



Department  
for Education

# **Free schools: how to apply**

**Mainstream, 16 to 19, alternative  
provision and special free schools**

**May 2014**

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# 1. Things to know before you start

1.1 The deadline to apply to open a free school in wave 8 is 5pm on 10 October 2014.

1.2 Please note that if you register an interest in submitting a [free school application via the pre-application registration form](#), the information you provide, including personal information, may be subject to publication or disclosure in accordance with the access to information regimes, primarily the Freedom of Information Act 2000 and the Data Protection Act 1998.

## Vision

1.3 We want to improve our education system so that all children thrive and prosper, regardless of their background. The free schools programme is helping us realise this vision. The programme introduces greater local choice by establishing new schools and increases competition to drive up standards. The programme is responsive to:

- the need for pupil places;
- the need for an alternative to low quality local provision; and
- local demand for new provision (including innovative and distinctive models).

1.4 To ensure that we establish high quality free schools, we place a great emphasis on:

- the capacity and capability of the proposer group, including:
  - relevant education and financial expertise
  - track record of proposers who run existing education provision
  - the quality of the provision when the school is open, including:
    - the academic rigour and aspiration of the education offer
    - strong governance structures and governing body
    - strong financial management
  - the likelihood of being graded good or better by Ofsted in the first inspection.

1.5 We prioritise free school proposals from the strongest groups, and in particular in areas where new schools are needed most. Free schools must provide value for money, especially in periods when capital funding is limited.

1.6 There are four main categories of free school<sup>1</sup>: mainstream, 16 to 19, special and alternative provision (AP). You can find more information on the assessment criteria for each category of free school on the GOV.UK website. You can also find out about how to apply to establish a University Technical College or Studio School. This guidance contains a number of technical terms and you may find it useful to refer to the glossary in **Annex B**.

## What is a free school?

1.7 **Mainstream free schools** are state funded primary, secondary, middle or all-through schools that are independent of local authorities and are academies in law. They are funded on locally determined funding formulae in line with all other schools in the area. They are funded directly by the Education Funding Agency (EFA) on a per-pupil basis. Mainstream free schools are also able to offer nursery provision, though the funding for this is provided separately<sup>2</sup>.

1.8 **16 to 19 free schools** are stand-alone education institutions for the education of 16 to 19 year-olds. They are funded directly by the EFA on the basis of the national funding formula for 16 to 19 provision. We do not accept applications to set up 16 to 19 free schools from 11 to 16 schools that want to extend their existing school. 11 to 16 schools wanting to establish 16 to 19 provision should make an application to the Education Funding Agency (in the case of academies) or their local authority (in the case of local authority maintained schools, including voluntary aided and voluntary controlled schools).

1.9 **Alternative provision (AP) free schools** cater principally for children of compulsory school age on short term placements, who are disengaged from mainstream education. They may also cater for 16 to 19 year olds. Children of compulsory school age can be referred to alternative provision free schools by local authorities, other schools and academies ('commissioners'). AP free schools receive £8k per pre-16 place from the EFA and negotiate top-up funding levels with the commissioners of pupil places. Students aged 16 to 19 can either be referred by commissioners or apply to the free school directly, where 16 to 19 funding arrangements will apply.

1.10 **Special free schools** are specially organised to offer educational provision for pupils with special educational needs (SEN). They are designated for specific type(s) of SEN. Once a school is open, approval from the Secretary of State would be required if

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<sup>1</sup> When we use the word 'school' in this document, we are referring to all types of free schools, unless stated otherwise.

<sup>2</sup> Funding for up to 15 hours for 3 and 4 year-olds comes directly from the local authority (LA) and groups should make their own arrangements with the LA to coordinate payments. See **Annex A** for further information about funding for nursery provision.

the school wishes to change or extend its designation to cater for children with other types of SEN. A special free school can cater for statemented pupils or (from September 2014) pupils with an Education, Health and Care (EHC) Plan, non-statemented pupils or a mixture of both<sup>3</sup>. Special free schools receive £10k per statemented place from the EFA and negotiate top-up funding levels with local authorities. Students without statements can either be referred by commissioners or apply to the free school directly, where mainstream funding arrangements will apply.

1.11 **Hybrids** are schools that do not fit obviously into one of the types outlined in this section. If you are proposing a hybrid school, you should apply using the application form and guidance you think are closest to the type of provision you wish to offer. For example, if you want pupils<sup>4</sup> to be permanently on roll at your free school (as opposed to short term placements) your school will not be an alternative provision free school (even if it wishes to offer an alternative curriculum) and you should follow the mainstream form and guidance. If you want your school to offer a mix of provision which includes mainstream education, then the mainstream form may be the most appropriate.

1.12 If you submit a strong application that does not fit within any of the categories of free school described above, we will still work with you to see what is achievable to deliver your vision for a new school.

## Free schools: law and policy

1.13 Every free school must comply with the legal and policy framework which governs the development of the free schools programme. There are three main sources of legal requirements for all free schools:

- Independent School Standards legislation;
- the funding agreement; and
- relevant regulation and codes of practice specific to that type of school.

1.14 **Independent School Standards:** Mainstream, AP and special free schools are all academies, and as such, they are independent schools to which the relevant Independent School Standards apply. The Education (Independent School Standards) (England) Regulations 2012 are available [here](#). Though 16 to 19 free schools are

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<sup>3</sup> The admission of children without statements is limited to those that have a type of SEN in which the school specialises. In addition, pupils without statements are considered to be mainstream pupils for admission purposes and the process for admitting them will be regulated by the School Admissions Code and the school's funding agreement.

<sup>4</sup> Other than key stage 4 pupils who may be full time in AP.

academies, they are not legally schools and therefore are not covered by the Independent School Standards. They operate on a similar basis to sixth-form colleges.

1.15 **The funding agreement:** Each free school will enter into a contract with the Secretary of State termed the ‘funding agreement’<sup>5</sup>. In order to receive funding from the Secretary of State, free schools must follow the arrangements and standards set out in the funding agreement. The model funding agreement documents can be found [here](#) and only in exceptional circumstances will the Secretary of State deviate from this model. A copy of the Academies Financial Handbook can be found [here](#). Academies and free schools must abide by this document and it is important that you understand this information.

1.16 **Inspection:** Mainstream, special and alternative provision free schools are inspected under Ofsted s5. 16-19 free schools are inspected under the Common Inspection Framework (CIF).

1.17 Sector specific regulations are listed below.

1.18 **Mainstream free schools** must:

- adopt fair practices and arrangements that are in accordance with the School Admissions Code, the School Admission Appeals Code and the law on admissions as it applies to maintained schools. Free schools designated as having a religious character will have to balance the needs of children of the particular faith and children of other faiths or none. When oversubscribed, faith designated free schools will have to limit those pupils admitted solely on the basis of faith to 50% of their yearly intake;
- follow the statutory assessment (i.e. testing) arrangements as they apply to maintained schools;
- collect performance data, publish results<sup>6</sup> and be subject to Ofsted section 5 inspection under the same framework that applies to maintained schools;

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<sup>5</sup> For simplicity we use ‘funding agreement’ throughout the application documents to refer to the formal legal agreement between the academy trust and the Secretary of State. In addition to the funding agreement, the law allows the Secretary of State to fund academies (including free schools) by payment of grant.

<sup>6</sup>The school accountability system will change in 2016. Primary schools will be expected to support at least 85% of their pupils to achieve a new higher standard (closer to the present 4b level). In addition, a new reception baseline will be used to assess schools’ progress for children who start reception in September 2015 and beyond. Schools that choose not to use an approved baseline assessment from 2016 will be judged on the 85% attainment standard alone. More information on these new **primary accountability** measures can be found [here](#). From September 2016, the early years foundation stage (EYFS) profile will

- have regard to the Special Educational Needs Code of Practice<sup>7</sup>; and
- provide a broad and balanced curriculum<sup>8</sup> including the core subjects of English, mathematics, and science and make provision for the teaching of religious education and a daily act of collective worship.

1.19 **16 to 19 free schools** must:

- have admissions arrangements and criteria which are fair, objective and transparent. They are able to select pupils based on GCSE grades or other criteria. They do not need to admit students on the basis of the School Admissions Code<sup>9</sup>;
- have a curriculum that is suitable for the requirements of the students but can include vocational, social, physical and recreational training;
- encourage students without at least one grade C at age 16 to achieve English and mathematics GCSE A\*-C (or encourage students to take English and mathematics provision that will lead to significant progress towards GCSE A\*-C);
- collect performance data, publish results and be subject to Ofsted inspection under the Common Inspection Framework; and
- ensure equality of opportunity for students with any disability including learning difficulties that constitute a disability, have regard to the Special Educational Needs Code of Practice and do their best to make the provision called for by children's special educational needs.

no longer be compulsory. The EYFS itself will continue to be statutory and the basis for Ofsted inspection of early year settings including children in a school nursery and reception classes. In **Secondary Schools**, value added progress scores will become the key performance measure in 2016. In tables based on 2016 exams, the existing 5 A\*-C (including English and Maths) floor standard will be replaced with the new Progress 8 measure. More information about these changes can be found [here](#). Schools will be able to choose to opt-in to the new secondary accountability arrangements one year early. For **16 to 19 free schools or free schools with sixth forms** results reports will include the percentages of students achieving the academic and vocational minimum standards. More information can be found [here](#).

<sup>7</sup> Reforms to the SEN arrangements are due to come into force from September 2014, including a new SEN Code of Practice. Revised duties are set out in Part 3 of the Children and Families Act 2014. Mainstream free schools have the same specific duties as other mainstream schools in relation to meeting the needs of pupils with SEN, including the requirement to have a SENCo who is a qualified teacher and holds appropriate specific qualification, to publish an SEN Information report and more generally to have regard to the SEN Code of Practice. They must do their best to make the provision children's special educational needs call for.

<sup>8</sup> The curriculum must (a) promote the spiritual, moral, cultural, mental and physical development of pupils at the school and of society, (b) prepare pupils at the school for the opportunities, responsibilities and experiences of later life and (c) include English, mathematics and science.

<sup>9</sup> These admissions arrangement apply solely to 16-19 free schools. The admission arrangements for schools with sixth forms must comply with the School Admissions Code.'



1.20 **AP free schools** must:

- admit children of compulsory school age by referral from local authorities, schools and academies using existing referral powers or duties. They do not need to admit students on the basis of the School Admissions Code;
- collect performance data, publish results and be subject to Ofsted section 5 inspection under the same framework that applies to all publicly-funded schools;
- have a majority of pupils who are of compulsory school age. They may also have 16 to 19 year old students, but they must be fewer than 50% of pupils<sup>10</sup>. Students aged 16 to 19 can either be admitted by referral from local authorities, schools and academies or apply in the same way as they would to any other 16 to 19 provision;
- have regard to the Special Educational Needs Code of Practice; and
- offer a broad and balanced curriculum<sup>11</sup> including English and mathematics.

1.21 **Mainstream, 16 to 19 and AP free schools do not have to:**

- follow the national curriculum;
- employ teachers with Qualified Teacher Status<sup>12</sup>;
- follow local authority term dates or standard school hours; or
- comply with the provisions in the School Teachers' Pay and Conditions Document.

1.22 **Special free schools** must:

- admit a child where the school is named in a child's statement or (from September 2014) EHC Plan;
- admit pupils without statements or (from September 2014) EHC Plans in accordance with the SEN Code of Practice;
- follow the statutory assessment (i.e. testing) arrangements as they apply to maintained schools;

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<sup>10</sup> Any group where more than 50% of its pupils are aged 16 to 19 should apply to set up a 16 to 19 free school.

<sup>11</sup> The definition of broad and balanced for Alternative Provision free schools is different to that of mainstream. It must include English and mathematics as part of an appropriate, varied and stretching curriculum for the expected pupil cohort.

<sup>12</sup> With the exception of a Special Educational Needs Coordinator and the school's designated lead for looked after children, although please note that certain head teachers may hold these roles without having QTS.

- collect performance data, publish results<sup>13</sup> and be subject to Ofsted section 5 inspection under the same framework that applies to all publicly-funded schools. Since September 2007, special and mainstream schools have been required to submit data, using the P scales, for pupils aged 5 to 16 with SEN who are working below level 1 of the national curriculum. Attainment data (P scales) are needed for English, mathematics and science;
- ensure all teachers have QTS; and
- have regard to the Special Educational Needs Code of Practice.

#### 1.23 **Special free schools do not have to:**

- provide the national curriculum. The school will have to meet the requirements set out in pupils' statements or (from September 2014) EHC Plans and provide a curriculum which is broad and balanced for any pupils without statements. Consideration should be given to how pupils without statements can be enabled to access a broad range of subjects on a regular basis and recognition should be given to their achievements across the curriculum;
- comply with regulatory requirements for the school workforce<sup>14</sup>; or
- comply with the provisions in the School Teachers' Pay and Conditions Document.

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<sup>13</sup> In Secondary Schools, from 2016 value added progress scores will become the key performance measure and in tables based on 2016 exams onwards the existing 5 A\*-C including English and Maths floor standard will be replaced with the new Progress 8 measure. More information about these changes can be found [here](#).

<sup>14</sup> Special free schools and special academies fall within the definition of special school as set out in s337 of the Education Act 1996 as amended by the Academies Act 2010 (Schedule 2, paragraph 2). There are two main sets of regulations that set the standards for the school workforce: the Education (School Teachers' Qualifications) (England) Regulations 2003 and the Education (Specified Work) (England) Regulations 2012. Special Schools are not required to have a Special Educational Needs Co-ordinator (SENCO).

1.24 As a matter of policy, we also encourage a diverse range of schools offering specialist provision, and welcome existing maintained and independent schools as providers of free schools. The following sections set out our policies for establishing schools with boarding, nursery provision, faith schools and independent school conversion.

## **Boarding**

1.25 It is possible for free schools of all categories to offer boarding provision. This means they can provide residential accommodation for some or all of their pupils. For mainstream free schools and non-statemented pupils in special free schools, admissions arrangements must be in line with the boarding requirements set out in the School Admissions Code and fees may be charged to cover the cost of board and lodging only. For 16 to 19, special and alternative provision free schools, the School Admissions Code does not apply but the school must set out clear criteria for the admission of pupils to residential facilities. For alternative provision schools and statemented pupils or (from September 2014) pupils with an EHC Plan in special free schools, the associated costs will form part of the commissioned rate.

## **Nursery provision**

1.26 Free schools are able to offer nursery provision if they wish and the government is keen to encourage more schools to offer nursery provision for younger children, whether directly or in partnership with private or voluntary early years providers. You should be aware that any revenue or capital funding provided by the free school programme can only be used to support compulsory school aged pupils (aged 5 and above). When completing your free school application you will need to demonstrate that the provision for compulsory school aged pupils is not dependent on any income or resource that you may gain from the nursery. Information on nursery funding is provided in paragraphs 5.15, 5.16 and 5.17 and [Annex A of the criteria for assessment](#) provides guidance on how to reflect this in your financial templates.

## Faith free schools and free schools with a distinctive educational philosophy or world view (including Steiner, Montessori and Maharishi)

1.27 If you are proposing to set up a faith free school (either a school with a faith ethos or a school designated as having a religious character<sup>15</sup>) or a free school with a distinctive educational philosophy or world view you should note that:

- All free schools are expected to be inclusive, for faith free schools this is reflected most clearly in their admissions arrangements, which can allow a maximum of 50% admissions by reference to faith. Your school must be designed to appeal to a wide range of parents and pupils, including those of other faiths or none.
- Free schools are, like all schools, subject to the Public Sector Equality Duty, which forms part of the Equality Act 2010. This duty requires you and your trustees, both in planning and running your school, to have regard to the need to eliminate discrimination, harassment and victimisation; advance equality of opportunity and foster good relations between communities.
- We will look for evidence that you have considered these responsibilities in your application and that your school will provide for and be attractive to parents and pupils from outside your faith community. You may find it helpful to consult the guidance for schools on the Equality Act: [www.gov.uk/government/publications/equality-act-2010-advice-for-schools](http://www.gov.uk/government/publications/equality-act-2010-advice-for-schools).
- We will consider whether or not there are elements of your application that might deter parents of children of other faiths or none, or those that do not specifically espouse your distinctive educational philosophy from applying, or could prevent their children from playing a full part in the life of the school. This could include lessons taught in community languages, large proportions of curriculum time devoted to faith-related studies, restrictive dietary requirements or the mandatory wearing of symbols or clothing associated with your faith or world view.
- Your school must provide a meaningful alternative for pupils whose parents wish to withdraw them from religious education, collective worship or other faith-related studies;
- We will not approve any application where we have any concerns about creationism being taught as a valid scientific theory, or about schools failing to teach evolution adequately as part of their science curricula.

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<sup>15</sup> Definitions of faith ethos free schools and schools designated as having a religious character are in the glossary (**Annex B**).

- As part of the assessment process, we may also speak to representatives of the relevant faith denominations, including those who form part of the department's Faith Schools Providers' Group, about the faith elements of your application.

**1.28 Please note that 16 to 19, AP and special free schools cannot be designated as having a religious character.** Applicants may seek to establish a distinct religious ethos or world view that is reflected within the vision and values of the school. However, they will not be able to appoint teachers on the basis of faith and will not be able to have faith based admissions arrangements for pupils.

## **Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE)**

1.29 In most cases, TUPE will not apply to new free schools. However, applicants are advised to take specialist advice and let us know if there are likely to be any potential TUPE issues. If TUPE is likely to apply, we would expect the existing provision to have been judged at least good in its last Ofsted inspection. If the rating is inadequate or requiring improvement, then the application is unlikely to be approved and you may not receive feedback on all or part of the application. Where the existing provision is an independent school, the requirements for independent schools in paragraph 1.30 below apply.

## **Independent schools, including existing AP and special institutions, becoming free schools**

1.30 Strong independent schools wishing to join the state sector may apply to become free schools. If you are an independent school applying to become a free school you should note that:

- All free schools should enhance choice and increase the number and quality of places locally and you will need to show how your independent school will do this.
- You will also need to show how you will use your best endeavours to admit numbers of children attracting the pupil and service premiums that are proportionate to such children resident in the local authority including by prioritising children who are eligible for the pupil and service premiums in your admissions arrangements.
- If your independent school is approved to become a free school you must cease selecting your intake according to academic ability and comply with the School Admissions Code and free schools policy. For faith schools this means admitting a maximum of 50% of pupils by reference to faith. You may no longer admit pupils from non-European economic areas.
- You must demonstrate how your school can and will meet the needs of a new and different pupil population.

If you have an existing AP institution that is educating five pupils full time or one pupil with a statement or (from September 2014) an EHC Plan, your institution must be registered as an independent school before applying to become a free school.

1.31 As part of your free school application, you will need to:

- sign a declaration guaranteeing that you have disclosed all your financial liabilities;
- carry out an Ofsted section 5 inspection prior to applying;
- have no significant outstanding issues on compliance in your most recent inspection report;
- provide a link to your most recent inspection report\*;
- demonstrate that you have a good track record of managing finances.

\*Schools inspected by Ofsted, the Bridge Schools Inspectorate or the School Inspection Service should have achieved a judgement of good or better in the following areas:

- the quality of education;
- safeguarding pupils' welfare, health and safety; and
- promoting the spiritual, moral, social and cultural development of pupils.

Schools inspected by the Independent Schools Inspectorate should have achieved a judgement of good or better in the following areas:

- the quality of academic and other achievements;
- the contribution of curricular and extra-curricular provision;
- the contribution of teaching;
- the quality of the pupils' personal development;
- the contributions of arrangements for welfare, health and safety;
- the effectiveness of governance, leadership and management;
- the quality of education;
- safeguarding pupils' welfare, health and safety; and
- promoting the spiritual, moral, social and cultural development of pupils.

1.32 **Your independent school is unlikely to be approved unless you can prove it will provide good value for money and will be successful in the state sector.** When assessing your independent school application, we expect the benefits to justify any associated costs (in terms of capital investment, arrangements to deal with any existing liabilities and the fact that the state would have to pay for places previously paid for by parents). We will consider cost benefit trade-offs based on factors including:

- a good or outstanding (or equivalent) rating in your latest inspection;
- your plans to increase capacity and take on more pupils (either by filling existing vacancies or creating new places);
- the level of basic need and deprivation in your local area;
- the level of debt of your existing school;
- the size of capital investment needed; and
- results at KS2 (level 4+ and level 5+) and GCSE (5A\*-C including English and mathematics) that are at least equal to the local authority average in all of the last three years.

1.33 We favour independent schools that can expand their pupil intake, either by filling vacant places or creating entirely new places on their existing sites. If your independent school has significant debts or requires large capital investment (which is unlikely given that your independent school will already be operating as a school), it is very unlikely to be approved.

1.34 If your independent school passes the paper based assessment, your school will receive a visit from a DfE education adviser and/or an Education Funding Agency officer or officers prior to your interview. This visit will inform interview questions and the overall assessment of your application. All visits will take place after you have been invited to interview, but we may contact you prior to this to agree a date for a possible visit should you be invited to interview.

## Non-maintained Special Schools

1.35 We are aware that some Non-Maintained Special Schools (NMSS) would like to become academies, however, currently to do so a school needs to apply through the Free Schools process. As part of the review of NMSS we have agreed with Ministers and the sector that we will develop a fast track route to academy status. This would allow the Secretary of State to enter into an academy arrangements with an academy trust created from a NMSS without the NMSS having to follow the free school application process. More information about the pilot scheme will be available shortly and potential applicants should wait to consider this before developing a free school application.

## Existing state or independent schools setting up new schools

1.36 We also welcome free school applications from existing schools with strong track records that wish to set up brand new schools. When assessing such applications, we will look at the popularity and quality of provision at the existing school(s). We will also assess an existing school's financial and governance record and capacity to set up a new school. **We expect the existing provision to have been judged at least good overall in its last Ofsted inspection and to have above average results at KS2 and GCSE (5A\*-C including English and mathematics).**

## **Small schools**

1.37 It is normally more difficult for small schools to provide a broad educational offer, become financially secure and offer good value for money. Therefore, if you are applying for a small school, you will need to make a very strong case to explain why you think your school will be able to overcome these challenges. Even if your application is approved, we may still ask you to consider expanding the proposed size of your school to ensure that we get the maximum value from the investment of capital funding and to improve the educational and financial sustainability of your school.



## 2. Getting started

2.1 Setting up and running a school is challenging and requires a lot of time, commitment and determination. Before you start your application, you should think about:

- the type of free school you want to establish;
- the law and policy as they apply to free schools;
- the local need for the particular school you want to set up;
- the level of involvement you want to have in setting up and running the school;
- the relevant skills and experience you have to set up and run a school;
- whether you need to access any additional expertise and how you might secure this; and
- potential sites for your free school.

2.2 New Schools Network (NSN) is an independent charity which provides free advice and support to groups interested in applying to set up free schools. We strongly recommend that you contact them before drafting your application. Click [here](#) for a direct link to their website.

### Organising your group

2.3 Groups will need to organise themselves based on the skills, experience and time commitment of individual members, so that the group is deployed and governed in the most effective way. Groups may be able to identify external organisations or individuals who are willing to provide them with support free of charge.

2.4 You will need to demonstrate that your group has sufficient capacity and capability and a good track record to deliver your free school through pre-opening. In particular, this means you must have: the education expertise to build the school's education plan; finance expertise to create the school's financial plan; project management expertise to ensure the project's successful progress; and communications and marketing expertise to attract, build and maintain support among parents of prospective pupils.

2.5 If you identify any skills gaps, you may also appoint a third party to provide support through an open and competitive tender process. However, you **must not** enter into any contracts in the expectation of public funds. If you have been assisted in writing your application by any individuals or organisations that are not part of your trust, you should explain how you will secure such support if you are approved.

2.6 Each free school must be established on a solid legal footing and be underpinned by strong corporate governance arrangements, including for financial oversight. Each free school is run by an academy trust, a charitable company limited by guarantee,

formed specifically to establish and run a school<sup>16</sup>. 'Limited by guarantee' means that the personal liabilities of the members who establish it are restricted. The academy trust is the body that submits the application to open the free school.

2.7 An academy trust is made up of members and trustees. The members are akin to the shareholders of a company. The members are the original subscribers to the trust's memorandum of association, and any other individuals permitted under its articles of association. Members have an overview of the governance arrangements of the trust and have the power to appoint and remove trustees. To set up your trust you will need three or more members<sup>17</sup>, referred to as the 'founding members'.

2.8 An employee of the school / trust may not be a member.

2.9 The members appoint the trustees of the trust and you will need to name at least one trustee to set up your trust. The trustees are responsible for oversight of the day-to-day management of the trust and governance of the free school.

2.10 **A note on terminology** – The trustees of an academy trust are also known as the company directors<sup>18</sup>.

2.11 *Multi-academy trusts*<sup>19</sup> (MATs) can establish local governing bodies to who the trustees delegate functions. Individuals on the local governing body are referred to as local governors. Local governors are not trustees (unless they also sit on the board of trustees). While MATs can delegate functions to local governing bodies, they remain accountable and responsible for these.

2.12 Individuals who are members can also be trustees. In academy trusts the most robust governance arrangements will retain at least some distinction between the members and the trustees. This promotes oversight and challenge.

## Establishing your academy trust

2.13 To establish your academy trust, your founding members will need to sign legal documents called a memorandum of association and articles of association. The articles

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<sup>16</sup> This is a requirement under the Academies Act 2010.

<sup>17</sup> Academy trusts should be established with three signatory members with the Department encouraging trusts to have at least five members in total, as it ensures enough members can take decisions via special resolution (which requires 75% of members to agree) without requiring unanimity and facilitates majority decisions being taken by ordinary resolution (which requires a majority of members to agree)."

<sup>18</sup> Charity Commission guidance on the role of trustees can be found [here](#).

<sup>19</sup> Multiple academies (including free schools) that are governed by one academy trust.

set out the trust's constitution and provide a framework for its governance arrangements. The articles will be published as an annex to your trust's funding agreement, so it will be a public document once your free school opens.

2.14 The department's [model articles](#) take into account best practice in corporate, charity and school governance. For this reason the department expects proposer groups to establish their academy trust using the model articles before they apply to open a free school. The department's guide to the articles explains the key provisions in the document, confirms which details you will need to add, and where the articles may be amended to reflect your group's characteristics and preferences.

2.15 You need to submit a completed model memorandum and articles of association to Companies House, along with an application to register a company and the relevant fee. Information on how to set up a company is available from Companies House. Additional guidance from NSN is available [here](#).

2.16 The department's model articles include a 'charitable object'. This means that your trust will become a charity from the moment it is registered with Companies House (the date of incorporation). Once your free school opens (on the first day of term) your company will become an 'exempt' charity. This means that it will be regulated by the Secretary of State, as are all academies. The Academies Financial Handbook provides more information on requirements on academy trusts resulting from this. You are not required to and should not register your company, its members or trustees (directors) with the Charity Commission.

## **Financial accountability**

2.17 Academy trusts are subject to public accountability requirements. They must ensure public money is used effectively and comply with a number of legal requirements and UK government regulations as well as the Academies Financial Handbook.

2.18 All academy trusts must appoint an accounting officer, usually the principal, who is personally responsible to Parliament and to the accounting officer of the EFA for the resources under their control. They must establish appropriate financial management, governance and audit arrangements in accordance with the requirements of the Academies Financial Handbook. The EFA is responsible for providing assurance to Parliament that the funds it has provided to academies and free schools have been used for the purposes intended. Assurance is primarily sought and gained through the financial returns made by academies and free schools.

2.19 As companies limited by guarantee, academy trusts must prepare annual financial statements and submit them to Companies House within the required deadlines. The Academies Accounts Direction is published annually and sets out the form which academy financial statements must take, incorporating the requirements of company, charity and public sector financial reporting. The model free schools funding agreement

requires academy trust financial statements to be audited by an external auditor and submitted to the Secretary of State via the EFA by 31 December each year.

2.20 Academy trusts must also submit an annual budget return to the EFA. As public sector bodies within the Department for Education accounting boundary, academy trust budget forecasts and financial results are consolidated into the EFA and the department's forecasts and results for the purpose of providing expenditure estimates to Parliament and for the Whole of Government Accounts, a legal obligation on the UK public sector. The National Audit Office is the group auditor for the Department for Education.

2.21 These regulations require that all potential suppliers are given a fair opportunity to seek business and make competitive offers. Therefore, there can be **no guarantee** that organisations or individuals offering support in the preparation of applications will be offered contracts should the application be approved.

## Conflicts of interest

2.22 One of the most important tests of a trust's capability is how well it plans for and manages conflicts of interest. A conflict of interest can be defined as: 'Any situation in which a person's personal interests, or interests that they owe to another body, may (or may appear or be perceived to) influence or affect their decision making.'

2.23 Conflicts are most likely to arise when a trust is considering awarding a contract to an individual or organisation in which one of its members or trustees has an interest. By considering your plans for contracting work (pre- and post-opening) you will be able to act **before forming your trust and recruiting your governing body** to minimise the risks of a conflict. This will include ensuring that:

- bodies that sponsor or promote schools do not derive a financial profit from doing so;
- any individual or organisation represented as a member of the trust, or with influence over the trust, 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;
- there is sufficient challenge within the trust, with independent members and trustees, capable of holding suppliers to account;
- trustees and members comply with the protocols set out at articles 6, 98 and 99 of the model articles. These protocols ensure that decisions are taken without bias and that individuals who are 'conflicted' take steps to avoid influencing a decision;
- the trustees establish and maintain a register of interests to identify and record potential areas of conflict; and

- trustees and members understand the need for all procurement to follow an open and fair competition. Our website provides guidance on procurement [here](#). The Academies Financial Handbook also includes guidance on conflicts of interest and appropriate procurement.

2.24 Conflicts of interest may also arise if family or other personal relationships between the individuals running an academy trust make it hard to hold an individual to account. For example, if a husband and wife were to take the roles of chair of the board of trustees and principal, it may be more likely that decisions will be influenced by shared interests or views, and not taken in the best interests of the trust.

2.25 It is important to note that even the *perception* of a conflict can create negative publicity and could affect your free school's reputation and ability to recruit pupils.

## Recruiting trustees

2.26 The application process also asks you to confirm how many trustees you will appoint, and to provide information on any individuals you have already appointed as trustees. **It may seem logical to assume that your project group will become the board of trustees, but the challenges of pre-opening are different to those faced by the trustees of an open free school.** No matter how vital a contribution you believe someone will make during pre-opening, you should not guarantee them a seat on your board of trustees. As a guide, a trustee will be expected to:

- Have the confidence to challenge the principal and senior leadership team of the school; acting as a critical friend to maintain focus on improvement; and holding them to account;
- Use attainment and other data (in particular the new Ofsted [dashboard](#) and [RAISE online](#)) to assess the school's progress, strengths and weaknesses;
- 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 academy trusts around the curriculum and the school day;
- 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; and
- Maintain the highest professional standards as a governor, exemplifying the [seven principles of public life](#) as set out by the Nolan Committee.

2.27 The number of trustees should be determined solely by the experience and skills needed to manage your academy trust and drive improvement in your free school. Large governing bodies should be avoided because they usually make focused discussion and clear decisions harder to achieve. As a general rule the department recommends no more than 12 trustees.

2.28 In your articles, you will need to specify how many trustees will be appointed by the members. You should also specify how many additional trustees the board of trustees will be able to appoint, using the co-option provisions in the articles (noting that co-opted trustees cannot take part in decisions to co-opt other trustees).

2.29 You may find that accommodating every stakeholder and supporter on the board of trustees takes you above 12 trustees. However, there are other ways to engage people with expertise by using sub-committees and advisory bodies. For example, you might ask someone with HR experience to join a finance and resources sub-committee – or create informal advisory bodies to give a voice to community groups, parents or pupils.

2.30 You will not be expected to have filled your entire board of trustees by the start of pre-opening. A trustee's term of office is four years, so it is better to take time in pre-opening to recruit high calibre trustees than to rush to recruit unsuitable candidates. You can recruit your parent trustees during the first term after opening. You will be expected to have carried out a skills audit to assess what strengths and gaps exist across your project group and any trustees you have already appointed. Please note that all trustees, however they are appointed or elected, must be formally appointed as directors of the trust; and that a person who is not a director of the trust cannot act as a trustee.

## Existing single-academy trusts and multi-academy trusts applying for a new free school

2.31 As an existing academy trust you will already have articles of association in place, although you may need to move to the department's model multi-academy articles if you only currently run one school. You should not update your articles until you have been approved into pre-opening.

2.32 As an existing academy trust you will also have an established board of trustees and your members and trustees will have a good understanding of their role and responsibilities. However, you will still need to demonstrate in your application that your trust has the capacity to put in place effective governance structures and to support and challenge your new free school, both through pre-opening and once it opens. Further details on the information we require can be found in the relevant **Assessment Criteria booklet**.

## Suitability of applicants and applications

2.33 The Secretary of State will seek to ensure that only suitable persons are permitted to establish publicly-funded free schools and will seek confirmation that no member or trustee of the academy trust has been barred from Regulated Activity. He will consider each application on its merits, and take into account all matters relevant to the application. He will reject any applications put forward by organisations which advocate violence or other illegal activities, or by individuals associated with such organisations. In

order to be approved, applications will need to demonstrate that those individuals who will act as members and trustees, and the school itself, will ensure that principles are promoted which support fundamental British values, including: respect for the basis on which the law is made and applied in the United Kingdom; respect for democracy and support for participation in the democratic processes; support for equality of opportunity for all; support and respect for the liberties of all within the law; and respect for and tolerance of different faiths and religious and other beliefs.

## 3. Preparing and submitting your application

### Application deadline

The deadline to submit an application to open a free school in wave 8 is Friday 10 October at 5pm.

### Pre-application registration

3.1 If you intend to submit a free school application in October 2014 (wave 8), you will first need to register with the Department for Education by completing the online [pre-application registration form](#). **This should be completed no later than 5pm on Friday 19 September 2014.**

3.2 We will then provide you with a unique registration number that you will need to quote when submitting your formal application.

3.3 If you would like to submit more than one free school application in wave 8 you will need to provide details for all your proposed schools and we will send you individual reference numbers for each of your applications.

3.4 Please note that if you are registering an interest in submitting a free school application, the information you provide, including personal information, may be subject to publication or disclosure in accordance with the access to information regimes, primarily the Freedom of Information Act 2000 and the Data Protection Act 1998.

3.5 If you are applying to set up multiple schools, you will need to specify the preferred opening dates for all your schools, and you may choose to stagger the openings.

3.6 Completed applications **must** be submitted to us within the application window shown in the table above. Please note that any applications received outside this time will be considered in the next round.

### Routes

3.7 There are two application routes:

- **Route 1** for applicants who have an open **free school** of the same type and phase or applicants who have a **free school** in pre-opening of the same type and phase; and
- **Route 2** for all other applicants.

3.8 The purpose of Route 1 is to avoid asking you to provide information that we have seen before. If you have previously been approved to open a free school, we still hold a copy of your previous application. Instead of asking you to duplicate information in all



areas, you will need to provide a brief statement and commentary of significant differences between this application and your last approved application for most of the education plan section. We will also take into account the views of your DfE lead contact and your named education adviser, based on their experience of your educational model during pre-opening and, if applicable, when open. You should be aware that a Route 1 application will still be assessed against other mainstream, 16-19 AP and special free school applications as appropriate. You should consider the How to Apply Guidance and assessment criteria carefully to ensure that this is the right route for you.

3.9 If your group is proposing a different educational plan, you are free to submit a full Route 2 application. Indeed, groups will not be eligible for Route 1 if:

- they are establishing a different type of school (e.g. if they were previously approved to open a mainstream school and are now applying to open an AP school);
- they are establishing a different phase of school (e.g. if they were previously approved to open a secondary school and are now applying to open a primary school); or
- they operate a type of school that is not a free school (e.g. they are an academy sponsor that has not previously submitted a free school application). This is because we need more information than we currently hold to assess your application fairly.

3.10 If your group is applying through Route 1, you will be asked to submit:

- the vision for your school(s);
- a commentary on any differences between the education plan you previously submitted and this application;
- evidence of the need for your proposed school(s);
- evidence that your group can successfully manage a new school or schools in addition to your approved school(s);
- financial plans for your new school(s); and
- details of site options for your new school(s).

3.11 Most applicants will apply through Route 2, in which case they will be asked to complete each section of the application form in full.

3.12 Both routes will offer an opportunity to apply to open a single school or multiple schools. We will make it easier to apply to open **multiple schools** by asking you to complete one vision (as appropriate), one plan and one capacity and capability section to cover all the proposed schools. You will also complete separate sections for each school setting out the local context, evidence of need, the proposed site and full financial plans.

If your group is seeking to open multiple schools, you will also be asked how they intend to successfully manage the demands of running more than one school.

## The application form explained

3.13 A free school application is made up of nine sections. Route 1 and Route 2 applicants need to supply slightly different information in **Section D** (education plan).

3.14 In **Sections A and B** we are asking you to tell us about your group and provide an outline of the school. This requires the completion of the relevant sections of the Excel application form.

3.15 In **Sections C – F** we are asking for more detailed information about the school you want to establish and the supporting rationale. This requires the completion of the relevant sections of the Word application form.

3.16 In **Section G** we are asking specifically about costs, financial viability and financial resilience. This requires the completion of the relevant sections of the Excel budget template and Word application form.

3.17 In **Section H** we are asking for information about premises, including information about suitable site(s) you have identified. This requires the completion of the relevant section of the Excel application form.

3.18 **Section I** is about your suitability to set up and then run a free school. There is a separate Word form for this. For more information on Section I see paragraphs 3.27 - 3.32.

3.19 **Independent schools** (including privately run AP and special institutions) must include a link to their latest inspection report. They must also provide a self-assessment against the Ofsted Section 5 criteria by filling in the table in the Word application form. They must also submit their last two years' audited accounts with their application, or supply alternative evidence of financial viability where the school has not been open long enough to have two years' worth of audited accounts.

3.20 The **assessment criteria booklets** provide further information on the criteria we will use to assess your application.

3.21 All these documents can be found on the department's website.

## Submitting your application

3.22 You must submit **Sections A-H**, Word and Excel information, within one of the application windows for them to be considered.

3.23 You need to submit **one copy by email** to the relevant mailbox for your type of school:

- [mainstream.fsapplications@education.gsi.gov.uk](mailto:mainstream.fsapplications@education.gsi.gov.uk)
- [special.fsapplications@education.gsi.gov.uk](mailto:special.fsapplications@education.gsi.gov.uk)
- [alternativeprovision.fsapplications@education.gsi.gov.uk](mailto:alternativeprovision.fsapplications@education.gsi.gov.uk)

3.24 The title of your email should be as follows: *Free School Application Wave 8 – School Name:[insert] Ref No: [insert]*

3.25 16 to 19 applications should be sent to the mainstream mailbox.

3.26 Please note that the size of your email should not exceed 9MB. Anything larger than this will not be delivered. If the application is larger than 9MB you should split the documents and send two emails.

3.27 You also need to submit **two hard copies** by a guaranteed delivery method such as **‘Recorded Signed For’** post to:

Free Schools Applications Team  
Department for Education  
3rd Floor  
Sanctuary Buildings  
Great Smith Street  
London SW1P 3BT

3.28 It is essential that the hard copies you provide are identical to the electronic version that you email.

3.29 The Word application form should be: between 50 and 100 pages long; formatted for printing on A4 paper; completed in Arial 12 point font; and include page numbers. Annexes are excluded from the page limit and should be restricted to CVs and information about key individuals. Please do not include photographs, images and logos in your application (other than any demand map, if relevant).

3.30 The contents of the Excel templates are excluded from the page limit.

3.31 Please include the name of your school in the file name for both your Word and Excel templates.

## Section I

3.32 We carry out a range of checks on those proposing to set up and run free schools. These include due diligence checks, credit checks, and enhanced Disclosure and Barring Service (formerly Criminal Records Bureau) checks and may include police and other checks necessary to ensure the suitability of people to be part of the free school

programme. Personal information provided as part of the application process, including the information requested below, may therefore be passed to third parties for the purpose of these checks. We will check members and trustees of the academy trust, lead applicants who are not a member or trustee of the academy trust and also principals designate either identified at application stage or once appointed. In order for us to carry out the checks mentioned above, you will need to submit one hard copy of **Section A** (tab 1 of your Excel application form) and signed hard copies of the [Section I Suitability and Declarations Due Diligence forms](#) as required. We recognise that principals are appointed at different times so we request that you ask your principal to complete and submit a Section I form once you appoint him or her. Newly appointed members and trustees should also submit Section I forms.

3.33 The **Section I Suitability and Declarations form** is required for each member, director and principal designate who **has not** submitted this form within the past 365 days, together with a list of those lead applicants, members, directors and principals designate who **have** submitted Section I forms within the past 365 days. For example, if your application was unsuccessful in the previous round and you are reapplying with the same members, these members do not need to re-submit section I forms. The DfE reserves the right to request section I forms from any group if we deem it necessary.

3.34 The lead applicant or main contact should place a hard copy of the Section A form, Section I forms, and a list of any lead applicants, members, directors and principals designate who have submitted Section I forms within the last 365 days together in **one envelope** and return them by a guaranteed delivery method such as **'Recorded Signed For'** post to the following address:

Due Diligence Team  
Department for Education  
4th Floor  
Sanctuary Buildings  
Great Smith Street  
London SW1P 3BT

3.35 Please remember that we must receive all of the documents that make up your application within one of the application windows in order for them to be considered. Please use the checklist in **Annex C** of this document to ensure that you have provided all the information we need to assess your application.

3.36 For the purposes of the Data Protection Act 1998, the Department for Education is the data controller for personal information supplied on these forms and for ensuring that this information is processed in accordance with the requirements of the Act. Any third parties processing personal information on behalf of the Department for Education will be acting as its data processors. the Department for Education will hold all personal information you supply securely and will only make it available to those who need to see

it as part of the application process. All personal information supplied in these forms will be destroyed when it is no longer needed for the purpose of the due diligence process.

## 4. Application assessment and interviews

### Assessment of your application

4.1 We will assess your application:

- against the criteria set out in the relevant assessment criteria booklet for your proposed type of school;
- against other mainstream, 16 to 19, AP and special free school applications as appropriate; and
- against a range of contextual factors including value for money and how your proposed school will make use of academy freedoms to improve standards in the local area.

4.2 It is essential that you read the relevant assessment criteria booklet for your type of school before starting your application<sup>20</sup>. Under each criterion we have included a description of what you should include in your application.

4.3 All criteria are important and groups should complete their entire application with care and consideration. Each criterion includes information you must provide in order for your application to be assessed. **If you do not provide this information for any of the criteria that are relevant to your application, it is likely that your application will not be considered further and you may not get feedback on the other sections.** For more information please read the relevant assessment criteria booklet. In addition, if we judge that the information provided in any section of your application is weak when assessed against the criteria then it is likely that we will not assess the whole application and provide detailed feedback on all sections.

4.4 If you plan to use policies from another school or education provider you must be transparent about that (cite your sources), and explain your rationale for doing so. If you do not and we subsequently discover you have sourced material from elsewhere, you may not receive any scores for that section of your application.

4.5 From September 2014, 8 regional schools commissioners will be responsible for taking important decisions about the academies in their area. We expect them to have a role in the assessment and approval of the Wave 8 free school applications. More information about regional schools commissioners can be found [here](#).

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<sup>20</sup> If you are proposing a hybrid school, please use the assessment criteria booklet most relevant to your type of provision.

4.6 All applications will be subject to due diligence checks. This means we will use the personal information you provide to check your suitability to set up a free school. For more information see paragraphs 3.27 to 3.32.

## Interviews

4.7 If your application is assessed as one of the strongest, we will invite your group to interview. Please see page 23 for the periods in which we expect to hold interviews.

4.8 Interviews will be tailored based on the quality of the application, and the strength and track record of the proposer group. In rare cases, if your application is exceptionally strong in all areas, we may approve your project without interviewing your group.

## Decisions and pre-opening

4.9 If the Secretary of State decides your application should progress to the pre-opening stage, we will provide you with a dedicated point of contact from the Department for Education, along with support from the EFA to help secure a site and open your school.

4.10 **Please note that approval of your application does not mean approval of every detail, including your financial plans, preferred principal designate, proposed site, opening date or budget.** Approval may be conditional on amending certain aspects of your application. The Secretary of State may also decide to prioritise funding for the benefit of the free schools programme as a whole.

4.11 There will be a **significant** amount of work to complete between the approval of your free school application and your free school opening. Therefore, you should be clear that members of your group are able to commit the time necessary to do this. If you employ a principal designate, senior staff, or procure project management support, you will need to oversee their work.

4.12 We will provide a project development grant to groups whose applications are approved to the next stage. The amount of funding depends on the type of school. This grant is to help cover everything that groups will need to buy up to the point that the school opens. This will include the cost of any project management and education support required and other costs such as recruiting and paying a principal designate. The project development grant does **not** cover capital costs and this is funded separately. We will ask you to submit a budget plan to show how you will spend this money in pre-opening. For more detail on project development grant funding see **Annex A**.

4.13 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). Your EFA project director will discuss this with you in due course.

4.14 Assuming you make good progress after your application is approved, the Secretary of State will then decide whether to enter into a funding agreement with you. In previous rounds, some applications have been approved after interview but then failed to progress sufficiently. In some cases a funding agreement could not be signed, the project did not go ahead and the school did not open. In other cases, the opening of the school had to be delayed by a year. This demonstrates the immense importance and challenge of the pre-opening phase.

## **Appeals and reapplying**

4.15 Decisions by the Secretary of State are final and there is no formal appeals process.

4.16 If your application is not successful, you will receive a feedback letter giving information about the judgement. Unless we tell you otherwise, we would not expect a group to reapply in the very next application window. Instead, groups should allow themselves enough time to address their weaknesses and strengthen their application.

4.17 If you are reapplying after being unsuccessful in a previous round, we expect you to demonstrate under the relevant section of your new application how you have changed your application in response to the written feedback you received. If this feedback is not addressed to our satisfaction, it is likely that your application will not be considered further, and you may not get full feedback on the application.



## 5. Support for applicants

### Useful contacts

5.1 Please find below contact details of organisations that are able to offer support:

- For general advice, please contact New Schools Network. New Schools Network is an independent charity which provides free advice and guidance to free school applicants.
- Advice and guidance on how to find potential school sites, as part of developing your application, is available from the EFA by contacting them by email. This is the email address for premises queries and advice before you submit your application. There is a separate email address for any premises information you need to send once you have submitted your application; that email address is given in the Excel application form.

### Further information and key documents

5.2 There are a range of websites and documents that you may find useful when writing your free school application, including:

- [Academies Financial Handbook](#)
- [Academies Spend Data \(for examples of academy finances\)](#)
- [Behaviour and exclusions policies and guidance](#)
- [Boarding schools, National Minimum Standards](#)
- [Charity Commission guidance](#)
- [Companies House](#)
- [Department for Education procurement guidance for free schools](#)
- [Education Funding Agency \(Capital\)](#)
- [Education Funding Agency \(Revenue\)](#)
- [Education Services Grant](#)

Equality Act 2010:

- [The Equality Act 2010](#)
- [Departmental advice regarding The Equality Act 2010](#)

- [Free schools financial plan templates](#) (These templates will calculate your funding using 2014/15 funding rates. It will provide an indication of the funding you are likely to receive to assist you in your financial planning.)
- [Governance guidance](#)
- [Information on existing free school projects](#)
- [Model free school funding agreements](#)
- [Model free school memorandum and articles](#)
- [New Schools Network](#)
- [School admission appeals code](#)
- [School admissions code](#)
- [Schools benchmarking website](#) (for examples of maintained school finances)
- [Secondary School Accountability Consultation](#)
- [Seven Principles of Public Life](#)
- [Special Educational Needs Code of Practice](#)
- [Regional schools commissioners](#)

## Annex A: Free school funding overview

### Project development funding

5.3 We will provide a project development grant to groups whose applications are approved to the next stage. This grant is to help cover everything that groups will need to buy up to the point that the school opens. This includes the cost of project management; education support; recruiting and paying a principal designate; pre-opening office costs and pre-opening insurance. This excludes site-related costs which will be paid by the EFA.

### Pre-opening grant funding (PDG)

5.4 Each project receives a pre-opening grant letter confirming the amount of the grant and conditions on how the academy trust can spend the money. The amount will vary depending on whether the trust is opening a secondary, primary, AP etc. Independent schools receive a much smaller allocation, reflecting the fact that they join the programme with much of their staff and other resources in place. Trusts opening a single school in an academic year will receive the full pre-opening grant (PDG) rate for the type of school they are opening. Trusts who have been approved to open more than one school in a given academic year will receive full PDG funding for the first school; however we expect there is scope for them to realise efficiencies in expenditure. They will therefore receive a reduced amount for each additional school – see table below. Areas where we might expect to see savings are project management; educational services; administration and office costs. Current PDG rates are set out in the table below. Note: these rates are subject to review and may be reduced in future.

Type of school	PDG funding for first school opening in a given academic year	PDG funding for each additional school opening in a given academic year
Primary	£220,000	£150,000
Secondary and all-through	£300,000	£200,000
16 to19	£250,000	£170,000
Special	£220,000	£150,000
Alternative provision	£220,000	£150,000
Independent converter	£25,000	£25,000

### School funding

5.5 Funding is primarily allocated to schools on a per-pupil basis. The more pupils you have, the more funding you get. This is why proving the need for your school is so

important. If your school does not have enough pupils it will be very difficult for you to pay for staff and the upkeep of your school building.

5.6 All mainstream schools – including free schools and academies – are funded based on a local funding formula. Local formulae are revised before the start of each academic year. We expect to be able to provide final details of funding arrangements in the April before the start of the academic year to which they will apply. The information set out below and in the financial template is based on the most recent free school funding figures which will be a close proxy for future funding rates. However, you should note that information set out below and in the template is **illustrative** only. No guarantee can be given that the levels of funding set out in the template will be received when your school opens. If your application is approved, you will be expected to revise your budgets as your plans develop and to reflect any changes to the funding arrangements when they are known. Commissioned places in special and AP free schools have different funding arrangements and further details are available on the [GOV.UK website](#). Places for 16 to 19 pupils are primarily funded using a national formula and further details are also available on the GOV.UK website.

## Post-opening funding

5.7 Most new schools receive additional funding to reflect the additional costs of establishing new publicly-funded schools. New schools being opened as free schools will be provided with this funding through the post-opening grant.

5.8 The post-opening grant provides funding in two elements: per-pupil resources; and leadership diseconomies. These titles reflect the basis on which the funding is calculated.

5.9 **The first element (resources)** is paid annually as the school builds up to full capacity. It is paid at the following rate:

- £250 for each new mainstream place created in the primary phase (years Reception to 6); and
- £500 for each new mainstream place created in the secondary and 16 to 19 phases (years 7 to 13).

5.10 **The second element (leadership)** is paid annually as the school builds up to full capacity. The amount paid each year to mainstream schools with pupils aged 5 to 15 depends on how many year groups (cohorts) for pupils aged 5 to 15 (years reception to 11) are empty (i.e. cohorts that will have pupils when the school is full but do not yet have any pupils). Secondary and all-through schools with sixth forms do not include their sixth form cohorts in the calculation of leadership diseconomies funding. The amount received each year given the number of empty cohorts is set out in the table below. No school may receive more leadership diseconomies funding than the maximum amount given below. To note, if you recruit more than one year group within a single year, you will receive less than the maximum amount below.

Empty cohorts (R-Y11 only)	6+	5	4	3	2	1	MAXIMUM
Primary	£80,500	£67,500	£54,000	£40,500	£27,000	£13,500	£283,000
Secondary (regardless of whether the school plans to have a sixth form)			£125,000	£93,500	£62,500	£31,000	£312,000
All-through	£125,000	£93,500	£62,500	£54,000	£40,500	£27,000	£402,500

5.11 Post-opening funding is reviewed periodically to ensure value for money, so these figures should be used to provide an indication only.

5.12 Free schools exclusively for 16 to 19 pupils also receive £500 in resources funding for each new mainstream place created in the 16 to 19 phase. **16 to 19 free schools** that are building up and have an empty cohort in the first year will receive leadership funding in that first year only. The level of leadership funding is negotiated on a case by case basis with the expectation that it will normally be in the range £62,500 - £93,750. You should indicate in the budget planning tool what level of leadership funding within this range is necessary to ensure your 16 to 19 free school is viable on opening. You should also show how it provides value for money.

5.13 **Special and alternative provision free schools** receive £250 in resources funding for each new primary place and £500 for each new secondary place created (up until the school reaches capacity). The level of leadership funding is negotiated on a case-by-case basis and will normally be within the range £150,000 - £230,000. The distribution of leadership funding while the school is building up is subject to negotiation. You should indicate in the financial template what level of leadership funding within this range is necessary to ensure your special or alternative provision free school is viable on opening. You should also show how it provides value for money.

5.14 Please note that independent schools becoming free schools will not normally be eligible for any post-opening funding.

## Funding for nursery provision

5.15 Free schools are also able to offer nursery provision if they wish. Free schools may offer the 15 free hours a week to which all three and four-year-olds, and the most disadvantaged two-year-olds, are entitled. You will receive Educational Services Grant for any nursery pupils.

5.16 However, the funding you receive to establish your free school and provide for compulsory age education (children from the age of five) cannot be used for this purpose. Funding for free early education is provided by the local authority using each local

authority's Early Years Single Funding Formula. If you are interested in offering nursery provision, you should speak to your local authority to find out whether you would be eligible for funding from them and how much you could receive.

5.17 Free schools are also able to offer nursery provision which exceeds any local authority free entitlement, including for under three-year-olds. Subject to their funding agreement, free schools may fund this by charging parents directly, or through a subsidiary company, or by contracting with an independent provider who levies charges. Free schools providing paid-for nursery provision should note that the pupils attending paid-for provision cannot be prioritised in admissions to the free school's primary school. Nursery pupils admitted to free local authority funded nursery provision through an admissions code compliant process can be prioritised in the primary school's admissions policy.

## **Annex B: Glossary of terms**

### **Academies Financial Handbook**

Sets out the duties and obligations of academy trusts which have a funding agreement with the Secretary of State, including in respect of financial management, governance and audit.

### **Academy**

Publicly-funded independent educational institution free from local authority control. Free schools are legally academies. Other freedoms include setting their own pay and conditions for staff, freedom from following the national curriculum (for mainstream and special schools - 16 to 19 and alternative provision schools already have this freedom in the maintained sector) and the ability to change the lengths of their terms and school days.

### **Academy trust**

A charitable company limited by guarantee which operates an academy or free school. See 'company limited by guarantee' for further information.

### **Articles of association**

Set out the purpose, composition and operating arrangements of the company limited by guarantee (the academy trust).

### **Board of trustees (also known as board of directors or governing body)**

The body appointed by the members of the academy trust to oversee the day-to-day management of the school and hold the senior management team to account. The board of trustees must be constituted in accordance with the academy trust's articles of association. Trustees must be registered as directors of the company with the Registrar of Companies.

### **Catchment area**

The geographical area which you intend your school to serve.

### **Collective worship**

All publicly funded schools must provide a daily act of collective worship. For non-faith schools collective worship should reflect the broad traditions of this country which are in the main Christian. A school can reflect the religious backgrounds represented in its community, as long as the majority of provision is broadly Christian. Schools with a religious designation must provide collective worship in accordance with their trust deed, or in accordance with the tenets of their faith. They can also choose to reflect the other principal religions and those found in the local community. Schools can apply for

permission not to provide broadly Christian collective worship where the belief of its pupils or the local community is such that another faith would be more appropriate. 16 to 19 free schools must provide weekly collective worship.

### **Company limited by guarantee**

A private company where the liabilities of its members are limited, in the case of academy trusts, to £10. This is the type of company that will most often be used for non-profit organisations. As a legal entity in its own right a company limited by guarantee can take out agreements and contracts in the name of the company rather than the name of individual members.

### **Devolved formula capital**

Funding for the maintenance and repairs of school buildings. Free schools will not receive this funding in their first year. 16 to 19 free schools do not receive this funding.

### **Directors**

Directors of an academy trust are also known as trustees (see below)

### **Due diligence**

Is an umbrella term for a number of checks that will be made on all those applying to establish a free school. The checks enable us to ensure that only suitable individuals are able to set up and run a free school.

### **Education Funding Agency (EFA)**

The EFA (formed from the Young People's Learning Agency and Partnerships for Schools in April 2012) is part of the Department for Education. It currently funds all academies, maintained schools through local authorities, other training for 16 to 19s and learners with learning difficulties and disabilities between the ages of 16 and 25. EFA usually lead on capital acquisition and property costs, as well as overseeing spend on necessary works and fit out.

### **Education Health and Care (EHC) Plan**

An Education, Health and Care (EHC) Plan describes a child or young person's special educational and other needs and the outcomes they are working towards. The EHC plan specifies the special educational provision and any related health provision and social care provision a child should receive. The LA will usually issue an EHC plan if it decides, following a statutory assessment, that all the special help a child or young person needs cannot be provided from within the resources of the school or other educational institution. These resources could include money, staff time and special equipment. EHC plans are available from birth up to age 25.

### **Education Services Grant (ESG)**



This grant is for central education services currently funded through local authority central spend equivalent. The ESG will be allocated on a simple per-pupil basis to local authorities and academies according to the number of pupils for whom they are responsible. 16 to 19 free schools do not receive ESG.

### **English Baccalaureate**

Where pupils have secured a C grade or better in all of English, mathematics, history or geography, the sciences and a language.

### **Equivalence**

The principle that free schools will receive funding which is equivalent to the funding they would receive as an academy or maintained school in the same local authority area.

### **Escalation (methods of)**

The approach to and level of responsibility at which particular issues will be resolved when setting up and running the school.

### **Ethos**

The distinctive vision, values and principles that inform the way a school is run.

### **Faith ethos**

If you want your school to have a distinct ethos based on a set of morals that are aligned with a particular faith and you want to make this explicit, you can describe your school as having a faith ethos. This could then be reflected within the vision for the school, the values the school represents and the importance placed on particular beliefs. Religious education and collective worship cannot be provided in line with the faith ethos if this is anything other than Christian in nature, unless the school has also been designated as having a religious character (see religious designation). Faith ethos schools may not adopt faith-based admission arrangements. Having a faith ethos does not entitle free schools to any additional freedoms other than in making faith a genuine occupational requirement when hiring a senior leader.

### **Faith free schools**

See religious designation.

### **Financial viability**

Whether a school can survive in financial terms in the long-term. Free schools must be able to balance their budgets. This means spending less than their income. In the post opening period, income is currently per pupil funding plus an additional post-opening grant. When schools reach steady state, their income will be per pupil funding only.

## **Founding members of the company**

These are the people that establish the company and sign the memorandum of association that is submitted (with the company's articles of association) when registering the company with Companies House. Further members may subsequently be appointed.

## **Free school meals (FSM)**

Whether children are, or have ever been, eligible for free school meals is frequently used as an indicator of deprivation, and is often used as a qualifier for calculating funding targeted at deprived students/areas/schools such as pupil premium. No additional FSM funding is given for children aged 16 to 19.

## **Full time equivalent (FTE)**

This represents the total pupil load as if all pupils are full-time, counting part-time normally as 0.5. So for example if the school will have 100 full-time pupils and 30 part-time pupils spending half their time at the school, the FTE total would be 115. This is also relevant to staffing.

## **Funding agreement**

A legally-binding contract between the academy trust and the Secretary of State that sets out the conditions and requirements upon which the academy trust is funded.

## **General Annual Grant (GAG)**

Otherwise known as 'per-pupil funding', this is an academy's annual expected funding. Schools are expected to cover all their running costs out of their GAG.

## **Governors**

See definition for 'Directors' above.

## **Grant funding**

A method of giving funds for a specific purpose and/or a limited amount of time.

## **Information and Communications Technology (ICT)**

This includes telephony, computer equipment and operating systems for the running of the school. It also covers the use of ICT in the curriculum as a subject and to support teaching and learning.

## **Indicative funding**

Gives a school an estimated funding quote for the forthcoming academic year. It is based on the average local authority funding for maintained schools and the expected number of pupils on roll at that school in the relevant year.

## **Leadership grant**

Staffing element of post-opening grant.

## **Looked-after children**

Children who are in the care of the local authority.

## **Local Government Pension Scheme (LGPS)**

A nationwide public sector pension scheme administered locally for participating employers through 99 regional pension funds. Free schools must offer this scheme to all their non-teaching staff.

## **Members (of the company)**

The company's legal owners. They play a strategic role in running the school, are responsible for appointing trustees of the free school (the 'governing body') and have ultimate control over the company.

## **Memorandum of association**

Contains the names of the individuals who are forming the company (the company's founding members). It indicates their willingness to become a member of the company under the Companies Act 2006.

## **Multi-academy trust (MAT)**

Multiple academies (which can include free schools) governed by one academy trust. Typically the multi-academy trust will delegate the day to day running of each individual academy to a local governing body.

## **Non-maintained special schools (NMSS)**

Are independent schools specially organised to make provision for children with SEN. They run by charities or charitable trusts on a not-for-profit basis and are approved by the Secretary of State under section 342 of the Education Act 1996. We are aware that some Non-Maintained Special Schools (NMSS) would like to become academies, however, currently to do so a school would need to apply through the Free Schools process. As part of the review of NMSS we have agreed with Ministers and the sector that we will develop a fast track route to academy status. This would allow the Secretary of State to enter into an academy arrangements with an academy trust created from a NMSS without the NMSS having to follow the free school application process. More information about the pilot scheme will be available shortly and potential applicants should wait to consider this before commencing work on a free school application.

## **Pedagogy**

Different styles and approaches to teaching.

## **Post-opening grant**

Previously called 'start-up funding' this is additional funding currently available when schools are first set up (and before there is a full cohort of pupils) for essential costs such as employing a principal (head teacher) and buying books and equipment.

## **Post-opening period**

The period up to and including the first year the school has every pupil year group in place.

## **Procurement**

The process of entering into contracts for the acquisition of goods and/or services.

## **Project development funding**

Funding provided to help set up the school before it opens. It can currently be used to help develop detailed plans for the school including the curriculum, recruiting a principal designate, running a consultation on the proposed school, and attracting pupils.

## **Pupil premium**

The pupil premium is additional funding given to publicly-funded schools in England to raise the attainment of disadvantaged pupils and close the gap between them and their peers. It is paid to schools according to the number of pupils who have been registered as eligible for free school meals at any point in the last 6 years; for 2014/15 the rate is £1,300 per primary pupil and £935 per secondary pupil. Children who are or have been continuously looked after by the local authority for six months or longer will also attract a pupil premium of £1,900. Pupil premium is paid directly to mainstream free schools; special and AP free schools will need to negotiate any funding with their commissioning bodies.

## **Qualified Teacher Status (QTS)**

Is the accreditation that enables individuals to teach in state-maintained and special schools in England and Wales.

## **Religious character**

See religious designation.

## **Religious designation**

If you are proposing a mainstream school and want particular faith beliefs to be reflected in your staffing and admissions policies, we require you to seek 'religious designation'. This is a legal recognition that your school has a religious character.

You only need to do this if you intend to:

- provide religious education and collective worship according to the tenets of the faith of the school; and/or
- give preference when appointing teachers to those of the same faith as the school; and/or
- admit up to 50% of pupils on the basis of faith if your school is oversubscribed.

You do not need to seek religious designation if you are not intending to recruit staff or admit pupils on the basis of faith, or to provide a specific form of religious education and collective worship.

16 to 19, alternative provision and special free schools cannot be designated as schools with a religious character.

### **Religious education (RE)**

All schools must teach religious education. For schools that are not designated as a school with religious character, the RE curriculum must reflect that the religious traditions in Great Britain are, in the main, Christian, while taking account of the teaching and practices of other principal religions in the country. School Admissions Code and School Admissions Appeals Code.

Mainstream free schools must comply with the School Admissions Code which is a statutory document we publish that ensures equity and fair access for all.

### **Special educational needs (SEN)**

In mainstream, AP or special free schools, children and young people with a learning difficulty which requires additional, or otherwise different, educational provision than is offered more generally for children of their age.

### **Special Educational Needs Coordinator (SENCO)**

The SENCO must be a qualified teacher, who holds or is working towards a relevant SENCO qualification. The SENCO plays a key role, in collaboration with the head teacher and governing body, in determining the strategic development of the SEN policy and provision in the school in order to raise the achievement of children with SEN. The SENCO takes day-to-day responsibility for the provision made for individual children with SEN, working closely with staff, parents and carers, and other agencies. The SENCO also provides related professional guidance to colleagues with the aim of securing high quality teaching for children with SEN. 16 to 19 and special schools are not required to have a SENCO.

### **Service premium**

The service premium has been introduced for children whose parents are currently serving in the armed forces; this is £300 in 2014/15. This service premium is designed to

address the emotional and social well-being of these pupils. The service premium is paid directly to mainstream free schools; special and AP free schools will need to negotiate any funding with their commissioning bodies.

### **Solvency/insolvency**

A company or individual is solvent if the value of their assets exceeds the value of any debts they might owe. Insolvency occurs when a company or individual's debts exceed their assets, or if a company or individual has insufficient funds available to meet its debts as they fall due.

### **Statements of special educational needs (see Education Health Care Plan)**

A statement, or from September 2014) an Education Health Care Plan, describes a child's special educational needs and the special help a child should receive. The LA will usually make a statement if it decides, following a statutory assessment, that all the special help a child needs cannot be provided from within the school's resources. These resources could include money, staff time and special equipment.

### **Statutory assessment of SEN**

This is a detailed investigation to find out exactly what a child's special educational needs are and what special help a child needs. A statutory assessment is only necessary if the school or early education setting cannot provide all the help that the child needs.

### **Statutory assessment arrangements**

This includes administering the phonics screening check at the end of Year 1; reporting teacher assessment judgements (informed by tests and tasks) at the end of Key Stage 1; administering national curriculum tests and reporting teacher assessment judgements at the end of Key Stage 2; and reporting end of Key Stage 3 teacher assessment judgements.

### **Steady state**

The first year after you have pupils in each year group.

### **Studio Schools**

Designed to address the concern by employers that some school leavers do not have the skills to join the workforce. They are small schools for 14 to 19 year olds and teach an academic and vocational curriculum. Each has input from businesses, who shape what pupils learn and offer work experience. School days run on office hours, and holidays are shorter to reflect the working environment. By studying in this way, and by working with employers from an early age, students learn vital practical skills like punctuality, and good communication and behaviour in the workplace. A link to the Studio Schools Trust website is [here](#).

## **Teachers' Pension Scheme (TPS)**

A contributory scheme administered by Teachers' Pensions (TP) on behalf of the Department for Education. Free schools must offer this scheme to all their teachers, including principals.

## **Trustees**

Trustees are appointed by the members of a company to form a governing body and oversee the day-to-day management of the school. All individuals on the governing body must be formally appointed as trustees of the company and registered with Companies House. It is possible for an individual to be a member and a trustee but we would expect most trustees of the company not to be members.

## **University Technical Colleges (UTCs)**

Newly-established 14-19 academies that deliver technical education to engage young people and meet the needs of modern business. UTCs are sponsored by a local university and industry partner(s). They offer full-time courses that combine practical and academic studies, and focus on disciplines requiring highly specialised equipment, for example, engineering, manufacturing with product design, construction, or agriculture. A link to the UTC website is [here](#).

## **Value for money (VfM)**

The term used to assess whether or not an organisation has obtained the maximum benefit from the goods and services it acquires and/or provides, within the resources available to it. It not only measures the cost of goods and services, but also takes account of the mix of quality, fitness for purpose, timeliness and convenience.

## Annex C: Application checklist

Name of task	Yes	No
<b>1. Have you completed the <a href="#">pre-application registration form</a> by 5pm on Friday 19 September 2014?</b>	<input type="checkbox"/>	<input type="checkbox"/>
<b>2. Have you established a company limited by guarantee?</b>	<input type="checkbox"/>	<input type="checkbox"/>
<b>3. Have you provided information on all of the following areas:</b>		
<b>Section A:</b> Applicant details	<input type="checkbox"/>	<input type="checkbox"/>
<b>Section B:</b> Outline of the school	<input type="checkbox"/>	<input type="checkbox"/>
<b>Section C:</b> Education vision	<input type="checkbox"/>	<input type="checkbox"/>
<b>Section D:</b> Education plan	<input type="checkbox"/>	<input type="checkbox"/>
<b>Section E:</b> Evidence of need	<input type="checkbox"/>	<input type="checkbox"/>
<b>Section F:</b> Capacity and capability	<input type="checkbox"/>	<input type="checkbox"/>
<b>Section G:</b> Budget planning and affordability	<input type="checkbox"/>	<input type="checkbox"/>
<b>Section H:</b> Premises	<input type="checkbox"/>	<input type="checkbox"/>
<b>4. Is the information in A4 format using Arial 12 point font, includes page numbers and is 50 to 100 pages (excluding annexes) in total?</b>	<input type="checkbox"/>	<input type="checkbox"/>
<b>5. Have you fully completed the budget plans?</b>	<input type="checkbox"/>	<input type="checkbox"/>
<b>6. Have you included CVs in the appendices for all relevant individuals in the template provided and in line with the requirements set out in the criteria?</b>	<input type="checkbox"/>	<input type="checkbox"/>
<b>7. Independent schools only*: have you provided a copy of the last two years' audited financial statements or equivalent?</b>	<input type="checkbox"/>	<input type="checkbox"/>
<b>8. Independent schools only*: have you provided a link to your school's most recent inspection report and completed a section 5 Ofsted inspection?</b>	<input type="checkbox"/>	<input type="checkbox"/>



<p><b>9.</b> Reapplications only. If you are reapplying after being unsuccessful in a previous round, have you changed your application in response to the written feedback you received?</p>	<input type="checkbox"/>	<input type="checkbox"/>
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<p><b>10.</b> Have you sent an email (of no more than 9 MB in size**), titled <i>Free School Application Wave 8 - School Name: XXXX Ref No: XXXXX</i> with all relevant information relating to Sections A to H of your application to: <a href="mailto:mainstream.fsapplications@education.gsi.gov.uk">mainstream.fsapplications@education.gsi.gov.uk</a> before the advertised deadline?</p>	<input type="checkbox"/>	<input type="checkbox"/>
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<p><b>11.</b> Have you sent 2 hard copies of the application by a guaranteed delivery method such as 'Recorded Signed For' post to: Free Schools Applications Team, Department for Education, 3<sup>rd</sup> Floor, Sanctuary Buildings, Great Smith Street, London SW1P 3BT? (See guidance for dates and deadlines).</p>	<input type="checkbox"/>	<input type="checkbox"/>
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*\* Independent schools include existing alternative provision and special school institutions that are privately run*

*\*\* If your application is larger than 9MB please split the documents and send two emails*

Section I of your application		
<p><b>11.</b> Have you sent:</p> <ul style="list-style-type: none"> <li>• a copy of Section A (tab 1 of the Excel template); and</li> <li>• copies of the Section I Personal Information form for each member, director and principal designate that has not submitted one of these forms within the past 365 days; and</li> <li>• a list of those lead applicants, members, directors and principals designate who have submitted Section I forms within the past 365 days</li> </ul> <p>by a guaranteed delivery method such as 'Recorded Signed For' post to: Due Diligence Team, Department for Education, 4<sup>th</sup> Floor, Sanctuary Buildings, Great Smith Street, London SW1P 3BT?</p> <p>(See guidance for dates and deadlines)</p>	<input type="checkbox"/>	<input type="checkbox"/>



Department  
for Education

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