms from the point at which the decision is taken not to proceed. Click on the following link to find a [letter](#) which you can share with your principal designate to this effect. Developing your curriculum, education plans and policies
- 6.13 Your curriculum, education plans and policies must explain how your UTC will achieve its education vision; the structure of the school and the student experience. They should reflect the unique characteristics of the UTC including the chosen specialisms, how technical and academic courses will be combined including practical and project based learning and how the university and employer partners will help shape the ethos and curriculum and its delivery. Further information on the characteristics of a UTC can be found on the BDT website [here](#).

Curriculum and qualifications

- 6.14 UTCs should offer a broad and balanced curriculum including the core subjects of English, mathematics, and science alongside technical qualifications. In deciding on the qualifications to offer, UTCs should ensure these are high quality and rigorous and provide access to education and employment opportunities for pupils. The Department for Education publishes an annual list of non-GCSE qualifications that count towards performance tables. We advise schools to reflect on this list of approved qualifications when designing curricula and deciding on qualifications and timetables. The list of approved KS4 and level 3 vocational qualifications can be found [here](#).

Education plans and policies

- 6.15 The Department has developed outline education policies that give guidance on the structure and content of many of the main policies you will be developing. Many UTCs have also found the overarching structure of an education brief helpful as this brings together all of the school's strategic and detailed education plans and policies. This is not mandatory but something many trusts have found to be helpful. These documents can be found [here](#).
- 6.16 As a trust you have statutory duties in terms of all the policies that need to be in place before opening. The Department has published a [guide for schools](#) (including UTCs) about these duties.

- 6.17 You will also 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 in year two of opening.
- 6.18 Exemplar education plans and policies are also widely available. Exemplar policies are available on the BDT 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 UTC in particular to take account of your employer and university engagement plans and the particular ethos and curriculum features of your UTC. Plans and policies are not routinely signed off by the Department's education advisers. We may ask to see some, but this will depend on the level of engagement with your project.

Accountability framework

- 6.19 UTCs will be judged against the same accountability framework as other schools. Last year, the Department announced changes to this framework, including a new progress measure for KS4 that will be in place from 2016. Further details can be found [here](#) and more guidance will be published in 2014. The current performance measures of the proportion of pupils gaining 5 GCSEs graded A*C including in English and maths will no longer be used. From now on, there will be 4 key measures which must be published:
- pupils' progress across 8 subjects. So, a parent will see whether pupils at a school typically achieve 1 grade more than expected, or 1 grade less;
 - the average grade a pupil achieves in these same 'best 8' subjects. This will show, for example, that pupils in a particular school average a high B grade or a low D grade in their GCSEs;
 - the percentage of pupils achieving a C grade in English and maths; and
 - the proportion of pupils gaining the EBacc, which will continue in its current form.
- 6.20 We will also look at including a destination measure to show the percentage of pupils who move on to further study or employment - including further training. Further information on this additional measure will be published in 2014.
- 6.21 UTC performance will be measured within this framework and you will be required to publish the most important information about your performance on your website.

Baseline assessment

6.22 As students join a UTC at KS4, there is the potential that your pupils may have already suffered a dip in performance from KS2 to KS3. UTCs should plan to carry out a rigorous baseline assessment of all pupils against National Curriculum levels immediately on arrival. There are a wide range of products available to schools, but KS3 baseline tests typically include a reading and spelling test; and some form of non-verbal reasoning like CATs (Cognitive Ability Tests). UTCs should look at the baseline data for students on entry at 14 and compare this to their KS2 results to assess whether students have made expected progress during their first years at secondary school. This can then inform your target setting for each student. This will allow you to demonstrate pupil progress to Ofsted.

Section 7 - Site and buildings

- 7.1 The site for your UTC is very important. It can also be the most time-consuming, complex and frustrating aspect of your project.
- 7.2 The earlier a site is secured – ie relevant planning permission obtained and building works agreed - the better. Much else depends upon it, such as marketing your UTC to prospective parents, pupils and staff.
- 7.3 The speed at which a site is secured will depend upon your requirements, the availability of local sites that meet those requirements, and the rate of progress in negotiations. Whilst it is important to secure a site that is appropriate for the UTC, it must also offer value for money for the public purse. During the pre-opening phase, the department will seek to deliver your school with the lowest possible capital cost (acquisition and property costs, plus the costs of necessary works and fit out) for your school.

Roles and responsibilities

The EFA and its agents

- 7.4 The EFA will help you to secure a site and construct the buildings for your UTC. The EFA is the part of the DfE that provides expertise and technical support to ensure good value for money on capital investment. The EFA capital project director (PD) assigned to your project will work closely with your lead contact throughout. The roles and responsibilities of the EFA team are outlined below.
- 7.5 The **EFA project director (PD)** will be your primary point of contact at EFA. The PD oversees a range of others involved in acquiring your site and building the UTC. The PD's level of involvement will vary according to the risk and complexity of your project, but it will be common for the PD to attend regular meetings, particularly in the early stages of the project. The majority of EFA project directors will have a few years of experience on school/UTC projects. Your PD will coordinate the rest of the EFA team to ensure all site related activities occur. They will:
 - Set the capital funding envelope;
 - Provide procurement advice;
 - Appoint a technical adviser (TA) to work on your behalf;
 - Attend and advise the Design User Group (DUG) as necessary;

- Attend and advise the Project Steering Group (or equivalent) meetings as and when required;
- Review and approve the Feasibility Study and Final Business Case.

7.6 The PD will assign a **technical adviser (TA)** to your project, who is under contract with the EFA. The PD will ensure that adviser is adhering to internal processes and will be a point of escalation when issues arise. The technical adviser manages the design, procurement and construction phases of the project on a day-to-day basis. The EFA has a framework agreement to deliver the technical adviser role and the fees for this element will be included in the capital budget. In exceptional circumstances, it is possible for projects to use their own technical adviser, subject to agreement with the EFA. However, it is strongly recommended that projects use the EFA-procured service in order to benefit from their expertise and past experience on other UTC and school projects.

7.7 The technical adviser will have day-to-day management of the design, procurement and construction phases of the project from feasibility to handover. They will:

- Manage the range of specialist technical staff required to provide expert services on your project, e.g. quantity surveyors, architects, build contractors; and
- Provide the secretariat for the Design User Group

7.8 The EFA will provide a **property adviser** to the project (either internal to the EFA or, where commercial negotiations are required, from an external agency), who will be responsible for any site searches and negotiating Heads of Terms (HoTs) on the preferred property. The property adviser will

- Carry out site searches and negotiate during property acquisitions in order to agree Heads of Terms for the site. They will be instructed by, and overseen by an EFA legal manager

7.9 An **EFA legal manager** will be responsible for instructing the property advisor at key milestones and for instructing the external legal adviser (acting on behalf of the Trust and the Secretary of State/DfE) to take forward the legal work to secure the property. The legal adviser will:

- Provide advice, carry out due diligence of potential site options and progress property and construction contracts to completion.

7.10 You will be allocated an **EFA ICT Advisor** who will support the ICT procurement through the EFA's preferred route. The ICT adviser will

- Discuss and agree ICT requirements and suitable solutions with proposers.
- Set suitable ICT budget, scope and specification.
- Provide support on procurement options

The role of the trust

7.11 We need you to attend all the necessary site meetings to review options and agree next steps. We welcome any information and local knowledge you have to help with the site identification and search. By all means find out as much as you can about properties– but you must not enter into independent negotiations. The EFA has experts who will do that for you, but more importantly this is public money and approval will be needed before public funds can be committed.

Finding a site

7.12 Most UTC applicants have already identified a site that can be made available on a peppercorn lease (i.e. for nil consideration). A 125-year peppercorn lease is the Department’s preferred type of tenure, as it ensures long-term security for the UTC as well as value for money. Certainly, where the site is in the ownership of a public body or one of the key sponsors of the UTC, it should be acquired on the basis of a long-term peppercorn lease.

7.13 UTCs will not normally require the construction of a completely new building. Existing premises already identified by the sponsors can be refurbished or remodelled, and we will provide funding to ensure your new UTC is functional and complies with all relevant legislation.

7.14 EFA will join your project kick-off meeting with your lead contact to discuss the suitability of your proposed premises and to initiate the feasibility study stage.

7.15 It is important to bear in mind that approval into the pre-opening stage does not constitute endorsement of your proposed site. You may have your heart set on a particular site, but please be aware that it may not be the most feasible one. Common reasons why we often find that to be the case include:

- it may be too small or too big for the number of pupils;
- it may not actually be available in the time needed to open your UTC;
- it may be too expensive to maintain;
- it may require too much work to be affordable; and/or

- it may not have – and we may not be able to get - the appropriate planning consent for a UTC.

7.16 It will be important to keep an open mind regarding sites you are willing to consider.

7.17 If your preferred site is not feasible/appropriate or if you do not have a suitable site already identified, EFA will do the following:

- ask its property advisers – working as necessary with private agents such as DTZ and JLL – to conduct site searches and provide you with a shortlist of the best available sites;
- work with you to prioritise that list in terms of suitability and viability;
- ask an EFA central technical adviser to visit and assess the preferred site, providing a high level view of the nature and cost of any construction works needed, planning consents required and likely running costs;
- ask the legal manager to carry out a high level title review of the site to ensure that there are no substantive issues which would prevent or obstruct its use and development as a UTC; and
- if that assessment shows the site is affordable and good value for money, the EFA's property adviser will start negotiations to acquire the site and your EFA PD will initiate the more in-depth feasibility study.

Securing a site

7.18 Securing a site can be complex and time-consuming. However, once we have found a suitable site for your UTC that can be delivered in the timescales available and that represents value for money, negotiations to acquire it will begin. The three main ways of doing that are:

- peppercorn rent lease;
- freehold purchase; or
- commercial lease.

7.19 As explained, peppercorn leases are the most usual and preferable route for UTCs, but if necessary we may be willing to agree for the UTC Trust to acquire a freehold or enter into a commercial lease. Click on the following [link](#) to find more information on the options for acquiring a site.

- 7.20 There will be sensitive negotiations around acquiring a site for your UTC, particularly where there is a cost associated with the acquisition. Site owners want to secure the best possible deal for themselves, while it is our duty to secure best value for you and the tax-payer. It is vital that you check with your EFA project director before discussing or revealing details of the site you are seeking with anyone outside your group. These negotiations are very commercially sensitive and public disclosure can seriously undermine our negotiating position. Subsequent planning applications can also be affected if information about sites is released at the wrong time. Securing planning approval is of course crucial to delivering your UTC buildings – further advice can be found [here](#). We will tell you when you can publicly confirm your site.
- 7.21 The EFA property adviser will commence negotiations with the site owner or the agent representing them, and seek to agree Heads of Terms (headline terms of the deal that are not contractually binding). In parallel, the EFA will estimate any costs for acquiring the site and any building works needed and seek approval from Ministers, where required, to complete the acquisition.

Site legal advice

- 7.22 If valuable consideration is paid for a property then in order to protect the investment of public funds the UTC trust will be required to grant the Secretary of State a legal charge over the property. The time this takes will vary from property to property, depending on planning and other conditions on the property.
- 7.23 Once the Heads of Terms have been agreed, the EFA legal manager will instruct a legal firm – procured through a government framework – to complete the lease/contract of sale negotiations. The legal adviser will carry out checks on the tenure, ownership and restrictions of the property and complete and register the transaction.
- 7.24 The legal firms procured via the framework have a duty of care to both the UTC trust and Secretary of State, as funder of the project, and the report on title they produce will be addressed to both. They have been procured primarily to provide property and construction advice. The legal fees will be met from the overall capital envelope. It is important to note that the Department does not cover the costs of the landlord/freeholder's legal fees, only those of the UTC trust. The legal firms procured by the EFA are large reputable firms procured at competitive rates. EFA will not meet the fees of any other law firms which the UTC trust may wish to appoint without EFA's prior written approval. Also, if their fees are higher than the fees of the firms procured by the EFA then the UTC trust will be expected to meet the difference out of its own funds.

Temporary site solutions

7.25 It is unusual, but in some cases UTCs have opened on a temporary site before being relocated to their permanent building. Temporary solutions can come in many forms depending on what is needed and what is available, but can include:

- using a building on the permanent site while other buildings are in construction;
- part of a neighbouring school or part of one of the sponsors' institutions (university accommodation/FE College classrooms etc.);
- portacabins on the permanent site; or
- a local office building.

7.26 We will only consider temporary sites once we have secured or are about to secure a permanent site that cannot be made ready in time for a September opening. We obviously don't want to spend any more money than necessary on temporary accommodation, so will try to provide an interim solution at no cost or that requires very minimal alteration.

7.27 Costs associated with temporary sites will be covered within the capital allocation (i.e. rental of temporary classrooms etc.). Your rental costs can be recovered from us but you will need to claim any VAT back from HMRC. The same is true in respect of VAT charged on the permanent property - the UTC should recover and account for these VAT monies.

The site and your funding agreement

7.28 Your funding agreement can only be concluded once the Heads of Terms for your site have been secured. As part of that funding agreement, there will be a set of land clauses which are specific to your site solution. These aim to protect the Government's 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.

7.29 Please note that:

- the land clauses in the funding agreement must reflect the model document drafted by the Department; and
- your lead contact will advise on the land clauses and on any bespoke legal arrangements that may apply.

- 7.30 There are clauses within the funding agreement that enable the Secretary of State to retain the use of the UTC land should the funding agreement with your UTC terminate, allowing the land to be used for another educational institution. There are other clauses that allow for the sharing of the land with another school in the event that the UTC does not require the use of the full extent of the land.
- 7.31 It is important that the terms of any lease align with these clauses, permitting underletting/sharing and allowing the lease to be assigned to the Secretary of State or his nominee. EFA and your legal advisor will ensure that this is the case. The EFA model lease and an explanatory note on the lease can be found here.
- 7.32 In rare cases, where the landlord will not permit assignment of the lease, a clawback agreement is used to protect the Secretary of State's investment instead.

The capital funding

- 7.33 EFA will cover the capital costs of acquiring a site and refurbishing it for use as a UTC. This includes the costs of ICT provision, standard fittings, furniture and equipment (FFE), and the fees for your technical adviser, surveys and legal advice. Some funding is also available for the specialist equipment necessary to deliver your technical specialism – this funding is calculated based on need and built up from a zero base. You will need to develop a specialist equipment business case and agree the budget with your EFA PD.
- 7.34 The capital budget for your UTC is not agreed until the preferred site and building costs have been approved. The continued approval of your proposal is conditional on capital costs representing good value for money and being kept to a minimum. In extreme cases a project may not proceed because all site options are prohibitively expensive. We place a high priority on achieving value for money, hence the expectation that UTCs are refurbishments where possible. The capital costs for each UTC vary considerably depending on the location, size, type and condition of the building.
- 7.35 All budget calculations are based on pupil numbers and the level of construction works required (e.g. new build, major refurbishment or minor refurbishment). Once budgets are set, you must manage within these amounts. The Design User Group is responsible for ensuring a scheme is developed within the capital grant available and managing the process through to completion.
- 7.36 EFA will set the budget for each scheme and submit it for approval. In most cases this will be done after Heads of Terms on the permanent site are agreed. The budget for each project will not be shared with the trust until it has been agreed.

Procuring works and services

- 7.37 The procurement route is determined by the size, nature of the works, time available and value of the contract. The EFA will begin this work based on your expected pupil numbers and the associated basic area requirements of your UTC.
- 7.38 All building contract appointments must comply with public procurement procedures for UTCs. The most common procurement routes used are:
- EFA contractors' framework
 - SCAPE framework
 - LHC framework
 - North West Construction Hub
 - GPS Modular
 - Local procurements for small-scale works
- 7.39 The EFA Contractor's Framework is generally used for works which are above the threshold set by the Official Journal of the European Union (OJEU) for the procurement of buildings. The Framework provides a tested, and relatively quick, process for procuring both the design and construction of the UTC buildings using a call-off process. The contractors on the framework are familiar with the process, thus saving time, the contract documentation has already been agreed, and the contractors are signed up to specific rates which means the results should be competitive and provide value for money.
- 7.40 Shortly after entering the pre-opening stage, a Design User Group (DUG) is formed. The technical adviser provides the secretariat. This group is responsible for running the procurement process and ensuring that the building meets the educational needs of the UTC. The group will need to ensure it has the timely information necessary to inform any design brief, including any educational input. It is important that the group involves a wide range of sponsors, including employers, so the final scheme reflects the purpose of the UTC.
- 7.41 You will be expected to sign the contract for building works once the procurement has been completed and we are ready to progress with the building works. In some cases, the local authority may be the contracting party. In such cases early approval will be required to ensure that local authority processes and formal approval mechanisms are taken into account for the programme.
- 7.42 You can click on the following [link](#) to find information on the routes to procurement, the procurement of fittings, furniture and equipment and ITC requirements.

7.43 In some circumstances, you will need to purchase insurance to cover the period before the UTC opens, e.g. for buildings, content, public and employer's liability. This will need to be funded from your project development grant, so you will need to plan for this and you may need to draw on the contingency built into your plans.

Conflicts of interest

7.44 If a building contractor or ICT supplier (see below) is also a sponsor or employer partner of the UTC, they should not be involved in any aspect of the procurement process, including drawing up the specifications. In line with the requirements in the Academies Financial Handbook, any sponsor or employee partner of the UTC will be able to bid for the contract, but are restricted to bidding 'at cost' only. This still applies where the building contractor or ICT supplier cannot provide the full solution themselves, but is part of the supply chain of one or more companies that are able to bid for the contract. It is also important that no potential bidder is favoured or disadvantaged (e.g. the supplier should offer all potential bidders the same price point and ICT specifications should not name particular products). Section 9 on procurement and additional support gives further information on restrictions on sponsors, partners and trustees providing services to the UTC.

Planning issues

7.45 The key reasons why new UTCs may need to seek planning permission are:

- change of use;
- new-build, extension and other external works; or
- listed building consent.

7.46 Your EFA PD will work with you closely, taking responsibility for ensuring planning permission is applied for quickly, and dealing with any problems around planning as early as possible. Planning permission should be sought as early as possible in the process to avoid delay. Planning barriers should be proactively considered and a plan of action put in place to limit these barriers, with EFA in the lead, working with the local planning authority.

7.47 The National Planning Policy Framework provides powerful incentives for planners to avoid placing unnecessary burdens on school development. This is effectively a presumption in favour of the development of new schools, but not a guarantee.

7.48 Two new permitted development rights are now in place that reduce the circumstances in which planning consent is necessary, helping ensure schools

open on time. Your EFA project director will be able to advise you if these changes may be of benefit to your project.

Building works

- 7.49 We would ideally like the funding agreement to be signed before contracts for building works are signed. In some cases it might be necessary to sign contracts before then to make sure your UTC opens in time and if this is the case then a pre-FA side agreement will need to be entered into (your lead contact will give further advice if this is needed).
- 7.50 Although the building contract will be between the trust and the contractor, we will have strong input into deciding the best procurement route for your building works and give you advice and support throughout the works. We will:
- commission technical advice (e.g. architects, quantity surveyors etc.);
 - commission surveys of the site (as required);
 - appoint legal advisors for the building works contract;
 - develop, oversee and negotiate contracts for works; and
 - work with the contractors involved in the site building and design process.
- 7.51 You will need to:
- input into the design process and run the procurement process;
 - keep staff, parents and local communities updated on progress;
 - develop contingency plans just in case building works overrun; and
 - work with us to ensure the works are completed to the contract specification and formally handed over.
- 7.52 There are a number of formalities that need to be completed before the UTC can open. These include an Ofsted pre-opening site inspection, planning how to operate the UTC and the formal handover of the site. Further details are provided below.

ICT advice and procurement

- 7.53 The UTC's ICT equipment (i.e. hardware and related software) must be procured via an OJEU compliant route, usually through a suitable framework such as the DfE ICT Services Framework which can be found [here](#).

7.54 You will be allocated an EFA ICT Advisor who will support the ICT procurement through the EFA’s preferred route. The role of the ICT Advisor will include the following:

- explain the ICT procurement process and the benefits of using DfE ICT Services Framework (or its subsequent replacement);
- communicate the amount of ICT Capital funding allocated to your project;
- develop ICT requirements with the trust;
- support the trust through all stages of the procurement process, providing commercially-approved template documents and centralised workshops to support the process, and arranging centralised suppliers’ days for you to engage with potential bidders;
- facilitate an initial engagement meeting between the ICT supplier and construction contractor;
- ensure the correct ICT responsibility matrix is agreed and used by the ICT supplier and construction partner to facilitate ICT integration in the build programme;
- provide information so that a broadband options appraisal can be carried out; and
- provide opportunities for UTCs to review and consider Management Information System products.

7.55 The ICT Advisor will be supporting a number of different projects (including other UTCs and/or free schools or studio schools) and therefore some engagement will be provided through centralised group events. As far as possible, individual support will be provided by email and telephone rather than face to face meetings.

7.56 In procuring the ICT elements for the UTC, the trust will incur expenditure that will be funded through different streams as set out below.

ICT Element	Budget	Funding Source
ICT Equipment	ICT Capital budget	EFA ICT Capital
Broadband	Construction budget 'Project Abnormal' (to cover installation and Year 1)	EFA Construction On-going costs paid from UTC trust revenue budget

Management Information System (MIS)	Project Development Grant	DfE On-going costs paid from UTC trust revenue budget
ICT Infrastructure (active and passive)	Construction budget	EFA Construction*

*Depending on construction procurement route the active infrastructure budget may be transferred to the ICT contract

7.57 It is important to note that the Management Information System does not form part of the ICT capital contract but is procured separately using the project development grant. This is because it will be required in advance of building completion and ICT installation (e.g. in order to register prospective students and organise the timetable). The on-going costs for the Management Information System are paid from the UTC's revenue budget.

Ofsted pre-opening site inspection

7.58 In order for your UTC to become registered with the Department and officially open, the site needs to be inspected by Ofsted. This is explored in detail in (Section 11). The purpose of the site visit is to ensure the building is safe and complies with the Independent School Standards Regulations on Premises. In the majority of cases when Ofsted visit, the site will not be ready as building works will still be ongoing. Inspectors will be aware of this but will still want a tour of the site, so that when they look at the plans and drawings they have a better understanding of how the UTC will fit and operate on the site.

Planning the opening of the UTC

7.59 The EFA will work with the contractor to tell you and your principal designate as soon as we can when you will have access to the site. This allows you to set a date for opening to inform parents and then plan for preparing, opening and operating the UTC. You should also develop contingency plans in case building works are delayed or there are other complications. In some cases, the UTC may need to open in temporary accommodation whilst the permanent site is being developed or secured. Construction works may also continue up to the UTC's opening day or beyond.

Formal hand-over of the site

- 7.60 When building works on the site have been completed, there is a formal process by which the building contractor will hand over the site to the UTC. Until then the contractor has responsibility for the site. The formal process handover will include the building contractor taking your business or premises manager, or principal, on a complete tour of the building, highlighting where all mechanical and electrical services are located and how they operate, and handing over all warranties and certificates, e.g. fire certificates. As part of the tour, a 'snagging' list will be drawn-up with the contractor to highlight where there are still minor defects or where the refurbishment has not met the required specification. The contractor will be required to rectify these following formal handover of the building. Your EFA project director will be able to provide further information on the formal hand over process.
- 7.61 Once handed over, it will be your responsibility in most situations to arrange for maintenance of plant and equipment associated with the site. Failure to regularly maintain the equipment in accordance with the installation instructions can lead to warranties being invalid. Ask for early information on equipment and maintenance schedules so you can tender for the maintenance contract and have it in place at handover, if possible. You should prepare for this information to be provided to you at or after completion as is the case with most contractors.

Section 8 - Finance

- 8.1 The funding you receive is public money, and you will need to be able to demonstrate that the way you use it meets the high standards of propriety, is transparent and defensible, and secures good value for money. Your trust will need sound financial procedures, the capacity and capability to handle public money, and good governance arrangements. You will want to agree your expenditure profile from the start of the project to the opening of your UTC. You must also consider the potential conflicts of interest and have arrangements in place to deal with them appropriately.

Funding in the Pre-opening Stage – Project Development Grant

- 8.2 In the run up to opening a UTC, the Department will provide a fixed rate project development grant (PDG) to help cover essential non-capital costs up to the point at which the UTC opens (this does not cover the costs of learning resources used to deliver the curriculum e.g. books). The grant is £300,000 (whether your UTC will open in 2015 or 2016) and will be paid directly to your UTC trust, who will then decide how best to use the funds to deliver their project. The grant will normally be paid in four instalments if the UTC is due to open in September 2015 or nine instalments if the UTC is opening in September 2016. The dates and amounts of these payments will be set out in your grant agreement. Any unspent funds can be used by the UTC once it is open. You will need to plan and manage this budget carefully and keep accurate records of your expenditure and spending decisions.
- 8.3 This grant is intended to complement the capacity and capability you have demonstrated to allow you to fund essential costs in the pre-opening period. Typically projects will use their project development grant to pay for project management services; educational support; the recruitment and salary costs of a Principal Designate and other essential staff needed to take up post before the UTC opens; costs of marketing, promotion and community engagement; legal advice, insurance, DBS checks and admin costs. It is important to note that the purchase of financial and management information systems will need to be paid from your project development grant, if you intend to purchase them before the school opens. Capital funding to secure and develop a site and undertake necessary construction and/or refurbishment work and ICT to support the curriculum will be provided separately by the EFA.
- 8.4 Your trust will be responsible for managing its project development grant and for procuring and paying for its chosen suppliers. When you make decisions about how to spend your grant, it is important to remember that the Department will expect all expenditure to be essential to your project and represent the best value

for money for your UTC. Poor choices will stop the grant going as far as it should and may leave you open to criticism about how your UTC uses public money. This makes it all the more important that you have someone working on the project who has responsibility for managing the budget and for establishing fair and open processes for how the group will make its spending decisions. Further guidance on procurement and accessing further support is given in Section 9.

- 8.5 To access grant funding you will need to set up a bank account for the sole purposes of the UTC (you cannot use a personal or other account). You will be sent a grant agreement from the Department which will set out the total amount that will be paid, the dates that the payments will be made and the terms that must be met as a condition of the grant. Once the grant agreement is signed, funding will be paid to your trust's bank account at the intervals set out in your grant agreement.
- 8.6 You will need to provide regular statements of expenditure throughout the pre-opening stage. A template is provided in the grant agreement. Once you have received your first payment, and in advance of your second, you should provide a statement with a detailed month by month breakdown of how you intend to spend your PDG up until the date you open (you lead contact will provide a template for this). Thereafter, within 14 days of each subsequent payment, you must provide a statement detailing expenditure made up to the date of that payment. A final statement of expenditure up to the date of the UTC opening should be provided within four weeks of opening. Future payments can be delayed or stopped at any time if the terms of the grant are not upheld, for example by not making timely expenditure returns or through inappropriate use of public funds, or if your project does not make satisfactory progress. If your project is cancelled before the school opens, you must not incur any further expenditure and return any unspent project development grant funding. You will also need to retain original copies of all receipts, invoices, contracts and tender documents which the Department may review at any time.
- 8.7 After opening, UTCs (which are academies in terms of their legal status) can reclaim VAT on expenditure incurred during the pre-opening stage from HMRC (you should seek advice from your local tax office on reclaiming VAT once open). The school can also retain any VAT it recoups from HMRC on expenditure from the project development grant.

Financial management arrangements

- 8.8 On opening, the UTC will need to have a robust financial framework to manage properly the funding available to the school and ensure accountability and proper financial controls and procedures are maintained. At the pre-opening stage, key tasks to deliver this include:

- setting out the role of the finance director or business manager or equivalent as a member of the UTCs senior leadership team and recruiting an appropriate person;
- forming the Finance Committee of the board of trustees, agreeing its terms of reference and making sure that the committee's membership includes appropriate financial expertise;
- preparing appropriate auditing arrangements, including the appointment of a responsible officer as set out in the Academies Financial Handbook;
- preparing, auditing and filing accounts in accordance with the Academies Accounts Direction (see below) where required. The Academies Accounts Direction is applicable for all periods ending on or after the date the funding agreement is entered into;
- filing accounts with Companies House as required by company law;
- ratifying the appointment of the Accounting Officer;
- developing and securing formal approval from the board of trustees for the first year's budget; and
- 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.

8.9 [The Academies Financial Handbook](#) sets out the funding arrangements and financial management requirements that your UTC must follow. You must refer to this handbook alongside your funding agreement for information about the financial systems and controls that your school should have in place.

8.10 [The Academies Accounts Direction](#) sets out the elements to be included in the academy trust accounts and the accounting treatments required. It also provides a model format for the accounts to aid consistency of treatment between academy trusts. In accordance with the Memorandum and Articles of Association, the trust's academy financial year ordinarily runs to 31 August. The trust's initial accounting period may be more or less than 12 months in accordance with the restrictions of company and charity law. This depends on the date when your trust was incorporated (registered) as a company at Companies House, and not the date when your academy opens. Company law permits an initial accounting period (i.e. the period immediately after incorporation) of up to 18 months. To illustrate, this gives two scenarios for the 2013/14 academic year:

- If your trust was incorporated on or after 1 March 2014, you may defer your first period of accounts to cover the period ending 31 August 2015.
 - If your trust was incorporated on or before 28 February 2014, you cannot extend your first period of accounts to 31 August 2015. Rather, you should prepare your first accounts to cover the period ending 31 August 2014.
- 8.11 Filing requirements for accounts vary on when you enter into a Funding Agreement by the end of your accounting period. For UTCs **who have entered into a funding agreement with the Secretary of State for Education by the end of their accounting period**, the requirements are in line with those for open academies. The timetable for submission and publication of accounts, including how accounts are submitted, is set out in detail in the Accounts Direction. Key deadlines are given below:
- **By 31 December following 31 August year end:** The trust should send audited accounts and auditor's management letter to EFA. These must be submitted as scanned electronic documents, in pdf form, to AcademiesFinancialMonitoring.EFA@education.gsi.gov.uk
 - **By 31 May following 31 August year end (i.e. within nine months of the end of the accounting period):** Academy trust to file accounts with Companies House. This is with the exception that where a trust is preparing accounts for its first period after incorporation and is preparing them for a period of greater than 12 months, accounts must be filed within 21 months of incorporation, or within three months of the end of the accounting period, whichever is later.
 - **By 31 May following 31 August year end:** Academy trust to publish accounts on trust website (although this should be done as soon as possible after approval by the board of trustees).
- 8.12 The Companies House website also provides the date that companies must file their accounts with them. Further information can be found on at <http://www.companieshouse.gov.uk>.
- 8.13 The [Financial management and governance self-assessment](#) (FMGS) is for new academies. It highlights the main requirements academies must have in place soon after opening. It can be a helpful tool to assess compliance with these requirements during pre-opening. The deadline for the FMGS return to EFA is 4 months after opening.

Developing a viable financial plan for the open UTC

- 8.14 The UTC will be funded at an equivalent level of funding to the maintained schools and Academies in your local authority area. This funding is largely based upon a payment for each pupil that attends the UTC, but detailed funding methodology may vary over time with changes to the funding of the school and post-16 funding systems as a whole. Final funding rates for each academic year will not be known until the previous spring and are subject to the wider reform of the funding system.
- 8.15 The approval of your application to pre-opening stage does not constitute approval of the financial plans submitted with your application. The template that you completed as part of your application included the 2013/14 per pupil rate to give you an indication of the level of income you might expect when opening a UTC in your area. The Department will need on-going assurance that your UTC is on-course to be financially viable on opening.
- 8.16 You will be asked to share your latest financial plans with the Department before entering into a funding agreement (to include a plan modelled on the minimum number of pupils for which the UTC can remain financially and educationally viable) and in the months running up to opening during the year within which you will open in order for indicative funding letters to be issued. You should be ready to submit your plans at these points with evidence to underpin your pupil number assumptions that must be realistic and achievable. We may also request this should pupil recruitment be significantly behind trajectory and there is a real risk that the planned cohort will not be recruited.
- 8.17 You will also need to keep developing and refining your financial plans throughout the pre-opening stage to ensure that you have considered the financial implications of all the key decisions you make. The Department will want to see that as far as possible the plans reflect your income based on the most up-to-date funding rates and the likely number of pupils and your best estimates of outgoings, such as the number of staff you intend to recruit. The assumptions fields 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 the EFA, and expenditure (including service contracts and salaries). The plans should show that the UTC will not go into deficit at any point.
- 8.18 At the appropriate points in the process, your lead contact will assess your financial plans and consider the progress made towards developing effective financial governance arrangements for the UTC. He or she may need to ask you to revise your plans or provide further information to demonstrate that the UTC will be financially viable.

- 8.19 The Department will not enter into a funding agreement if it is not confident that a UTC has a viable financial plan.

Payment of funding once open

- 8.20 The amount of General Annual Grant (GAG) and Post Opening Grant will be informed by the financial plans agreed in the period from June to August in the year of opening. This will be driven primarily by the number of pupils that are expected to be on roll and the funding rates for each Local Authority area. The total amount due for the forthcoming financial year (September to August) will be set out in an indicative funding letter issued by the Education Funding Agency (EFA) and then confirmed in a final funding allocation statement around October.
- 8.21 The EFA will undertake a pupil number adjustment exercise to reconcile the actual pupils on roll (taken from the school census) against the estimated number of pupils upon which the school was originally funded. Positive adjustments will usually be paid in year with adjustments for recruitment of fewer pupils than estimated clawed back in the following academic year. These arrangements are intended to support the cash flow arrangements and sustainability of new schools.
- 8.22 Payment of GAG will be made on the first working day of each month in 12 equal payments across the financial year. Post Opening Grant will also be provided to reflect the additional costs in establishing a new publicly-funded school that cannot be met through the GAG. This is made up of two elements – per pupil resources (for books and equipment) and leadership diseconomies. The former is payable over the first three months of the UTC opening (50%, then two payments of 25%) and the payments of the latter are on the same schedule as the GAG.
- 8.23 More information on UTC revenue funding can be found [here](#) including a helpful document ‘UTC revenue funding 2013 to 2014 academic year’. This covers the following areas:
- how and when financial planning should take place (including pre and post-16 per pupil funding rates and ready reckoners);
 - how funding will be calculated in 2013/14 (with a summary of each of the elements that make this up); and
 - a summary of the key points from the Academies Financial Handbook (including when returns are due).
- 8.24 This webpage and the guidance will be updated when the funding arrangements for 2014/15 are agreed.

Section 9 - Procurement and additional support

- 9.1 UTC trusts are classed as public bodies and must comply with public procurement regulations. Essentially the rules are about using a fair and open procurement process to ensure you achieve the best outcomes for your UTC and secure best value for money. This section provides more detailed information on securing additional support and the procurement routes open to UTCs.

Securing Additional Support

- 9.2 In deciding how to manage the tasks you need to complete to open your UTC, your trust will need to decide whether you need to buy in some additional support or expertise. If you do need buy in such support you need to follow proper procurement processes and secure good value for money. Good procurement is simply a mix of common sense, transparency, planning upfront, and knowing and following the rules and regulations governing public spending and EU legal requirements. It includes keeping an accurate record of your spending decisions and ensuring you follow principles around good governance and financial management.

The Procurement Options

- 9.3 There are three ways in which you can buy additional support using your project development grant and you can use any combination of these options:
- using the Department's established **Project Management and Educational Services (PMES) framework**;
 - **open procurement**, whereby the UTC trust issues a specification for the required services and appoints a supplier based on an evaluation of the bids received; and
 - **in-house**, whereby the trust uses its own employees to deliver specified services on an 'at cost' basis. This arrangement can include full time or part-time staff brought in through a secondment or employed on a fixed term contract.

Project Management and Educational Services (PMES) Framework

- 9.4 The Department has a purchasing framework to buy specific Project Management and Educational Services from known suppliers (the PMES framework). A framework is an agreement with a list of suppliers that sets out the terms and conditions under which specific purchases can be made from those suppliers. You can use this framework to buy some or all of the services on offer.

- 9.5 To select a supplier you will need to run a mini-competition amongst the suppliers on the framework list. This involves preparing an invitation to tender specifying the work required and issuing it to all the companies on the framework. You must then assess all the bids received and issue a contract award letter. Once you have appointed a supplier, you will be responsible for the on-going contract management and payment processes. Detailed guidance on how to use the DfE Project Management and Educational Services Framework is [here](#).
- 9.6 Using the PMES framework gives you access to a group of suppliers with relevant experience. Selecting a supplier via the PMES framework can take less than three weeks, which can be significantly quicker than running a new procurement competition of your own.

Open procurement

- 9.7 Under this option you can invite any third party supplier, including those on the Department's PMES framework, to bid for your work by tendering. You will need to specify what it is you want to buy, and what criteria you will use to assess the tenders.
- 9.8 The procurement approach you use should be proportionate to the estimated value of the contract you plan to let. The trust will need to decide the approach it will take at different contract values. The greater the value, the more you need to demonstrate to all potential bidders that the competition is open and fair. We provide more detail on procurement [here](#) and further guidance on low value procurement can be found [here](#)

In-House Delivery

- 9.9 In-house delivery is where the trust uses its own employees to deliver specified services, using the project development grant to cover the employment costs of the staff involved. This arrangement can include staff brought in through a secondment or employed on a fixed term contract as long as they are not appointed as a way of circumventing public procurement rules.
- 9.10 In choosing this option you need to be sure that the individual has the experience and capacity in place to undertake these tasks and that the services provided through the in-house route and the costs quoted offer good value for money.
- 9.11 Where a trust uses its own employees – including those of sponsors - costs to the project are expected to be 'at cost'. This means not charging any element of profit on the goods and/or services provided. For people based resources, this will be based on a day rate calculated by dividing the salary of the person plus employment related taxes borne by the employer (for example national insurance), pension, essential training and other directly employee related costs,

by 210 working days a year, pro rata as appropriate. Reasonable incidental travel expenses and (if required) reasonable accommodation and essential subsistence is to be charged at cost. Fixed overheads will not be recoverable but if additional overheads or costs are incurred for the purposes of providing the services, then these would be allowable within the no profit principle subject to mutual agreement between the Parties to this Agreement. All such calculations will be subject to open book and audit.

- 9.12 It is up to the UTC trust to ensure that you comply with existing legislation in respect of employment and has the appropriate employment contracts in place. Where a secondment is put in place, you should ensure that there is agreement on the services that will be delivered.

Provision of services by sponsors/partners/trustees

- 9.13 When using public money to award contracts and you need to demonstrate the highest standards of propriety. In particular, you need to have considered the scope for conflicts of interest and take steps to manage them. This means that:
- no representatives of the sponsors/partners should be involved in any decision over awarding a contract, if they or any of their relatives, friends or business associates are involved with, or employed by, any of the companies bidding; and
 - where one of the sponsors/partners successfully bids for work, there must be arrangements in place to enable the trust to hold that individual or their company to account for the delivery of the contract.
- 9.14 The [Academies Financial Handbook](#) provides clear guidance on the Department's expectations around delivery of services to free schools (including UTCs) from anyone with a governing relationship to the school. It is clear that:
- anyone with a governing relationship, including individual members and trustees and bodies related to them, as well as sponsors and sponsor related bodies, wishing to provide services to the UTC are required to bid for and deliver services at cost; and
 - It has always been the case that open, fair, and proportionate procurement processes must be followed whenever outsourcing services from the trust – including if sourcing such services from sponsors.
- 9.15 When spending money, you should also check that your plans comply with your articles of association as these will include specific conditions on who can be employed by the trust or enter into a contract for the supply of goods and services to the trust.

9.16 It is the responsibility of the trust to ensure that these requirements are met, and that audit trails are kept. The Academies Financial Handbook includes a requirement for trusts to secure a statement of assurance and open book arrangement with restricted suppliers, but beyond this it is up to the trust to decide how best to meet the requirements.

Section 10 - Funding Agreement

What is the funding agreement?

- 10.1 The funding agreement is a contract between the trust and the Secretary of State which defines the terms and conditions upon which a UTC is funded. Signing the funding agreement is a significant step towards opening your UTC.
- 10.2 Entering into a funding agreement is an important decision for both parties and requires careful consideration. For the Secretary of State, signing a funding agreement represents a commitment to fund your school. Your lead contact will want reassurance, on the Secretary of State's behalf, that your trust is ready to enter the agreement and, crucially, that it is likely to establish and maintain a popular and successful school.
- 10.3 The funding agreement is a legally binding, rolling seven-year contract. This means that either party must give at least seven years notice of their intention to exit the contract unless there is a breach of contract or one of the specific termination clauses is triggered.
- 10.4 The contract sets out what the UTC trust needs to do to receive funding; how the funding is allocated; how the trust can spend that funding; and the circumstances in which it might be withdrawn, i.e. the contract is terminated.
- 10.5 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.
- 10.6 Once a funding agreement with the Secretary of State has been entered into, accounts for accounting periods ending on or after that date must be prepared, audited and filed in accordance with the Academies Accounts Direction. Before the funding agreement is entered into, accounts must be prepared, audited and filed in accordance with company and charity law. Please see paragraph 8.10 for further details.

Why does the Department use model funding agreements?

- 10.7 The Department produces model funding agreements for all types of academies, including UTCs. Copies of the model funding agreement for UTCs can be found [here](#). Using model funding agreements helps the Department ensure consistency across all free schools.

- 10.8 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, e.g. land arrangements and the planned capacity of the school. The model funding agreement makes clear where these variations will be made and your lead contact will tailor them accordingly before sending the document to you.

What needs to happen before funding agreement?

- 10.9 The timing for entering into a funding agreement will vary depending on the project. Your lead contact will agree with you the appropriate time for your project. Before either party can begin the process there are certain statutory duties and other tasks that must first be fulfilled by both parties.
- 10.10 The trust must consult under Section 10 of the Academies Act 2010 and have due regard to Section 149 of the Equality Act 2010.
- 10.11 The Secretary of State is required under Section 9 of the Academies Act 2010 to complete an assessment of the impact that the opening of the UTC will have on other state-funded educational institutions in the area. He is also required under Section 149 of the Equality Act 2010 to consider the impact on equalities of the opening of the UTC before the funding agreement can be signed. This will be undertaken by your lead contact (see below).
- 10.12 The Secretary of State will also want to be satisfied that the UTC will be popular and successful upon opening. In making his decision, the Secretary of State will consider:
- Whether the UTC will deliver high quality education. Have sufficient teachers been appointed or are they likely to be by opening? Is the workforce appropriate? Is leadership strong? Are the necessary policies in place? Is Ofsted likely to judge the UTC as good or better?
 - Whether the UTC will secure sufficient pupils. Will parents choose to send their children to the UTC? Will it be full within two to three years of opening? Are the admissions arrangements for the school compliant with the School Admissions Code?
 - Whether the board of trustees will be capable and effective. Does the proposed board of trustees include appropriate educational, financial and business experience/expertise? Are there arrangements in place to manage conflicts of interest?

- Whether the school is planned to open on an appropriate site (or sites if a temporary solution is needed)?
- Whether the UTC is financially viable. 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?

10.13 Once you have successfully completed all the tasks identified by your lead contact that need to be done prior to funding agreement, the Secretary of State will be able to consider whether he will enter into a funding agreement with the UTC trust. The funding agreement cannot be signed unless you have finalised your admissions policy and undertaken your statutory consultation; and the local impact assessment and equalities progress report have been completed by your lead contact in the Department.

10.14 Before signing a funding agreement, the Department expects to be assured that all the key tasks set out in this guide are on track, that the site has been confirmed for the UTC, that implementation of marketing and pupil recruitment strategies support the trust's financial and educational plans, if appropriate, pupil numbers are healthy and show an upward trajectory, and that the school's updated financial plans demonstrate that it will be financially viable after opening.

Pupil recruitment clause

10.15 The Secretary of State will want to be satisfied that the UTC will be popular and successful upon opening. Assurance will be needed that the school is both financially and educationally viable and able to offer a broad and balanced education to its pupils. As academy funding is based on pupil numbers, recruiting sufficient pupils in the first year of opening and beyond is crucial.

10.16 The Secretary of State generally will not enter into a funding agreement until it is clear that trusts are making good progress with their pupil recruitment and numbers of accepted offers are on track for the UTC to be financially and educationally viable. However, it is sometimes necessary to enter into a funding agreement with before pupil recruitment is at an advanced stage. For this reason, Clause 91 of the funding agreement provides a safeguard should the UTC fail to recruit the number of pupils that would make it viable.

10.17 Your lead contacts will work with you from an early stage to agree the minimum number of pupils necessary to ensure that the UTC is viable (at Y10 and Y12). This will be agreed as part of the process of reviewing financial plans for the UTC prior to the funding agreement being signed. Lead contacts will also ensure that

trusts are aware of the decision points at which action plans will be needed should the trust fail to recruit in line with this agreed minimum viable number.

- 10.18 The funding agreement will include a clause enabling the Secretary of State to terminate the funding agreement if by an agreed date (usually the end of March in the expected year of opening), or at any time after the funding agreement has been signed, fewer than the minimum number of pupils have been recruited, or if at any time after opening the Secretary of State considers the academy is not financially viable because of low pupil numbers. Ultimately, this clause means that the opening date may be deferred or the funding agreement terminated where insufficient pupils have accepted offers of places at a new UTC or where there are on-going problems with pupil retention and recruitment at an open school.

The funding agreement process

- 10.19 At the appropriate point, the lead contact sends the trust a signature ready version of the relevant model funding agreement – tailored to the school’s specific circumstances. The trust may then consult lawyers (if necessary) on school specific clauses, which if changed must be approved by the Department. We strongly recommend trusts wait to receive the signature-ready version of their funding agreement from their lead contact before engaging their lawyers in the process. All other clauses are non-negotiable.
- 10.20 Once the trust is content with the document, they must inform the lead contact when they are ready to sign the funding agreement. At this point, the lead contact provides advice to the Secretary of State on whether to enter into a funding agreement and then subsequently communicates the outcome to the trust.
- 10.21 If approved, the trust prints and signs (but not dates) two hard copies (each copy should have a copy of each Annex attached to it) and sends to the lead contact. The lead contact will arrange for both copies to be signed, dated and sealed by the Department and then sends one hard copy back to the trust. To ensure the funding agreement is executed correctly, trusts must arrange for two directors to sign the two copies (or one director and a witness). In addition, trusts should leave the documents undated when they send it to their lead contact – the DfE will date the document at the point it is signed and sealed.

How long does this process take?

- 10.22 The timings for this process will vary, depending on individual projects. However, historically, the stage that most often holds up the process is agreeing the final

version of the funding agreement. It is for that reason we ask trusts to focus only on the school-specific clauses (as highlighted by your lead contact).

- 10.23 In order to speed up the process, we advise trusts to agree with lead contacts, at an early stage in the pre-opening phase, timings for signing the funding agreement, e.g. in relation to making firm offers of places to students or signing building contracts. Whilst we cannot guarantee that the funding agreement will be signed by a given date, agreeing a timescale helps to focus both the trust and the lead contact on ensuring they have completed the necessary tasks in advance. Signed copies of all funding agreements will be published on the DfE website once the schools concerned have opened.

Section 11 - The equality duty

- 11.1 When your UTC opens it will be a public authority. Section 149 of the Equality Act 2010 requires all public authorities when exercising their functions and making decisions to have due regard to the three aims of the public sector equality duty (PSED). This must be considered throughout the pre-opening process and once the school is open.
- 11.2 In parallel, the Secretary of State has a statutory duty to consider the potential equality impact (positive and negative) of his decisions, and so the Secretary of State must consider how your UTC might affect the equality of different groups before deciding whether to enter into a funding agreement.
- 11.3 The three aims of the PSED are to:
- eliminate unlawful discrimination, harassment, victimisation and any other conduct that is prohibited under the Act;
 - advance equality of opportunity between those who share a relevant protected characteristic and those who do not; and
 - foster good relations between those who share a relevant protected characteristic and those who do not.
- 11.4 The protected characteristics that you need to consider are: age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; and sexual orientation. You also need to note that discrimination on the grounds of marriage and civil partnership is unlawful.
- 11.5 When making all your key decisions in pre-opening you should ensure you comply with the equality duty. Your lead contact at the Department will be looking for evidence that the equality duty is being considered throughout the whole pre-opening process. To show that consideration has been given to the relevant protected characteristics in the UTC plans and policies, some examples of the information the lead contact will need are:
- Details of your marketing plan: to show how you will engage and promote community cohesion in both the local and surrounding community.
 - Your staff recruitment policy: to show how you will ensure that all candidates will be treated in a fair and transparent way.
 - Your SEN policy: to show what provision will be available for the pupils at the school and what other specialist provision will be available.

- 11.6 Your lead contact will complete an equality assessment and keep a record of all pertinent information. This will help the Secretary of State to assess the impact on people with reference to the different protected characteristics. It will also show if there are any issues around equality that could prevent the trust or the Secretary of State from fulfilling their obligations under equality legislation.

Section 12 - Preparing to open

Readiness to open

- 12.1 There will be a readiness to open (ROM) checkpoint with the Department in May or June of the year of opening to ensure that everything is in place for the school to open successfully and on time. ROMs are formal meetings between the Department, the lead proposer, chair of trustees and the principal designate. The principal designate will be asked to present and discuss any risks that might affect a successful opening and into the first year of operation. You will be asked to prepare a report on progress and risks, in advance.
- 12.2 Your lead contact can advise on format and aims of the ROM and agree with you the location and date for the ROM. The ROM will be chaired by either your lead contact or a senior DfE representative, and will also be attended by your education adviser, and in some instances the EFA. Where there are still major issues outstanding, a ROM may take place in the Department for Education offices and be chaired by a senior person from the Department who has had no contact with your project so far.

Inspection and registrations

- 12.3 Before opening, given its legal status as an independent school (i.e. independent of the local authority), your UTC must undergo an Ofsted pre-registration inspection and be registered on the independent schools register (Edubase).
- 12.4 In order to be added to the independent schools register and legally be allowed to open, the Secretary of State must decide whether or not your UTC is likely to meet the relevant Independent Schools Standards once open. The Ofsted pre-registration inspection informs that decision. The inspection is not like a full inspection which you will be subject to once open, as it is not judgement-based - it merely seeks to establish if the school is fit to open based on certain standards.

Timing of pre-registration inspections

- 12.5 The Ofsted pre-registration inspections usually take place from June to late July in the year of opening, in three blocks of three weeks. You will be informed by your lead contact in which block your inspection will fall. Your Ofsted inspector will then contact you directly to arrange the date of inspection. Within each time period, you will be given a minimum of two days' notice of when your inspection will take place and you will be expected to make yourselves available.

12.6 Schools that have made the most progress towards opening will be prioritised for early inspection, while projects that would benefit from 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 longer to put right any issues identified by Ofsted before your opening day. A UTC cannot legally open unless it has been added to the independent schools register.

What you need to do ahead of the inspection

12.7 You will need to fill in a copy of the registration of independent schools form which your lead contact can provide.

12.8 The completed form should be emailed to your lead contact and must be accompanied by the following documents:

- 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 the DfE guidance 'Safe to Learn: Embedding anti-bullying work in schools'. However, you may still find it useful to consider the DfE [advice for headteachers, staff and governing bodies](#)
 - safeguarding and promoting the welfare of children who are pupils at the school. This should be compliant with the relevant health and safety law. Again this no longer needs to have regard to DfE guidance: '[Safeguarding Children and Safer Recruitment in Education](#)', but you may find it useful.
 - safeguarding and promoting the health and safety of pupils on activities outside the school which has regard to DfE guidance '[Departmental Advice on Health and Safety 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 [Part 7 of The Education \(Independent School Standards\) \(England\) Regulations 2010](#).
- Evidence that the school has appropriate procedures in place for undertaking Disclosure and Barring Service (DBS) checks of staff and recording the results (formerly known as CRB checks). All schools should have a single central register to record this information and it is the Trusts responsibly to keep it up to date

- a plan showing the layout of the premises and accommodation of all buildings.

12.9 These documents should be sent in one batch no later than two weeks ahead of your inspection block. This is to ensure Ofsted inspectors receive all documents sufficiently in advance of the inspection. If you do not submit the necessary documentation, your inspection may be delayed.

12.10 Once Ofsted receives all the relevant documents, it will consider them and report its views to the Department. These will be taken into account in determining whether your school can be registered. However, before offering final views Ofsted will need to visit the school in order to advise the Department on whether the school is likely to meet the prescribed standards for registration once open.

Compliance with fire safety requirements

12.11 In addition to submitting your documents, you must also contact the local fire service before your inspection to advise them of your proposed new school.

12.12 You will need to be able to demonstrate 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. The local fire and rescue authority will update its database and carry out fire safety audits of school premises in accordance with its risk-based inspection regimes. Trusts should be aware that the fire service is not under any obligation to provide this service before the school opens, though many are still happy to do so.

12.13 If the fire service decides not to inspect the premises immediately, Ofsted will consider alternative evidence such as:

- written confirmation from the fire service that it has approved your fire risk assessment in principle;
- 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; or
- a Completion Certificate confirming construction in accordance with Building Control Regulations and compliance with the fire safety standards.

The day of the inspection

- 12.14 The inspector will usually spend half a day at the school and will need to be met and escorted by either the principal designate and/or the lead proposer. He or she 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 because the principal designate is unavailable.
- 12.15 In order to make a judgement about each of the standards, the inspector may ask to see a number of policies on the day in addition to those submitted with the registration form. The list of these can be found [here](#). If for any reason a document is not available, whoever 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, again, 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.

After the inspection

- 12.16 After the inspection, the inspector will produce an advice note and a checklist. The advice note is for the Secretary of State but the checklist will be sent to you by your lead contact. If your checklist includes no conditions of registration and you have a signed funding agreement, the UTC can be added to the independent schools register.
- 12.17 In the event that the Ofsted checklist indicates that there are issues that must be addressed – known as ‘conditions of registration’ – the UTC trust must take action to resolve these before the school can open. Your lead contact will be in touch to make sure that the conditions have been met and that you have evidence to demonstrate this.
- 12.18 In the event that Ofsted recommends that your school should not be registered your lead contact will work with you to address urgently the issues and will arrange for the school to have a re-inspection. After the re-inspection the inspector will produce a second advice note and checklist.

- 12.19 It is the Department, not Ofsted, that decides when your conditions have been met. Only then can you be registered. If you are not added to the independent schools register, you cannot legally open.
- 12.20 Ofsted does not publish the advice note or the checklist. However, in every year of free schools opening so far there has been a Freedom of Information request to the Department to publish these documents, and we have. It is therefore likely that yours will also end up in the public domain. You should also be careful in 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 any judgement of quality. For example, it would be misleading to say that Ofsted has visited and said you are 'outstanding'.

The independent schools register (EduBase)

- 12.21 EduBase is the Department's database of all educational establishments across England and Wales – and it also serves as the independent schools register. Being entered onto EduBase gets your UTC its DfE number and unique reference number – these are used in a variety of circumstances to identify the school.
- 12.22 In order to be registered you will need to fill in and submit a copy of the Edubase Registration Form, which you can get from your lead contact. You will need a landline phone number to put on this form (others are not accepted on the EduBase system).
- 12.23 You should send your completed EduBase form to edubase@education.gsi.gov.uk copied to your lead contact so that your school's EduBase record can be created using the details provided on the form. You will then be issued with a pending number that can be used for things like registering with pension schemes or ordering equipment. You can submit this form at any time for processing but it must be submitted by the end of April in the year of opening at the latest.
- 12.24 Only when you have a signed funding agreement, and you have met any conditions resulting from your pre-registration inspection, will your 'pending' record go live. Once the record has gone live it will be viewable by the public and you will be automatically issued with login details for EduBase so you can update and amend your own record. It is important that someone at the school has the responsibility for keeping the UTC's EduBase record up to date.

Inspections once open

- 12.25 Once open, you will not be inspected as an independent school. You will be inspected under the Section 5 Ofsted framework – the same as maintained schools. These inspections are judgement-based and the reports and judgements will be made public by Ofsted.
- 12.26 Ahead of the schools' first Ofsted inspection, the Department's education advisers carry out monitoring visits to open UTCs in their 1st and 4th terms. The purpose of these visits are to ensure that schools are satisfactorily addressing risks identified at ROMs (first term visits only), that they are providing a high standard of education and are likely to enjoy a good or better first Ofsted inspection and to assure the department that there are no other issues or concerns that require redress.
- 12.27 The education adviser will use the Section 5 Ofsted Inspection Framework (CAF for 16-19 provision) as a basis for assessing schools' educational performance. Education advisers will make contact towards the end of September to make arrangements for visits. The department may ask Education advisers to conduct follow-up monitoring in terms 2 and 3 should schools' require additional support in their first year.
- 12.28 Visits are supportive but are also designed to provide challenge in order to highlight areas schools should focus on ahead of their first Ofsted inspection. In addition to monitoring visits, many open free schools have found it useful to buy in support to undertake a trial run inspection ahead of the real thing to identify any outstanding issues. Many providers offer this service and employ ex-HMI to deliver it. These external assurance exercises will help validate UTC's own self-evaluations and inform school improvement plans ahead of their first Ofsted inspection.
- 12.29 BDT will also arrange a visit during your first term

Section 13 - Once your school is open

The final stage of the pre-opening period

- 13.1 The final stage of the pre-opening process is to prepare for opening, which includes the hand-over of your UTC's project from the Department's Free Schools Group (FSG) to the Education Funding Agency (EFA), who are responsible for all open academies, including UTCs.
- 13.2 Your lead contact will ensure that your EFA representative is fully briefed on all the intricacies of your project so they know what challenges you may experience in your early days of opening. Once your project is handed over to the EFA it is vitally important that you understand that all communication goes through the EFA and not your original lead contact.
- 13.3 It is only in exceptional circumstances where you will retain your contact with your lead contact rather than the EFA. Such circumstances are at the discretion of the Department and will be communicated to you prior to opening.
- 13.4 Your EFA link officer will arrange an initial meeting with you early in the autumn term of opening to develop an understanding of the school's vision. The role of the EFA link officer is significantly different to the lead contact and the expectation is that now you are open, you have the freedom, autonomy and responsibility to run your school but to call on the EFA if issues arise. Details of how to contact the EFA can be found below.
- 13.5 The role of the EFA is to calculate and pay revenue and capital funding, as well as seek assurance over the use of public funds from academies of all types, including free schools, UTCs, and studio schools. The EFA will also handle any requests 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, to dispose of land, or to make significant changes to provision.

Key tasks in the early days of opening

- Meet with your EFA representative.
- Update EFA on pupil recruitment numbers and any early issues.
- Prepare for a DfE education adviser visit in your first term of opening (see para 12.26).

- Ensure that the academy trust has approved an annual budget for the first year of operation and submitted this to the EFA in accordance with the published timetable.
- Ensure that the academy trust has implemented the requirements of the 'Academies Financial Handbook'.
- Prepare, audit and file accounts in accordance with the 'Academies Accounts Direction'.

Annex - Project task checklist

This summary checklist will help you as a trust identify some of the tasks you will need to undertake to open your school

Managing your project: checklist of activities		
Activities to complete	Who has responsibility	
Agree initial kick off meeting with trust	Lead Contact	
Review the capacity within your group to ensure there is sufficient expertise with the right skills sets (financial, educational and other appropriate skills), the capability, and time commitment to successfully deliver your school project.	Trust	
Ensure you have a robust project plan in place with key project milestones and sufficient resources allocated to manage all the tasks in pre-opening, including expertise to manage your project plan.	Trust	
Procurement and additional support: checklist of activities		
Activities to complete	Who has responsibility	
Plan pre-opening expenditure, agree approach to procurement (set this out in a procurement policy) and set up arrangements to manage the budget.	Trust	
Decide where the trust will need to buy in services and support and plan the appropriate procurement to ensure suppliers/ goods are in place as and when required, in line with procurement policy	Trust	
Governance: checklist of activities		
Activities to complete	Who has responsibility	

To have established a company limited by guarantee (the trust) using the Department's model Memorandum and Articles of Association. Set board of trustees size.	Trust	
Agree Articles of Association with the Department	Trust/Lead Contact	
To have in place plans for the structure of your board of trustees and plans for how you will source, recruit and train your trustees.	Trust	
To have recruited the chair and other trustees and support staff. Workable plans in place for recruiting the remainder, and any training.	Trust	
Trustee recruitment complete and work completed/underway on key policies, protocols and documents for term one.	Trust/chair of trustees	
Funding: checklist of activities		
Activities to complete	Who has responsibility	
Once year of opening agreed, issue project development grant agreement.	Lead Contact	
Plan pre-opening expenditure, open bank account (if this doesn't already exist), agree approach to procurement and set up arrangements to manage the budget.	Trust	
Sign and return project development grant agreement.	Trust	
Continue to develop school finance plan as project develops and review staffing structure.	Trust	
Submit project development grant expenditure declaration after the second and subsequent payments. Submit expenditure profile before the second payment is made.	Trust	
Finance plan submitted to support funding agreement	Trust	

Continue to develop UTC finance plan as project develops and review staffing structure.	Trust	
Submit revised financial plan which takes account of pupil numbers and a revised staffing structure for the school on opening.	Trust	
Assess financial plan and post opening funding for the open school.	Lead Contact	
Issue indicative funding letter based on approved financial plan and agreed estimate of pupil numbers.	EFA	
Submit final project development grant expenditure declaration after school open.	Trust	
Site and buildings: checklist of activities		
Activities to complete	Who has responsibility	
Arrange site kick-off meeting (usually happens at the same time as the overall kick off meeting)	EFA/DfE Lead Contact	
Search for a site	EFA	
Confirm technical feasibility of site	EFA	
Agree opening year	Lead Contact	
Procure construction works and gain planning approval	EFA/Trust	
Procure ICT	EFA/Trust	
Contract Award for UTC	EFA/Trust	
Completion of works	Contractor	

UTC opens	Trust	
Admissions: checklist of activities		
Activities to complete	Who has responsibility	
Submit draft admissions arrangements to lead contact. These should include the timeline and process for accepting applications and making offers.	Trust	
Lead contact to work with UTC Trust and admissions team to agree admissions arrangements for the UTC.	Lead Contact /Trust	
UTC Trusts to submit admissions information to local authority for inclusion in local authority composite prospectus (note: this does not mean theUTC has to take part in local authority co-ordination of admissions in the first year).	Trust	
Draft marketing plan for discussion.	Trust/ Lead Contact	
UTC will need to consider whether to include their admissions arrangements in their S10 consultation. This is good practice, as it allows interested parties to comment on the arrangements.	Trust	
Monitor pupil recruitment and consider how this relates to the financial and educational viability of theUTC.	Trust/ Lead Contact	
Agree lowest viable pupil number (for inclusion in the funding agreement)	Trust	
Make offers to pupils in line with published admissions arrangements.	Trust	
Although UTCs are able to set their own dates for offering places, many will do so around the same time as national offer day. UTCs need to ensure they follow their published admissions arrangements when accepting applications, allocating places and making offers. When offering places, UTCs without a signed funding agreement must make it clear that the offer is conditional on the funding agreement being signed.	Trust	

Ensure an independent appeals panel is in place to hear any appeals from unsuccessful applicants following the offer of places.	Trust	
Statutory consultation: checklist of activities		
Activities to complete	Who has responsibility	
Have clear plans in place for carrying out your consultation	Trust	
Launch your consultation in line with section 10 of the Academies Act 2010.	Trust	
Assessment of the impact that opening the UTC will have on other state-funded educational institutions in the local area.	Lead Contact	
Consider the responses to your consultation and whether you need to make any changes or additions to the plans for your school	Trust	
Provide a report of the consultation, including key findings, to the Department.	Trust	
Equalities duty: checklist of activities		
Activities to complete	Who has responsibility	
Review your on-going commitment to your equalities duty for all your plans and policies through-out pre-opening.	Trust	
Staffing, education plans and policies: checklist of activities		
Activities to complete	Who has responsibility	
Discuss your proposed staffing structure with the Department.	Trust	

Consider how you will meet your statutory duties in relation to the Equalities Act through recruitment material for staff.	Trust	
Begin the recruitment process for your principal designate.	Trust	
Include the recruitment of staff and the development of your educational plans and policies in your project plan.	Trust	
Recruitment of essential senior staff begins.	Trust	
Single Central Register (SCR) set up.	Trust	
Begin drafting all the staff policies required for recruitment of staff.	Trust	
Staffing structure finalised and financially viable given likely number of pupils.	Trust	
Key appointments made and minimum staff appointed, Disclosure and Barring Service checks (was CRB), contracts and pension arrangements underway.	Trust	
Have in place all education plans and policies that are required for your Ofsted pre-registration inspection.	Trust	
Produce three-year development plan/education brief (the overarching plan to which all other policies and plans relate).	principal designate or education expert	
Produce curriculum plan including plans for project based learning developed in consultation with the employer and university partners	principal designate or education expert	
Schemes of work developed that cover at least the first year of opening.	principal designate other teaching staff in post if applicable	
Pupil level assessment and accreditation plans in place	principal designate	
All policies the trust has a statutory duty to produce are in place.	Trust	

Plans for pupil induction in place.	principal designate	
Begin staff induction and training.	Trust	
Funding agreement: checklist of activities		
Activities to complete	Who has responsibility	
Agree and sign the draft funding agreement sent by you lead contact	Lead Contact /Trust	
The activities below will need to be completed before funding agreement		
Ensure your admissions arrangements are compliant with the School Admissions Code.	Trust	
Complete your statutory consultation and submit report to your lead contact.	Trust	
Meet your requirements, as a public authority, under section 149 of the Equality Act 2010	Trust	
Have appointed PD and have plans for recruiting other staff	Trust	
Have large numbers of expressions of interest and/or applications and robust plans to secure enough confirmed offers from pupils to meet your PAN	Trust	
Submit your financial plans to your lead contact for approval, including one for lowest viable pupil number	Trust	
Secure your permanent site for your school (i.e. Heads of Terms in place).	Trust/EFA	
Produce the necessary policies for the Ofsted pre-registration inspection.	Trust	

Ofsted inspections and school registration: checklist of activities		
Activities to complete	Who has responsibility	
Inform the trust in which three-week inspection block their inspection will fall.	Lead Contact	
Submit the completed Ofsted registration form and all required documentation to Ofsted.	Trust	
Submit the completed EduBase form to the Department.	Trust	
[If inspection concluded and checklist issued by Ofsted] Send the Ofsted pre-registration inspection checklist to the trust	Lead Contact	
[If inspection concluded and checklist issued by Ofsted] Address any conditions of registration identified by Ofsted as per the checklist	Trust	
Readiness to open: checklist of activities		
Activities to complete	Who has responsibility	
Agree date/venue of ROM.	Lead Contact / Trust	
Discussion/briefing on ROM.	Lead Contact / Trust	
Completion of ROM report.	principal designate	
Preparation of ROM presentation.	principal designate	

ROM meeting.	principal designate, lead proposer, chair of trustees, lead contact and EFA.	
ROM risk register and key actions document.	Lead Contact	
Opening : checklist of activities		
Activities to complete	Who has responsibility	
Complete actions generated from the ROM.	Trust	
Meet with your EFA representative.	Trust/EFA	
Ensure your UTC is prepared for an education adviser visit during the first term.	Trust	
Ensure that the requirements of the Academies Financial Handbook are in place when the school opens, including formation of a finance committee, the appointment of external auditors, responsible officer and accounting officer.	Trust	
Approval and submission to EFA of the trust's annual budget forecast for the first year of opening.	Trust	
Preparation, audit and submission to EFA of financial statements for academy trust for period to 31 August 2015(for those academy trusts which were incorporated on or before 29 February 2014).	Trust	
Completion and submission to EFA of academies' financial management and governance self-assessment.	Trust	



Department
for Education

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