Opening a UTC

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

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Contents

Introduction

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

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

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

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

Using this guide

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

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

Section 1 - Who does what - roles and responsibilities?

1.1.   The Government's guiding principle is that as committed and capable sponsors and partners, you should have the skills and expertise to open a high quality UTC as quickly as possible – without the Government being prescriptive and without unnecessary bureaucracy. The roles and responsibilities described in this guidance reflect that principle – UTC trusts are in the lead, with support from your lead contact in the DfE (the Department) when needed to help navigate the pre-opening processes.

1.2.   Setting up your UTC will be challenging and you will need a lot of time and commitment. The support provided by the Department will be proportionate to: the needs of the trust; your experience; your track record; and the challenges you face during the pre-opening phase. We also want to encourage peer to peer support and the dissemination of good practice, and the Baker Dearing Educational Trust can help with this.

1.3.   UTCs, as an academy, have more autonomy than local authority maintained schools. We encourage you to make full use of the freedoms and flexibilities afforded to academies when establishing your UTC in order to achieve excellent educational standards.

UTC sponsors and partners

1.4.   The UTC trust is responsible, and accountable, for leading and managing the establishment of the UTC and converting the vision into an operating UTC. The trust is responsible for using any funding effectively and engaging the necessary expertise and support.

1.5.   Typically, sponsors/partners will carry out the following tasks:

- **Provide vision, drive, and innovative solutions**. Guiding the development of the UTC.

- **Manage the Project**. This includes agreeing project management and project steering arrangements and being accountable for your project's successful delivery.

- **Governance**. Agreeing the articles of association with the Department; and then playing a leading role in the composition of the UTC trust board and appointment of governors/directors/trustees.

- **Statutory consultation**. Consulting widely on your proposals in line with your statutory requirements.

- **Pupil recruitment and admissions**. Putting in place fair admissions arrangements that are compliant with the School Admissions Code; and attracting and recruiting students to your UTC.

- **Staffing and educational plans**. Developing the curriculum and specialist provision; developing the school policies including admissions and Special Educational Needs policies; and recruiting a principal designate (PD) and the teaching and support staff needed to open.

- **Finance**. Managing the funding you receive in pre-opening efficiently and effectively and securing value for money, and planning and putting in place systems for managing funding when open.

- **Site and buildings**. Chairing the Design User Group (DUG) and contributing to the development of the general requirements for the building and the ICT vision for the UTC, and how these will be delivered. NB the trust will in most cases be the procuring entity for the building project and ICT, and will need to be ready to lead these processes, working closely with the EFA.

- **Funding agreement**. Agreeing the terms set out in the funding agreement and understanding the associated legal responsibilities and implications.

- Preparing for and providing information for the **Ofsted pre-registration Inspection** and the **readiness to open** meeting.

- **Keeping the Department informed (via your lead contact)** on the progress of the project.

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

The Department for Education

Your main Departmental contact (lead contact)

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

stage. Your EFA capital project director will discuss site options and what will happen next to secure your site.

1.8.   Your lead contact is:

- responsible for advising Ministers on your proposals through the pre-opening stage to funding agreement and, assuming that is signed, on to opening. After opening, your main contact will be an official from the EFA; and

- the link to others within the Department that the project may need to draw on, such as Departmental lawyers, procurement specialists, EFA revenue and policy teams.

Other Departmental advisers

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

- advising on the educational elements of the UTC trust's planning;

- reviewing the education plans which set out the overall education strategy for the new provision; and

- advising on, and being involved as appropriate, in the appointment of the principal designate.

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

- set the capital funding envelope;

- provide access to procurement advice;

- appoint a technical adviser (see below) to work on your behalf;

- attend and advise the DUG where necessary;

- attend and advise the project steering group (or equivalent) meetings as and when necessary depending on their availability; and

- review and approve the feasibility study and final business case for the capital project submitted by the trust, and manage the process for EFA approvals.

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

- manage the range of technical staff required to provide specialist services on your project, e.g. quantity surveyors, architects;

- support the procurement of the build contractor; and

- provide the secretariat for the DUG.

1.12. The fees for this service will be included in the project's capital budget. In exceptional circumstances it is possible for projects to use their own technical adviser, subject to agreement with the EFA and demonstrating that this provides good value for money. However, it is strongly recommended that projects use the EFA-contracted service in order to benefit from their experience and minimise costs.

1.13. Your EFA ICT adviser - will give advice and guidance on all ICT elements of the project. In so doing, he or she will ensure that there is consultation regarding ICT with relevant stakeholders. He or she will:

- work with you to identify and agree the strategy and ICT requirements to support the education plan;

- set the ICT capital and infrastructure costs; and

- support the ICT elements of the feasibility study and support all elements of the ICT procurement, providing advice and guidance, including advice on management information system (MIS) providers and support on the procurement of ICT equipment.

Regional Schools Commissioners

1.14. The Secretary of State has appointed eight Regional Schools Commissioners (RSCs) (see list below) to ensure that decisions about the academy school system are taken closer to the ground and that education leaders have a stronger influence. The RSCs are advised by a board of around six head teachers of outstanding academies or experienced educational leaders, who have been elected to the position by their peers. Local heads know their areas best and know what is right for academies and free schools locally. The RSCs will perform functions on behalf of the Secretary of State, within the national framework.

1.15. In relation to UTCs, RSCs will have responsibility for open UTCs (monitoring performance and prescribing intervention to secure improvements). Although RSCs will have responsibility for free schools during the pre-opening stage, all decisions on UTCs in the pre-opening phase and on new UTC applications will remain with Minsters for the time being. However, RSCs will want to develop an understanding of those UTCs that are in the pipeline in their region, both in the context of their wider responsibilities, but also given that they will have oversight of

these studio schools once they are open. The timetable for RSCs taking on responsibility for UTCs during pre-opening has not yet been decided – your lead contact will keep you up to date.

1.16.   A list of local authorities for each RSC region is given at Annex A.

Table 1 - RSCs and RSC regions

Regional Schools Commissioner	Region
Janet Renou	The North
Jenny Bexon-Smith	East Midlands & Humber
Dr Tim Coulson	North East London & East of England
Dominic Herrington	South London & South East
Martin Post	North West London & South Central
Sir David Carter	South West
Pank Patel	West Midlands
Paul Smith	Lancashire & West Yorkshire

Baker Dearing Educational Trust (BDT) representative

1.17.   The BDT representative will be able to provide additional support throughout the pre-opening processes up to when the UTC opens. The BDT role will complement the contribution of the Department and its partners and ensure that the UTC that opens complies with the UTC model developed by the Baker Dearing Educational Trust.

1.18.   Typically, the BDT may focus its contribution on university and industry partner engagement, governance, curriculum design and principal designate appointment. Separately, the BDT may bring together UTC projects to share best practice.

1.19.   The BDT will not be solely responsible for delivery of any particular strand or phase in the pre-opening phase but will work with the UTC and Departmental lead contact. The BDT representative may join the project steering group meetings at the request of the chair and whenever practical.

The local authority

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

1.21.   In addition, your lead contact, as part of Section 9 of the Academies Act 2010, will write to the local authority where your UTC will be located together with any

surrounding local authorities within the catchment area of the UTC to seek their views on the establishment of the UTC.

Section 2 - Managing your project

2.1. There is a lot to do before your UTC is given final approval to open. The setting up of a UTC is a challenging task and requires significant commitment from sponsors and partners.

2.2. As explained in Section 1, you are responsible for leading and managing the establishment of the UTC and converting the vision into a ready to open UTC. You will need to put in place robust, but proportionate, planning and project management arrangements to oversee a wide range of activities essential to the opening of your UTC. To help you develop a project plan and identify what needs to be done – the key tasks in pre-opening are described below, together with the support available. You will also need to put in place quickly and act upon an effective marketing strategy to engage with parents, the community and key stakeholders. Effective marketing will be vital to recruiting pupils.

2.3. The Department will provide a project development grant of £300,000 to help the trust cover some of the essential costs in the run up to opening a UTC. More information on this funding is given at Section 8. This will complement the expertise and resources that sponsors and partners will provide.

Key tasks to undertake in the pre-opening phase

2.4. Each UTC project is unique, but in all cases you will need to consider:

- Managing your project

- Governance

- Pupil recruitment and admissions

- Statutory consultation

- Staffing and education plans

- Site and buildings

- Finance

- Procuring additional support

- Funding agreement

- Preparing to open

2.5. The sections following in this guidance set out the main things you will want to consider.

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

Capacity and capability

2.7.	You will have set out in the capacity and capability section of your application how you intend to manage the project. This will have included the expertise and resources that sponsors and partners will provide. You now will need to agree roles and responsibilities for each person involved in the project; ensuring that everyone understands what is expected of them and within what timescale. You will want to make sure you have a named person responsible for managing the project, bringing together all the various strands of activity and managing risks. You will also need to ensure you have access to appropriate educational and financial expertise. With many people involved, it will also be important to establish how and when significant decisions will be made.

2.8.	In deciding how to manage these tasks, your trust will need to decide whether to buy in some additional support or expertise (see Section 9 for more information on procurement and additional support). You may also be able to identify organisations or individuals who are willing to provide support without charge. In this respect, you may wish to consult the Baker Dearing Educational Trust (director@utcolleges.org.uk) who can advise you and put you in touch with other UTCs who could share their experience with you.

Project planning and management

2.9.	It is critical that you put in place robust planning and project management arrangements and invest time to do this very early on in pre-opening. In doing so, you will want to identify the essential tasks you will need to undertake and to ensure you allocate sufficient resources to be able to complete these tasks well and on time. You may use the project development grant to buy in project management support.

2.10.	It is important that you have in place clear and auditable arrangements for project support, managing public funding and making timely and appropriate decisions regarding the UTC. Many projects call their steering arrangements 'project steering groups' (PSGs). It is up to each trust to decide what project steering arrangements they want to put in place to help them plan and manage their project

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

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

Section 3 - Governance

Good governance

3.1.   You need to put in place strong governance arrangements during pre-opening, to deliver your school and ensure your trustees are ready to manage your UTC effectively once it opens.

3.2.   Every UTC is run by an academy trust: a charitable company limited by guarantee. You should have set up your trust before submitting your application. Trusts are owned by their members, who appoint the trustees. Trustees run the school and act as the academy trust's directors and governors.

3.3.   In every academy trust, the trustees are also the governors and the company directors. To avoid confusion, the preferred terminology we use is trustee.

3.4.   Members are akin to shareholders in a company. They have a role in ensuring the governance arrangements of a trust, as detailed in the trust's articles of association, are robust and fit for purpose. Trusts must be established with at least three members, though it should be noted that trusts can have more should they choose to. The Department would suggest trusts consider establishing themselves with at least five members to ensure that the trust has enough members to take decisions via special resolution (75% of members agree) without requiring unanimity while minimising circumstances in which a split membership prevents decisions being taken by ordinary resolution (at least 51% of the members are in favour).

3.5.   Trustees are responsible for setting the strategic priorities for the school, holding the senior leadership team to account for the school's educational performance and improvement, and running the trust properly. The role requires commitment as well as the right experience and skills.

3.6.   The number of trustees you need should be determined by the experience and skills needed to run your particular UTC. Large boards of trustees – as a guide, more than thirteen trustees - should be avoided because large groups can find it harder to make decisions quickly and effectively.

3.7.   While individuals who are members can also be trustees, retaining some distinction between the two layers ensures there are members independent of the trustees who can provide oversight and challenge to the trustees to ensure they are effectively delivering their core functions.

Making sure you have established your academy trust properly

3.8.   The academy trust will be the signatory to the funding agreement, and the legal owner of the school's site and other assets. Setting up your academy trust allows you to open a company bank account, into which the Department will pay your pre-opening grant (see Section 8 on finance). You should have set up your trust before submitting your application.

3.9.   The articles of association describe your trust's constitution and establish the framework of your governance arrangements. The Department's model articles have been designed to follow best practice in corporate, charitable and school governance. This is why we expect you to use our model articles to establish your academy trust. You must ensure that the majority of the board of trustees are nominees of the employer and university sponsors named in article 1 of the articles.

3.10.   The choice of a suitable business name (i.e. the name of the UTC goes by and uses in its literature and signage) is a matter for the UTC trust. However, proposed business names using the word 'University' will require approval by the Department for Business Innovation and Skills (BIS). This is to ensure that the members of the public are not misled by a name which implies a connection with an existing university where there is no such connection, or the existence of a university which does not in fact exist. BIS has no role in approving names which simply include the acronym 'UTC' – only in names including the word 'University' in its full form. Your lead contact can advise you on this and seek BIS's approval where necessary.

Size of your board of trustees

3.11.   Between five and thirteen high-calibre trustees ought to be sufficient to manage your trust effectively. Any specialist knowledge can be provided as and when required, by committees or advisory bodies, or other experts such as the clerk to the trustees or the trust's legal advisers.

3.12.   You will have indicated the size of your board of trustees in your articles. They require you to specify how many trustees will be appointed by the members, how many additional trustees the board of trustees will be able to appoint themselves using the co-opted trustee provisions, a minimum of two parent trustees, plus the principal designate and any other type of trustee.

3.13.   You should expect your lead contact to challenge you if the number of trustees set out in your articles is greater than thirteen. Your lead contact will want to be assured that any larger body is justified, according to the likely demands of running your UTC. They may suggest that you ask some individuals to stand down

if it is not clear that they will bring essential skills to the board of trustees, or if they judge the size of the group to be unwieldy.

Finding trustees

3.14.   The majority of your trustees should be nominees of the employer and university sponsors named in article 1 of the articles. In addition, SGOSS (formerly known as the school governors' one-stop-shop) helps schools find governors (trustees) in their area. You can register with SGOSS here.

3.15.   You should aim to have recruited a capable chair and identified the majority of your trustees at least six months before your school's proposed opening date (i.e. by Easter 2016 for schools planning to open in September 2016). This does not include staff or parent trustees, who you can appoint during the first term post-opening. Your lead contact will challenge you on progress on trustee appointments throughout the pre-opening period and governance will be a key focus at your readiness to open meeting, where the chair will be expected to play a full part in the discussion, alongside the principal.

3.16.   The skills-sets required for the pre-opening and post-opening stages are different. You may be tempted to appoint as trustees individuals who make a strong contribution to the pre-opening project team. This can be appropriate but only if you are confident that an individual will make a full contribution as a trustee in the longer term, based on the skills and experience outlined above. If not, there are other ways to involve partners in the running of the school, for example as non-trustee members of committees, or on informal working groups reporting to the trustees.

Ensuring you are recruiting the right people as trustees

3.17.   You need to ensure that the people you recruit as trustees understand the requirements of the role and have the commitment, experience and skills to be effective. As a UTC trustee, they will need to:

- Use attainment and other data (in particular the Ofsted dashboard and RAISE online) to assess the school's progress, strengths and weaknesses.

- Build a productive and supportive relationship with the principal and senior leadership team, and have the confidence to hold them to account for the school's performance. Depending on when trustees are appointed they may also be responsible for selecting and appointing the UTC's first principal designate.

- Be independent of mind, with the confidence and experience to drive through change, for example in making the case for, and helping to embed, academy freedoms on the curriculum and the school day.

- Use financial and workforce data to inform decision-making about the trust's spending commitments, to ensure appropriate and effective use of public money. Recruiting at least one trustee who holds an accountancy qualification is recommended.

- Represent the interests of industry and the rigour of higher education; and

- Maintain the highest professional standards as a trustee, exemplifying the seven principles of public life as set out by the Nolan Committee.

3.18. These attributes will be particularly important for the person you recruit as your chair of trustees. The chair's relationships with the principal and the trust members are key to effective accountability between the trustees and the school, and between the trust members and the board of trustees.

3.19. Parent trustees are elected by other parents, not the trust[1], but they take on the same responsibilities as every other trustee so it is vital that you do what you can to ensure that candidates understand the role and have the necessary skills and commitment (the term of office is four years). This will help to avoid disruption caused by parents (or for that matter any other trustee) stepping down early because they had not appreciated the demands of the role. Although you can also specify in your articles any other types of trustee who will join the board of trustees, such as staff or community trustees, you should take care to avoid creating an unwieldy board of trustees.

3.20. Most UTC proposers dedicate some of their pre-opening grant to trustee training. We strongly recommend that you follow suit. You will want to consider signing your chair of trustees up to the leadership development programme for new chairs, run by the National College. The programme is delivered by licensed providers in every region, with enrolment on a termly basis and courses taking around a year to complete. It can, therefore, be started by a new chair during pre-opening. The cost of the course is £350 per person.

Structures

3.21. During pre-opening you will need to determine how your board of trustees will be structured. A key consideration will be how to make most effective use of sub-committees and/or advisory bodies (working groups). Boards of trustees are expected to have a finance committee, but can set up other committees covering other areas of business, for example curriculum and attainment.

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[1] Unless too few parents stand for election, in which case the trustees can appoint as many parent trustees as they require to fill the places on the board of trustees.

3.22. Trustees can formally delegate decision-making powers to a committee, in accordance with the trust's articles, allowing it to make decisions on behalf of the board of trustees. Other committees will focus on issues and make recommendations to the trustees. Non-trustees can be co-opted onto committees and can vote on that committee, although the majority of committee members must be trustees. Committees can therefore be a helpful way to bring additional expertise to support the trustees. Your decision on whether to establish a committee should be made solely on the needs of your school and the skills of your trustees. It is also important to remember that the board of trustees retains overall accountability, regardless of what powers it delegates to any committee.

3.23. As an alternative to a standing committee, you could consider setting up an advisory body to offer advice to the trustees on specific issues or to give a voice to a particular group such as parents or the community. Because of its informal nature it can be easier to stand down an advisory body once an issue has been resolved, avoiding unnecessary demands on people's time. You cannot delegate decision-making powers to an advisory body.

3.24. The Department's National Leaders of Governance (NLG) programme was set up to provide governing bodies in open schools with advice, support and coaching from experienced chairs of governors. The programme is open to UTCs in pre-opening, to help proposer groups put in place effective governance arrangements. NLG support is free.

Trustees' commitments post-opening

3.25. As a guide, trustees have in the past tended to commit between 10 and 20 days each year; three full board of trustees' meetings each year, plus committee meetings, which individual trustees may attend. This picture is changing rapidly though, as academies, free schools including UTCs and an increasing number of maintained schools reconfigure their governance arrangements, in many cases requiring more frequent meetings of the board of trustees.

3.26. The burden on individual trustees can be lessened through effective use of committees and working groups. They can work on behalf of the trustees to explore specific areas of interest, make recommendations to the board of trustees, or take decisions on the board of trustees' behalf (see above).

3.27. To help your trustees begin to define their role as strategic leaders once open, we recommend focusing first on the Ofsted inspection framework. Ofsted will use these measures to assess the effectiveness of your board of trustees, so they should be central to your trustees' thinking about their role and priorities. The National Governors Association has published a list of twenty questions for a governing body to ask itself, covering membership and skills, focus and activities. Some questions will be more appropriate as a prompt for review and continuous

improvement, once the school opens, but most will be helpful in helping you to plan during pre-opening. For more detailed guidance you should consult the Department's [Governors' handbook](), which describes the role and duties of governors in maintained schools and trustees in academies.

Other appointments

Accounting Officer

3.28. A UTC must designate a named individual as its accounting officer (usually the Principal). The individual must be a fit and suitable person for the role.

3.29. The role of the accounting officer includes a personal responsibility to the EFA's accounting officer and to Parliament for the financial resources under the UTC's control. The UTC's accounting officer must be able to assure the EFA's accounting officer, Parliament and the public of high standards of probity in the management of public funds. This requires the UTC's accounting officer to have appropriate oversight, alongside the board of trustees for:

- The establishment, maintenance and monitoring of the UTC's internal control arrangements;
- Ensuring the UTC's assets and property are under proper control; and
- Reducing the risk or fraud or irregularity.
- Keeping full and accurate accounting records to ensure ongoing viability.

The UTC's accounting officer is also required to sign the following:

- A statement on regularity, propriety and compliance which is included in the UTC's audited annual accounts; and
- An annual value for money statement explaining and demonstrating with examples how the UTC has secured value for money.

3.30. It is, therefore, very important that the trustees of the UTC establish robust internal control arrangements leading to the efficient clearance of these documents.

3.31. More detail on the role of the accounting officer and how this can be discharged can be found on the National Association of School Business Managers ([NASBM's]()) website.

Chief finance officer

3.32. UTCs must demonstrate a capacity in their governance and financial management structures to safeguard public funds. An integral element is that UTCs must appoint a chief finance officer (CFO) who will act as the trust's finance director, business manager or equivalent, to lead on financial matters. However, as many UTCs are smaller schools it may not be possible to justify the salary of a

CFO. Trustees can elect to have this position filled by employing staff or contractors with relevant skills or knowledge at the appropriate time, provided effective governance and robust financial management is preserved. More detail on the role of the CFO can be found on NASBM's website.

Responsible Officer and other key posts

3.33.   The trustees of a UTC are responsible for establishing internal controls that recognise public expectations about governance, financial management and financial probity, and expectations on the stewardship of public funds by the EFA's accounting officer and Parliament. UTCs have a number of **options** to check that their financial and other controls are operating effectively, one of which includes the appointment of a responsible officer. The responsible officer is a non-employed trustee with an appropriate level of qualifications and/or experience, who neither charges, nor is paid for their work by the UTC. The appointment of a responsible officer is not mandatory, but is a frequent way UTCs conduct their internal scrutiny checks. More information on the role of the responsible officer can be found in the Academies Financial Handbook.

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

Conflicts of Interest

3.35.   A conflict of interest can be defined as:

> 'Any situation in which a trustee's personal interests, or interests that they owe to another body, may (or may appear to) influence or affect their decision making.'

3.36.   It is inevitable that conflicts of interest will arise at some time and even the perception of a conflict of interest can damage your trust's reputation. Your priority should be to ensure that your trustees understand their responsibilities for managing public money, which are set out in detail in the Academies Financial Handbook and include putting the right mechanisms in place to identify and manage conflicts of interest.

3.37.   Conflicts are most likely to arise where trustees or their relatives intend to provide goods or services to the trust, or where a trustee's personal, family or professional relationships will, could, or might be seen to compromise their ability to act solely in the interests of the trust. Your lead contact will challenge any appointment they

feel creates an unacceptably high risk of a conflict for your trust, but the responsibility is yours and we will expect you to ensure that:

- Requirements for managing connected party transactions are applied across the trust. The chair of the board of trustees and the accounting officer must ensure that their capacity to control and influence does not conflict with these requirements. They must manage personal relationships with connected parties to avoid both real and perceived conflicts of interest, promoting integrity and openness.

- Anyone with a governing relationship, or any individuals or organisations connected or related to them, wishing to provide services to the UTC are required to bid for and deliver services at cost. This is in line with the approach taken by the Department with approved academy sponsors.

- Trustees and members comply with the protocols set out at Articles 6, 98 and 99 of the model articles, which ensure that decisions are taken without bias and that individuals who are 'conflicted' take steps to avoid influencing a decision.

- Trustees establish and maintain a register of interests to identify and record potential areas of conflict. The register should be completed, kept up to date and regularly reviewed by all trustees and other employees of the trust, covering them and their family members. This will show that your trust's decisions are being made free from conflict.

- Trustees and members understand the need for all procurement to follow an open and fair competition. The gov.uk website provides guidance on procurement for free schools. The Charity Commission has also produced helpful guidance on identifying and avoiding conflicts of interest.

Disclosure and Barring Service checks

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

Section 4 - Pupil recruitment and admissions

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

4.2. In this section we highlight the importance of pupil recruitment and the marketing activity to support this, and explain your responsibilities in relation to pupil admissions.

Marketing and pupil recruitment

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

Hints and tips on marketing

4.4. Each UTC project is different, and so the marketing and pupil recruitment activity that works for one group will not necessarily work for others. There are, however, some general principles and lessons learned by previous projects that should help you get the most out of your planned activity.

4.5. The key is to maintain momentum, so make sure, for example, that newsletters are issued regularly; online information is up to date; and that you publicise key milestones, such as the appointment of a principal designate or securing the site. Ideas for marketing from other projects include:

- Producing regular leaflets and newsletters: you can distribute printed copies locally, or via email to your contacts list. You can use an online email marketing company to send out mailshots. Translate your leaflets and newsletters into languages which reflect the make-up of the local community;

- Having a comprehensive and up-to date website. It will help to have identified a person to maintain the

- site to keep it fresh. Make sure that all enquiries are followed up quickly, and ask correspondents if they are happy to add their email addresses to your contacts list for information and updates

- Using local radio – many local stations will give you free publicity opportunities.

- Having a social media profile e.g. by creating a Twitter account for the UTC or using Facebook.

4.6. When preparing your application you will have looked at local context such as parental demand, employer skills' needs, and where there is a need for places. You should use this information now to target your efforts. UTCs with large sub-regional catchments must ensure that you consider the audiences across the entire catchment; this will include neighbouring local authorities, schools and colleges, parents and their children. You will also need to consider equalities issues as part of your marketing, for example, to ensure that different ethnic groups in the locality can access the information or that the marketing material is attractive to both males and females.

4.7. You should engage and build strong links with local schools and colleges as having their support will be invaluable. Some schools will see the UTC as a threat, but if you develop a good rapport with them, describing your vision for the UTC and explaining that it will offer specialist curricula and different opportunities to traditional schools, this can help them to recognise that the UTC will not be in direct competition. These schools can help market your UTC for you through their own networks. Once you have discussed your plans with the schools, offer to speak at assemblies or have a presence at school events such as parents' evenings and transition days.

4.8. Face-to-face contact with parents has proved especially effective, and can build on any written/online information you have produced. Events are a key feature. They provide an effective platform to showcase your UTC, and can also provide an opportunity for parents and pupils to meet the principal designate and teaching staff, and the employer and university partners. Make sure you have application forms available at these events – take parents' details and follow-up with an email or leaflets. Previous groups have also found that holding events with a theme can attract more people and give them a fuller flavour of what your UTC would be like. For example, work based learning sessions; fun science experiments; mini challenge projects, have all proved popular.

4.9. It is also helpful to work closely with and through all your partners, including employers, and use their networks and contacts. Many projects have also utilised the experience of sponsor universities who often have particular expertise in this area of marketing to young people and may be well placed to make a particularly significant contribution to this. They have also deployed their own marketing

student teams to come up with and deploy marketing strategies as part of their course. Employer partners might also be able to share marketing expertise, or could be involved in events to showcase the types of careers that might be open to students on leaving the UTC.

Timing of marketing activity

4.10. It is also important to consider timing of activity. Whilst marketing should be an on-going activity, here are some key dates when you will need to increase your efforts:

- during your statutory consultation – make sure you tell people what your UTC and UTCs more generally are about and what you are trying to achieve;

- leading up to application deadlines, usually 31 of October for Year 10 – these are crucial times for parents, and they will be looking for information; and

- In advance of national offer day (1 March for UTCs).

Evidence of pupil recruitment

4.11. You will be expected to provide regular updates on your progress on pupil recruitment to your lead contact, throughout the pre-opening period. Your lead contact will also ask to see evidence to support your updates.

4.12. For trusts running their own admissions process, at regular intervals your lead contact will ask for written confirmation of the number (at Y10 and Y12) of expressions of interest, applications, and accepted offers received. They will also ask for scanned copies of applications/accepted offers or for you to bring hard copies to meetings, for reference.

4.13. For trusts which are part of the local authority co-ordinated admissions, your lead contact will ask you to provide written confirmation from the local authority of the number of applications (and then accepted offers) they have received for the UTC.

4.14. To ensure compliance with data protection requirements, trusts running their own admissions should make clear on the top of the application form that the information provided may be used by the Department but that it will not be kept any longer than necessary.

Admissions: your responsibilities

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

- making sure your admissions arrangements comply with the 'School Admissions Code' and the School Admission Appeals Code (the 'Codes') including the overall spirit that the arrangements should be fair, clear and objective, as well as abiding by individual requirements;

- consulting on your proposed Code-compliant admissions arrangements as part of the consultation you will carry out under Section 10 of the Academies Act 2010;

- consulting on and determining (or finalising) the new arrangements if you want to change your admissions arrangements when the school has opened;

- managing applications to the school, either directly (in the first year) or through the local authority's co-ordinated process; and

- organising an independent admission appeals panel in compliance with the School Admission Appeals Code.

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

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

Admissions: local authority responsibilities

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

- from the second year, operating a co-ordinated admissions process for entry into Year 10 including into UTCs - local authorities have a statutory duty to co-ordinate the awarding of places to all children (below post-16 entry) in their area. UTCs can manage their own admissions into other year groups and Year 12; and

- submitting a report to the Schools Adjudicator each year on the admissions arrangement for all schools (including academies, free schools, UTCs and studio schools) in their area, and on the extent to which they comply with admissions legislation and the School Admissions Code.

4.19. The local authority may not be willing to include the UTC in their co-ordinated admissions process until the funding agreement has been signed, but we have found that many local authorities are willing to include UTCs before that - sometimes with a proviso for parents pointing out that the places are subject to the Secretary of State signing a funding agreement.

4.20. Local authorities have a statutory duty to provide information about school choices in their local area. To be included in the composite prospectus, if you are intending to open in September 2015, you will need to provide your local authority with the information they need to compile the prospectus by 8 August 2014.

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

4.22. The deadline for the local authority to publish its composite prospectus is 12 September, roughly one year before pupils will start at the UTC.

The admissions process

4.23. The local authority is required to co-ordinate admissions for all state-funded schools in its area, which means they accept applications on their common application form (CAF), manage the admissions process, and make offers. They are also required to publish a composite prospectus containing details of all schools in their area (including UTCs) and to keep the prospectus up to date.

4.24. The Code no longer requires local authorities to co-ordinate in-year applications (i.e. applications received after the academic year has started) and so where a local authority does offer an in-year scheme UTCs may choose not to participate.

4.25. As a UTC, your funding agreement allows you to choose not to be part of the local authority's co-ordinated admissions process in the first year and to manage your own admissions process for the first year only. This is in recognition of the timescales involved in setting up a UTC which may not necessarily permit full participation in the local authority's co-ordinated admissions process. UTCs must participate in local authority co-ordination for entry into Year 10 thereafter. The Code allows greater flexibilities for post-16 entry and UTCs can manage their own admissions into Year 12 beyond the first year.

4.26. It is important to remember that if you choose not to be part of the co-ordinated admissions process, your UTC should still feature in the composite prospectus (see below). This has the tremendous advantage that information about your UTC

is made directly available to all parents who are applying for a place, at the time they are making decisions.

4.27. You have three main options for managing your admissions process in the first year:

    a. **Parents make a stand-alone application for a place at the UTC. You will receive applications directly from parents and manage the process yourself**. This allows you to set your own application deadlines and the date on which you will send out offer letters. The UTC will not be part of the local authority's co-ordinated scheme. You will want to make sure that application forms are readily available to parents and that the process for submitting an application form is clear and straightforward. Remember, even if you manage the application process yourself you can still request that the local authority includes details of the UTC in their composite prospectus. This will help you to attract high numbers of applications. Also, if your funding agreement is not signed by the time you make offers, you would still be able to make conditional offers, while parents could still hold a place at their current school. This affords them some security in that their child is assured of a school place, even if your UTC runs into problems and does not open.

    b. **Parents make a stand-alone application for a place at the UTC but you request that the local authority accepts applications on your behalf**. As with option (a), you will be able to set your own application deadline and offer date and the UTC will not be part of the local authority co-ordinated scheme. However, in this option, parents would submit their application to the local authority that would support you to allocate places and make offers. You will need to discuss with your local authority whether or not they would be able to provide this service – bear in mind they may charge. The application form could be produced by the trust or local authority but it would be a separate form to the CAF. However, not all local authorities will offer this type of support. You may also decide that it is in your interest to receive applications directly from parents so that you are in full control of the process and information provided to parents.

    c. **Choose to be fully part of the local authority co-ordinated admissions process – so the local authority would manage your admissions in the same way as they do for other schools**. Applications to your school would be made via the local authority CAF, and in line with local authority timelines. Once all applications have been received, the local authority will provide you with a list of all applicants who named the UTC as one of their choices. You would then rank them according to the published criteria, and return the list of successful applicants to the local authority. Offers would be made by the local authority on or just after 1 March.

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

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

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

Your admission arrangements

4.31. Your admissions arrangements should make it clear to parents how and when to apply. Criteria should be fair and objective so it is clear how decisions are made – this will also minimise the chance of potential challenges or complaints, for example to the Schools Adjudicator. It is also a requirement of your funding agreement that your admissions arrangements abide by the School Admissions Code (and the Secretary of State will not enter into such an agreement where we have reason to believe that this will not be the case).

4.32. There are some key things all Code-compliant admissions arrangements should include:

- the PAN (published admission number) for each year of entry into the school;

- clear oversubscription criteria;

- how and when applications can be made;

- details of a waiting list; and

- details of your independent appeals process.

4.33. In this section, we go through each of the required elements in turn, and explain why and how they need to be included. You should also refer to the model

admissions arrangements which explain more about the options and provides text for you to use in your own arrangements. The requirements are:

- First and foremost, all children who have **a statement of special educational needs (SEN) or an Education Health & Care Plan (that is being introduced to replace statements) that names the school automatically get a place**. The statement/plan is made by the local authority and specifies the special educational provision required for that child.

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

  - **Oversubscription criteria**: If you have fewer applications than places – i.e. you are undersubscribed – then everyone who applies will get a place. If there are more applications than places, you are oversubscribed, and will need clear criteria to help you allocate places fairly. It is a requirement of the School Admissions Code that first priority is given to children who are **either looked-after by the local authority, or who have previously been looked- after** (see paragraph 1.8 of the Code). You then need to list your oversubscription criteria in order. We list some of the options you can choose below, and there will be are others that are set out in line with the Code which you are free to consider. In our model documents we have included some of the most common:

    - **Catchment:** you can give priority to children who live within a distance of, for example, five miles of the school – but you will need to be clear how that distance will be measured – and how you will distinguish between two

children at the same address, in a block of flats, for instance. As UTCs have sub-regional catchments, it will be worth considering describing your catchment in terms of concentric circles, zones or nodal points. Any catchment must be reasonable and clearly defined. It is not lawful to define a catchment area which has the same boundary as the local authority, as it would breach the Greenwich Judgement.

- **Siblings:** you can give priority to children who have a brother or sister in the school when they apply. You'll need to define what you mean by sibling – for example, whether this will include step-siblings, or foster children etc.

- You might also want to **prioritise other groups or include other criteria** which could reflect your local or individual circumstances:

  - **Distance from a number of nodal points:** with priority given to children who live closest to the nodal point.

  - **Medical/social:** children with a strong medical or social need to attend your school; this should be supported by written evidence from a professional such as a GP or social worker, which shows why your school is essential for them.

  - **Pupil Premium:** the Pupil Premium is given to schools to support children at a disadvantage, such as those eligible for free school meals or in care. You may choose to give such pupils priority and define which recipients you wish to prioritise.

  - **Service Premium**: the Service Premium is given to schools to support the children of UK regular Armed Forces personnel and ex-personnel and is provided to address their pastoral needs. You may choose to give these pupils priority

  - It would also be helpful to make it clear **how you will treat children of multiple births** – if one twin or triplet gets a place, will you automatically admit the others? For example, if you award your last remaining place, and that child is a twin or triplet, you may decide to automatically admit all – or treat them as one application. Alternatively, you could treat them as individual applications, which could result in only one being offered a place.

- **Tie-break:** If you need to distinguish between two or more applications for the same place that cannot be otherwise separated, you will need a tie-break to decide. You can, for example, allocate the place randomly as long as that process is verified by an independent person.

- **Banding**: Banding is an **optional** and permitted way of ensuring that a **school's** intake includes children of a range of abilities. It is not a way to select children by academic ability or for a particular subject. If you choose to operate a banding system, all pupils will be tested before being offered places. They will be placed in an ability band, and either an equal proportion of places will be allocated to children in each of those bands, or the number of places in each band will be determined by the local or national distribution of ability (which will give more places to the middle ability bands than the high and low levels of ability). Oversubscription criteria are then applied to determine which children within the band are offered places. Your lead contact will be able to give you further information if required.

- **Aptitude Testing**: Schools are prohibited from selecting pupils on the basis of ability unless they are a designated grammar school. However under the Code schools may admit up to 10% of pupils on the basis of aptitude in specific specialist subjects. These are: PE or sport; performing arts; visual arts; modern foreign languages. You are only permitted to test aptitude in these specialist subjects.

- If you choose to adopt such tests you are free to decide the content but must ensure that they are a true test of aptitude for the subject concerned and not an ability test. Additionally they must accurately reflect ability regardless of sex, race or disability. Such tests must be completed and the results given to parents before the deadline for secondary school applications on 31st October.

- **Applications for post-16 places**. As 14-19 schools, UTCs admit pupils to post-16 provision and you must have separate admissions arrangements for entry to Year 12. In doing so you must be clear about the total number of places available, and the number available to external applicants - the PAN. You can either choose to have a PAN of 0, and make clear in your arrangements that places will only be offered to external applicants if Year 12 is undersubscribed by your own pupils, or you can choose to offer a number of places to external applicants. You must set minimum academic entry requirements for entry to the UTC's post-16 provision (for example, achieving 5 A*-C including English and maths at GCSE). The requirement must be the same for internal or external applicants.

- **Waiting lists:** You need to keep a clear, fair and objective waiting list for at least the first term of the academic year. Children on the list must be ranked in line with your published oversubscription criteria. Children on the list must be ranked in line with your published oversubscription criteria and therefore children will move down the waiting list as well as up as new children are added.

- **Appeals**: Parents who have not been offered a place at your school have the right to appeal. Your admission arrangements must tell parents about their right to appeal and the process, deadline and contact details for making an appeal. You can buy in the appeals service offered by your local authority, but are not compelled to do so. There is a cost attached to this – talk to your local authority contact – but it could save you time and possibly money in your busy pre-opening period. You could consider running joint appeal panels with other schools admission authorities – free schools or academies – or contract with other neighbouring local authorities or private providers. If you want to manage your own appeals, you should be prepared to commit time, money and resources to it. You need to set up an appeals panel which must be independent of the school, and comprise a clerk, a chair and at least two other people. You are required to provide training for all panel members. The School Admission Appeals Code is available on the internet. The clerk must have knowledge of the school admissions and admission appeals codes, other law relating to admissions, and be able to offer advice to enable the panel to undertake its judicial function. You will need to make sure that the panel consists of at least one person from each of the following categories:

  - lay people (someone without personal experience in the management of any school or provision of education in any school, except as a school trustee or in another voluntary capacity);

  - people who have experience in education, who are acquainted with educational conditions in the local authority area, or who are parents of registered pupils at school.

- Panel members must not be a member of or employed by the local authority, unless as a teacher or teaching assistant; a member or former member of the board of trustees of the school; or employed by the school.

- **Verification of information**: In operating your admissions arrangements you can request proof that the information provided in the application form is valid. You can, for example, ask for a proof of address (utility bill or bank statement) to confirm that parents live where they say they do. Again, we have provided examples of wording which you can choose to use if you wish. You must not ask for evidence that does not directly relate to your oversubscription criteria, for example, parents' financial or marital status, or first languages of the parents and family.

Further sources of guidance

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

- model admissions arrangements contain definitions you can use;

- a list of commonly-asked questions;

- a useful admissions checklist; and

- some examples of arrangements used by existing UTCs.

Consulting on your arrangements

4.35.　In the pre-opening period, we advise that you include your Code compliant admissions arrangements as part of your Section 10 consultation. Once you have taken account of any responses for your consultation, published your final arrangements on your website and signed your funding agreement, you should not make any changes to the arrangements without discussing them first with your lead contact. You do not need to consult on increasing your PAN, but you do need to let your local authority know so they are aware how many places you will be offering.

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

Section 5 - Statutory consultation

Statutory duty to consult

5.1   By law, your trust must meet its statutory obligation to consult under [Section 10 of the Academies Act 2010](#) about the UTC proposal. Section 10 of the Act requires the trust to consult with the people they think appropriate on whether to enter into the arrangement with the Secretary of State. The arrangement in question is the funding agreement that needs to be signed before your UTC can open.

5.2   The statutory consultation will inform stakeholders and the local community about the project. This process is very useful as trusts will be able to use and build on the feedback and suggestions they receive. It will also help to raise awareness of your project and form part of your marketing activity to help to increase pupil numbers.

5.3   You also need to decide whether you will carry out the consultation yourself or bring in additional resources to do this on your behalf. Above all, you will need to agree when to carry out your consultation, how long it will take, who you will consult with, the policies and information about your UTC on which to consult, and how you want those you consult with to respond. You will need to consider any responses to the consultation and whether it is appropriate to make any changes to your plans to take into account any concerns raised in the consultation. You should report and present your findings and conclusions both to those that have responded and to the Department.

What do you need to cover in your consultation?

5.4   The duty to consult rests solely with the trust. The Department does not direct or provide specific advice to trusts on how you should go about it. There are, however, some general themes you might want to think about which are set out in the following paragraphs. It is important to invest some time to plan how you will run your consultation to ensure this complies with your statutory duty. Your consultation must be thorough and transparent.

5.5   The key question you should ask those you consult with is 'whether the trust should enter into a funding agreement with the Secretary of State to open this UTC'. To enable people to provide an informed response to this question, it is recommended that you provide a link to the UTC model funding agreement (the link is given [here](#)) which will be tailored for your particular circumstances.

5.6   You should also consider:

- Who needs to be consulted? The Act states that you should consult 'such persons as the person thinks appropriate', which will include all groups or people upon whom you believe the opening of your UTC may have an impact. Examples include nearby schools, FE or sixth-form colleges, the local authority, any surrounding local authorities within the wider catchment area, groups with an interest and the local population.

- How long should the consultation be? This is not specified, but six weeks (not including school holidays) should allow sufficient time for people to have a reasonable chance to become aware of the consultation and to respond.

- When should we consult? It must be done before the funding agreement can be signed, but after some other elements are in place, or sufficiently advanced, to enable those whom you consult to have sufficient understanding of the UTC that you are proposing. Examples include admissions arrangements, SEN and other policies, and the site for the UTC.

- How should we consult? Many trusts set up a website specifically for the consultation, but you must take account of those people without access to a computer. It is important that you give as many people as possible an opportunity to respond. You may therefore use a variety of channels, such as mailshots, leaflets, open meetings, media announcements or a combination of all of these. You might want to consider producing written materials in different languages depending on the needs of your local community.

- How do we deal with responses? You need to build in time to consider responses and whether it is appropriate to make any changes or additions to the plans for the UTC.

- How do we report on the outcome? You will need to consider how you will publish the outcome of your consultation (e.g. by providing the website address where the results will be published). Once the responses to the consultation have been analysed you will need to consider how the findings will be presented both to the Department and other interested parties. The most effective way is to produce a report of the key findings which provides quantitative and qualitative information, details of methods, timings, who you have consulted, the questions you asked and what steps, if any, have been taken as a result of the responses.

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

5.8 The Secretary of State is also required by law, under Section 9 of the Academies Act 2010 to complete an assessment of the impact the opening of the UTC will have on maintained schools, academies, institutions within the further education sector and alternative provision in the area in which the institution is proposed to be, or is, situated. This will incorporate any related evidence from your consultation. Your lead contact will do this.

Other helpful sources of information

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

Section 6 - Staffing and education plans

6.1   You will need to turn the staffing and education plans in your application into reality during the pre-opening stage to ensure everything is in place to open successfully – from recruiting high-quality staff to having detailed staffing plans and policies, education policies and schemes of work in place.

6.2   You will need to have some policies in place early for consultation and pupil recruitment. Others will be needed ahead of key events such as the readiness to open meeting with the Department and the Ofsted pre-registration inspection. You should also consider what you will need ahead of your first full inspection, which will normally take place during year two of opening.

6.3   This section sets out what you need to do to recruit and appoint staff and produce the main staffing and education plans and policies ahead of opening.

Appointing your principal designate (PD)

6.4   Appointing an excellent principal designate is another important element of pre-opening. Getting the right person is of critical importance to the success of your school. The principal designate will also be involved in appointing other staff and writing the detailed education plans and policies and schemes of work you will need ahead of opening.

6.5   Given the importance of the appointment, a Departmental education adviser will want to be involved in the recruitment of the principal designate, as an adviser to the trust. PD appointments can be made through open national recruitment or direct appointment i.e. without advertisement. Direct appointments can be made, where these are appropriate, but as an academy trust you will need to be able to show how the appointment was transparent, fair and equitable.

6.6   Most large education recruitment firms and universities run assessments for school leaders. The Departmental education adviser will also be available to advise the trust on the suitability of an inexperienced candidate for the principal designate role (e.g. by benchmarking him/her against the criteria for leadership).

6.7   If the candidate is not an experienced head or only has experience as a head in a different phase or type of school, the Department would usually insist on a benchmarking exercise being undertaken by a Departmental education adviser who will advise the trust on the suitability of an inexperienced candidate for the principal designate role.

Finalising your staffing structure and recruitment

6.8   You will need to finalise your staffing structure for all staff and recruit those needed in your first year. Alongside your principal designate, you will need to consider other key posts. As well as teaching posts, it is important to think carefully about who will take on the finance role to develop the more detailed budget for year one and for pre-opening, regularly considering staffing plans against financial plans and pupils recruited. Only by doing so will you be able to demonstrate that your proposed staffing structure is affordable. Additionally, it is important to remember that your staffing structure and recruitment plans should not be confirmed until you have a firm idea of how many pupils you have recruited.

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

6.10   Remember that all serving head teachers and teaching staff will be bound by contractual resignation dates and you will need to factor this into your recruitment plans. For example, a serving head teacher will have to have accepted a post and resigned by the end of September for a January start, the end of January to take up an appointment after Easter, and the end of April for a September start.

UTC freedoms for appointing staff

6.11   The trust as the employer is responsible for appointing all staff as they will be the legal employer. UTCs, like academies, have some freedoms in appointing staff that other schools do not:

- You are not bound by the national pay and conditions document and you can set your own pay and conditions. However, if you would like to use national pay scales for comparative purposes, these are set out in the Teachers Pay and Conditions document which is available on the internet.

- You are not required to employ staff with Qualified Teacher Status (QTS).

- Your principal designate is not required to hold the National Professional Qualification for Headship (NPQH).

UTC statutory staffing responsibilities

6.12   There are some statutory requirements on UTCs with regard to staffing that you should be aware of:

- The SEN co-ordinator (SENCO) and designated lead for children in care must hold QTS; and

- As an employer, the trust has a statutory duty to offer all of its staff membership of either the Teachers' Pension Scheme (TPS) or the Local Government Pension Scheme (LGPS). Pension contributions must start with employment so the trust should ensure that pension provisions are in place for staff taking up post prior to the school's opening (i.e. during pre-opening).

6.13 We recognise that the UTC trust may be asked by a potential principal designate for additional security where a funding agreement has yet to be signed and he or she is being asked to hand in his or her resignation and accept the job at the UTC. Generally, in such cases the Department will underwrite the salary costs, plus on costs, should the school not open, or opening be deferred by a year. The salary would be underwritten for up to two consecutive terms from the point at which the decision is taken not to proceed. Click on the following link to find a letter which you can share with your principal designate to this effect.

Developing your curriculum, education plans and policies

6.14 Your curriculum, education plans and policies must explain how your UTC will achieve its education vision; the structure of the school and the student experience. They should reflect the unique characteristics of the UTC including the chosen specialisms, how technical and academic courses will be combined including practical and project based learning and how the university and employer partners will help shape the ethos and curriculum and its delivery. Further information on the characteristics of a UTC can be found on the BDT website here.

Curriculum and qualifications

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

Education plans and policies

6.16 The Department has developed outline education policies that give guidance on the structure and content of many of the main policies you will be developing. Many UTCs have also found the overarching structure of an education brief helpful as this brings together all of the school's strategic and detailed education plans and policies, and something we would expect most UTCs to produce. These documents can be found here.

6.17 As a trust you have statutory duties in terms of all the policies that need to be in place before opening. The Department has published a guide for schools (including UTCs) about these duties.

6.18 You will also be required to submit some policies before your Ofsted pre-registration inspection and an inspector may ask to see others on the day. There will be other detailed plans and policies you will need to have in place for your first Ofsted inspection in year two of opening.

6.19 Exemplar education plans and policies are also widely available. Exemplar policies are available on the BDT website. You can also find them on local authority websites and from project management companies (where you are using one). You should tailor these to take account of the vision and curriculum plans for your UTC in particular to take account of your employer and university engagement plans and the particular ethos and curriculum features of your UTC. Plans and policies are not routinely signed off by the Department's education advisers. We may ask to see some, but this will depend on the level of engagement with your project.

Safeguarding

6.20 It is vitally important that as an academy trust you fully understand your responsibilities for safeguarding the children in your care. The Department's Working Together to Safeguard Children: A guide to inter-agency working to safeguard and promote the welfare of children can be found here. You can also find more information on the Ofsted website including FAQs regarding setting up a single central record.

Accountability framework

6.21 UTCs will be judged against the same accountability framework as other schools. From 2016 Progress 8 will replace 5 A*-C grades (including English and maths) as the headline accountability measure and the basis for the floor standard at key stage 4. The new measure will be based on students' progress measured across 8 subjects: English, maths, three other English Baccalaureate (EBacc) subjects (sciences, computer science, geography, history and languages); and three further

subjects, which can be from the range of EBacc subjects or can be any other approved, high-value arts, academic or vocational qualification. Further information can be found here.

6.22 A new accountability system for 16-19 education will also come into effect from 2016 and will include a new set of rigorous minimum standards and headline measures (progress, attainment, retention, destination and progress in English and maths for students without a GCSE pass at A*-C in these subjects) giving a clear overview of the performance of a school or college in academic and vocational programmes compared with other institutions nationally. A broader set of additional measures will provide other important information on performance including the number of students achieving the Technical Baccalaureate (TechBacc). A list of the approved high-value vocational qualifications that will count for key stage 4 and key stage 5 performance tables can be found here. UTCs may also wish to offer other qualifications in addition, for example professional certificates valued by employer.

6.23 UTC performance will be measured within this framework and you will be required to publish the most important information about your performance on your website.

Baseline assessment

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

Section 7 - Site and buildings

7.1   The site for your UTC is very important. It can also be the most time-consuming and complex aspect of your project. However, do not get side-tracked, as other elements of the pre-opening process are equally important.

7.2   The earlier a site is secured the better. Much else depends upon it, and it is helpful to have a secured site when marketing your UTC to prospective parents, pupils and staff.

7.3   The speed at which a site is secured will depend upon your requirements, the availability of local sites that meet those requirements, and the rate of progress in negotiations. Whilst it is important to secure a site that is appropriate for the UTC, it must also offer value for money for the public purse. During the pre-opening phase, the department will seek to deliver your school with the lowest possible capital cost (acquisition and property costs, plus the costs of necessary works and fit out) for your school.

Roles and responsibilities

The EFA and its agents

7.4   The EFA will help you to secure a site and construct the buildings for your UTC. The EFA is the part of the Department that provides expertise and technical support to ensure good value for money on capital investment. The EFA capital project director (PD) assigned to your project will work closely with your lead contact throughout. The roles and responsibilities of the EFA team are outlined below.

7.5   The **EFA project director (PD)** will be your primary point of contact at EFA. The PD oversees a range of others involved in acquiring your site and supporting the trust in procuring and delivering the building for the UTC. The PD's level of involvement will vary according to the risk and complexity of your project, but it would be common for the PD to attend relevant meetings in the early stages of the project. Your PD will coordinate the rest of the EFA team to ensure all site related activities occur. They will:

  • set the capital funding envelope;

  • provide access to procurement advice;

  • appoint a technical adviser (see below) to work on your behalf;

  • attend and advise the DUG where necessary;

- attend and advise the project steering group (or equivalent) meetings as and when necessary depending on their availability; and

- review the feasibility study and final business case for the capital project submitted by the trust, and manage the process for EFA approvals.

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

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

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

- support the procurement of a build contractor; and

- provide the secretariat for the Design User Group

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

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

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

- provide advice, carry out due diligence of potential site options and progress property and construction contracts to completion. (NB: legal advisers to provide advice on the construction contract will also be appointed for the trust via your EFA PD (rather than the EFA legal manager). The legal advisers for

the construction contract are appointed from the same legal company that is instructed to provide property advice).

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

- discuss and agree ICT requirements and suitable solutions with proposers;

- set suitable ICT budget, scope and specification; and

- provide support on procurement options.

The role of the trust

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

7.12   In most cases the trust will be the entity that enters into the contracts for the building works, ICT and FFE, and needs to be aware of their responsibilities in respect of the procurement and management of the contracts, and the submission of business cases (with support from the TA) for approval of funding for such contracts to the EFA.

Finding a site

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

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

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

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

- it may be too small or too big for the number of pupils;

- it may not actually be available in the time needed to open your UTC;

- it may be too expensive to maintain;

- it may require too much work to be affordable; and/or

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

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

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

- ask its property advisers – working as necessary with private agents such as DTZ and JLL – to conduct site searches and provide you with a shortlist of the best available sites;

- work with you to prioritise that list in terms of suitability and viability;

- ask a member of the EFA internal technical advisory team to visit and assess the preferred site, providing a high level view of the nature and cost of any construction works needed, planning consents required and likely running costs;

- ask the legal manager to carry out a high level title review of the site to ensure that there are no substantive issues which would prevent or obstruct its use and development as a UTC; and

- if that assessment shows the site is affordable and good value for money, the EFA's property adviser will start negotiations to acquire the site and your EFA PD will initiate the more in-depth feasibility study.

Securing a site

7.19 Securing a site can be complex and time-consuming. However, once we have found a suitable site for your UTC that can be delivered in the timescales available and that represents value for money, negotiations to acquire it will begin. The vast

majority of acquisitions are made in the name of the UTC trust. The three main ways of doing that are:

- peppercorn rent lease;

- freehold purchase; or

- commercial lease.

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

7.21   There will be sensitive negotiations around acquiring a site for your UTC, particularly where there is a cost associated with the acquisition. Site owners want to secure the best possible deal for themselves, while it is our duty to secure best value for you and the tax-payer. It is vital that you check with your EFA project director before discussing or revealing details of the site you are seeking with anyone outside your group. These negotiations are very commercially sensitive and public disclosure can seriously undermine our negotiating position. Subsequent planning applications can also be affected if information about sites is released at the wrong time. Securing planning approval is of course crucial to delivering your UTC buildings – further advice can be found here. We will tell you when you can publicly confirm your site.

7.22   The EFA property adviser will commence negotiations with the site owner or the agent representing them, and seek to agree Heads of Terms (headline terms of the deal that are not usually contractually binding). In parallel, the EFA will estimate any costs for acquiring the site and any building works needed and seek approval from Ministers, where required, to complete the acquisition.

Site legal advice

7.23   Once the Heads of Terms have been agreed, the EFA legal manager will instruct a legal firm – procured through a government framework and funded by the EFA – to complete the lease/contract of sale negotiations. The legal adviser will carry out checks on the tenure, ownership and restrictions of the property and complete and register the transaction.

7.24   The legal firms procured via the framework have a duty of care to both the UTC trust and Secretary of State, as funder of the project, and the report on title they produce will be addressed to both. They have been procured primarily to provide property and construction advice. It is important to note that the Department does not cover the costs of the landlord/freeholder's legal fees, only those of the UTC

trust. The legal firms procured by the EFA are large reputable firms procured at competitive rates. EFA will not meet the fees of any other law firms which the UTC trust may wish to appoint without EFA's prior written approval. Also, if their fees are higher than the fees of the firms procured by the EFA then the UTC trust will be expected to meet the difference out of its own funds.

Temporary site solutions

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

- using a building on the permanent site while other buildings are in construction;

- part of a neighbouring school or part of one of the sponsors' institutions (university accommodation/FE College classrooms etc.);

- portacabins on the permanent site; or

- a local office building.

7.26   We will not agree to enter into arrangements for a temporary site until we have secured a permanent site that cannot be made ready in time for a September opening. We obviously don't want to spend any more money than necessary on temporary accommodation, so will try to provide an interim solution at no cost or that requires very minimal alteration.

7.27   Costs associated with temporary sites will be covered within the capital allocation (i.e. rental of temporary classrooms etc.).

The site and your funding agreement

7.28   Your funding agreement can only be concluded once the Heads of Terms for your site have been secured. As part of that funding agreement, there will be a set of land clauses which are specific to your site solution. These aim to protect the Government's public investment in acquiring and developing the land, and to ensure you (the trust) continue to meet your legal obligations as set out in the funding agreement. It is important that the funding agreement is in place at the time that the property is contractually secured. If this is not possible, a pre-FA side agreement will need to be entered into. This agreement, signed by the Department and the UTC trust, ensures that the Department's capital investment is protected in the event that the building does not end up being used for the UTC. The side agreement uses the same land clauses from the funding agreement as would be

the case if it was being entered into. Your lead contact will be able to give further advice in the event that this is needed.

7.29 Please note that:

- the land clauses in the funding agreement must reflect the model document drafted by the Department; and

- your lead contact will advise on the land clauses and on any bespoke legal arrangements that may apply.

7.30 If more than nominal consideration is being paid to acquire a property in the name of the trust, the funding agreement will require that the trust grants the Secretary of State a legal charge (mortgage) over the property to help protect the public investment in the acquisition. Prior to completion of the acquisition, you will be asked to sign this legal charge (a separate standard form document) and provide the lawyers with a copy of your board's resolution authorising entry into the charge.

7.31 There are clauses within the funding agreement that enable the Secretary of State to retain the use of the UTC land should the funding agreement with your UTC terminate, allowing the land to be used for another educational institution. There are other clauses that allow for the sharing of the land with another school in the event that the UTC does not require the use of the full extent of the land.

7.32 It is important that the terms of any lease align with these clauses, permitting underletting/sharing and allowing the lease to be assigned to the Secretary of State or his/her nominee. EFA and your legal adviser will ensure that this is the case. The EFA model lease and an explanatory note on the lease can be found here.

7.33 In rare cases, where the landlord will not permit assignment of the lease, a claw-back agreement is used instead. A claw-back agreement is an agreement that provides the Department with a way to recoup its investment in the land from the freeholder upon termination of the lease. The amount repayable reduces over time reflecting depreciation of the asset. Your lead contact will be able to give further advice in the event that this is needed.

The capital funding

7.34 EFA will cover the capital costs of acquiring a site and refurbishing it for use as a UTC. This includes the costs of ICT provision, standard fittings, furniture and equipment (FFE), and the fees for your technical adviser, surveys and legal advice. Some funding is also available for the specialist equipment necessary to deliver your technical specialism – this funding is calculated based on need and

built up from a zero base (capped at £600k). You will need to develop a specialist equipment business case and agree the budget with your EFA PD.

7.35 The capital budget for your UTC is not agreed until the preferred site and building costs have been approved. The continued approval of your proposal is conditional on capital costs representing good value for money and being kept to a minimum. In extreme cases a project may not proceed because all site options are prohibitively expensive. We place a high priority on achieving value for money, hence the expectation that UTCs are refurbishments where possible. The capital costs for each UTC vary considerably depending on the location, size, type and condition of the building.

7.36 All budget calculations are based on pupil numbers and the level of construction works required (e.g. new build, major refurbishment or minor refurbishment). Once budgets are set, you must manage within these amounts. The trust is responsible for ensuring a scheme is developed within the capital grant available and that the process is managed appropriately through to completion.

7.37 The Department will determine the budget for each scheme. In most cases this will be done after heads of terms on the permanent site are agreed and the feasibility study (FS) completed. Whilst an initial maximum budget may be communicated for the purpose of developing the FS, this initial budget is always subject to formal approval and the final budget for each project will not be confirmed to the trust until it has been approved, post FS approval by the EFA.

7.38 It is the trust's responsibility to ensure the proper and efficient management of the delivery of the contracts relating to the works/supplies which are funded by EFA. It is vital that the project is delivered within the funding allocation provided.

7.39 The EFA capital funding is calculated exclusive of VAT on the basis that the trust will be able to reclaim all VAT incurred on the project – as detailed in the Finance Act 2011. The EFA will, however, fund short-term working capital requirements for VAT incurred on the capital works. The EFA require reimbursement when the VAT is reclaimed from HMRC by the trust. The trust will therefore need to ensure that they plan for this and have processes ready to enable them to recover VAT from the HMRC in a timely manner and reimburse EFA.

Procuring works and services

7.40 The route for procurement of the building contractor is determined by a combination of factors such as the extent and nature of the works, time available and value of the contract. The EFA will discuss the procurement route with you, and EFA agreement to the route selected and commencement of procurement will be required before the trust progresses the procurement.

7.41   All building contract appointments must comply with public procurement procedures for UTCs. The most common procurement routes used are:

- EFA Contractors Framework

- EFA Regional Framework

- SCAPE Framework

- LHC Framework

- North West Construction Hub

- GCS Modular Framework

- Local procurements for small-scale works

7.42   EFA expects the EFA Contractors Framework or the EFA Regional Framework to be used to deliver EFA funded projects unless a compelling reason demonstrating a better value or money option to deliver through another route can be demonstrated. Most UTC projects are delivered through an EFA Framework.

7.43   Shortly after entering the pre-opening stage, a Design User Group (DUG) is formed. The technical adviser provides the secretariat. This group deals with site and building related matters, reporting to the PSG. Typically the DUG will oversee the procurement and delivery of the buildings, and ensure that the building meets the educational needs of the UTC. The group will need to ensure it has the timely information necessary to inform any design brief, including any educational input. It is important that the group involves a wide range of sponsors, including employers, so the final scheme reflects the purpose of the UTC.

7.44   The trust will be expected to enter into the contract for building works once the procurement has been completed, and the project is ready to commence the building works with all necessary approvals in place. It is important, however, that the trust does not enter into any contracts funded through EFA capital funding until they have received formal written approval to do so, and formal written confirmation of approval of funding release to support the contract(s), from the EFA. Such approvals are provided in the form of a 'Funding Approval Letter (FAL)' from the EFA.

7.45   Whilst it is usual for the trust to be the contracting party, in some cases, the local authority may be the contracting party. In such cases the project team/DUG will need to ensure that the programme takes account of local authority processes and formal approval mechanisms, and timescales required for these.

7.46   You can click on the following link to find information on the routes to procurement, the procurement of fittings, furniture and equipment and ICT requirements.

7.47   In some circumstances, you will need to purchase insurance to cover the period before the UTC opens, e.g. for buildings, contents, public and employer's liability. This will need to be funded from your project development grant, so you will need to plan for this and you may need to draw on the contingency built into your plans. Be mindful to ensure that where appropriate, insurance policies cover any specific requirements of contract(s) you will enter into.

Conflicts of interest

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

Planning issues

7.49   The key reasons why new UTCs will need to seek planning permission are:

• change of use;

• operational development: new-build, extension and other external works;

• listed building consent; or

• planning conditions

7.50   Your EFA PD and your EFA appointed technical adviser will discuss with you the programme of work that needs to be completed and EFA approvals that need to be in place prior to a planning submission being submitted. Whilst planning permission should be sought as early as is possible to avoid delay, all material planning considerations and challenges should be appropriately assessed and a plan of action put in place to address key issues at an early stage. This will avoid potential delays further along the planning process.

Building works

7.51 We would ideally like the funding agreement to be signed before contracts for building works are signed. In some cases it might be necessary to sign contracts before then to make sure your UTC opens in time and if this is the case then a pre-FA side agreement will need to be entered into (see para 7.28 above).

7.52 Although the building contract will be between the trust and the contractor, we will have strong input into deciding the best procurement route for your building works and give you advice and support throughout the works. We will:

- commission technical advice (e.g. architects, quantity surveyors etc.);

- commission surveys of the site (as required);

- appoint legal advisers for the building works contract;

- provide standard form contracts for works; and

- provide oversight of the procurement and delivery of the building by the trust.

7.53 You will need to:

- input into the design process and run the procurement process;

- keep staff, parents and local communities updated on progress;

- develop contingency plans just in case building works overrun; and

- work with us to ensure the works are completed to the contract specification within budget and formally handed over on programme.

7.54 There are a number of formalities that need to be completed before the UTC can open. These include an Ofsted pre-opening site inspection, planning how to operate the UTC and the formal handover of the site. Further details are provided below.

ICT advice and procurement

7.55 The UTC's ICT equipment (i.e. hardware and related software) must be procured via an OJEU compliant route, usually through a suitable framework such as the DfE ICT Services Framework.

7.56 You will be allocated an EFA ICT adviser who will support the ICT procurement through the EFA's preferred route. The ICT adviser will:

- explain the ICT procurement process and the benefits of using DfE ICT Services Framework (or its subsequent replacement);

- communicate the amount of ICT Capital funding allocated to your project;

- develop ICT requirements with the trust;

- support the trust through all stages of the procurement process, providing commercially-approved template documents and centralised workshops to support the process, and arranging centralised suppliers' days for you to engage with potential bidders;

- facilitate an initial engagement meeting between the ICT supplier and construction contractor;

- ensure the correct ICT responsibility matrix is agreed and used by the ICT supplier and construction partner to facilitate ICT integration in the build programme;

- provide information so that a broadband options appraisal can be carried out; and

- provide opportunities for UTCs to review and consider Management Information System products.

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

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

ICT Element	Budget	Funding Source
ICT Equipment	ICT Capital budget	EFA Capital
Broadband	Broadband budget (covers installation and year 1)	EFA Capital Budget Ongoing costs paid from UTC trust revenue budget
Management Information System (MIS)	Project Development Grant	DfE On-going costs paid

		from UTC trust revenue budget
ICT Infrastructure (active and passive)	Construction budget	EFA Capital

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

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

Planning the opening of the UTC

7.60   You will need to work with the contractor to agree a programme and date for handover of the buildings; the TA will support in this. This allows you to set a date for opening to inform parents and then plan for preparing, opening and operating the UTC. You should also develop contingency plans in case building works are delayed or there are other complications. In some cases, the UTC may need to open in temporary accommodation whilst the permanent site is being developed. Construction works may also continue up to the UTC's opening day or beyond.

Formal hand-over of the site

7.61   When building works on the site have been completed, there is a formal process by which the building contractor will hand over the site to the UTC. Until then the contractor has responsibility for the site. The formal process for handover will need to be agreed with the contractor but typically should include the building contractor taking your business or premises manager, or principal, on a complete tour of the building, highlighting where all mechanical and electrical services are located and how they operate, and handing over all warranties and certificates, e.g. fire certificates. As part of the handover process, a 'snagging' list will be drawn-up with the contactor to highlight where there are still minor defects or where the refurbishment has not met the required specification. The contractor will be required to rectify these following formal handover of the building. Your EFA appointed technical adviser will be able to provide further information on the formal hand over process.

7.62   Once handed over, it will be your responsibility in most situations to arrange for maintenance of plant and equipment associated with the site. Failure to regularly maintain the equipment in accordance with the installation instructions can lead to

warranties being invalid. Ask for early information on equipment and maintenance schedules so you can tender for the maintenance contract and have it in place at handover, if possible. You should prepare for this information to be provided to you at or after completion as is the case with most contractors.

Section 8 - Finance

Introduction

8.1   The funding you receive is public money, and you will need to be able to demonstrate that the way you use it meets high standards of propriety, is transparent and defensible, and secures good value for money. Your trust will need sound financial procedures, the capacity and capability to handle public money, and good governance arrangements. You must consider the potential conflicts of interest and have arrangements in place to deal with them appropriately. You will want to agree your expenditure profile from the start of the project to the opening of your UTC. Further guidance on procurement and accessing further support is given in Section 9.

Funding in the pre-opening stage: project development grant

8.2   We will provide a project development grant of £300,000 to groups whose applications are approved to the next stage. This grant is to help cover essential costs up to the point that the UTC opens.

8.3   We will ask you to submit a budget plan to show how you will spend this money in pre-opening and we will ask you to submit regular statements of expenditure.

8.4   The grant will normally be paid in four instalments, or nine instalments if opening over a period longer than a year. The payments will be slightly front-loaded to ensure you have flexibility in your cash-flow. The dates and amounts of these payments will be set out in your grant agreement. You will need to plan and manage this budget carefully and keep accurate records of your expenditure and spending decisions.

8.5   Capital funding to secure and develop a site and undertake necessary construction and/or refurbishment work and ICT to support the curriculum will be provided separately by the EFA.

8.6   To access grant funding you will need to set up a bank account for the sole purposes of the UTC. You cannot use a personal or other account. If your UTC is part of a MAT, their account may be used, but there must be systems to ensure clear separation and accounting of the expenditure and income that relate to the UTC.

8.7   You will be sent a grant agreement from the Department that will set out the total amount that will be paid, the dates that the payments will be made and the terms that must be met as a condition of the grant. Once the grant agreement is signed,

funding will be paid to your trust's bank account at the intervals set out in your grant agreement.

8.8   You will need to provide regular statements of expenditure throughout the pre-opening stage. A template for this is provided in the grant agreement. Once you have received your first payment, and in advance of your second, you should provide a statement with a detailed month by month breakdown of how you intend to spend your PDG up until the date you open (a profile). Your lead contact will provide a template for this profile. Thereafter, within 14 days of each subsequent payment, you must provide a statement detailing expenditure made up to the date of that payment. A final statement of expenditure up to the date of the UTC opening should be provided within four weeks of opening.

8.9   Future payments will be delayed or stopped at any time if the terms of the grant are not upheld, for example, by not making timely expenditure returns or through inappropriate use of public funds, or if your project does not make satisfactory progress.

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

8.11   If you have any project development grant funding left over when the school opens, you should roll this over into the school's budget. We would not anticipate that most schools will roll substantial amounts into their school's budget beyond any unspent contingency which is likely to be small. We do not expect schools to assume that they will carry forward any funding into their funding plans for the open school.

8.12   After opening, academies can reclaim VAT on expenditure incurred during the pre-opening stage from HMRC. More information can be found on the HMRC website. You should seek advice from your local tax office on reclaiming VAT once open – the Department and your lead contact are not able to advise on tax policy. The school can also retain any VAT it recoups from HMRC on project development grant expenditure. (Note: the terms of other grants may differ. For example, schools must return any VAT reclaimed from capital grant expenditure provided by the EFA sites team, in accordance with the terms of that grant from EFA).

Planning your project development grant budget

8.13   Your trust will be responsible for managing its project development grant and for procuring and paying for its chosen suppliers. When you make decisions about how to spend your grant, it is important to remember that the Department will expect all expenditure to be essential to your project and represent the best value

for money for your UTC. Poor choices will stop the grant going as far as it should and may leave you open to criticism about how your UTC uses public money.

8.14   This makes it all the more important that you have someone working on the project who has responsibility for managing the budget and for establishing fair and open processes for how the group will make its spending decisions.

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

8.16   The project development grant is intended to cover all revenue costs up to the opening of the UTC. Capital costs to secure and develop the school's site, and ICT to support the curriculum, are provided by the Education Funding Agency (EFA). Books and other curriculum materials required on opening may be purchased in the month before opening, using an advance of the materials component of the post-opening grant.

8.17   Typically projects will use their project development grant funding to pay for:

- project management (support to coordinate all work leading to the development of the school);

- educational services;

- staff recruitment (including the principal designate);

- salary costs (which often include the principal designate, finance/business manager and administrative support in advance of opening);

- marketing costs;

- consultation and open evening costs;

- pre-opening office costs;

- the management information system;

- administration of admissions (including applications and appeals); and

- trustee induction and support.

8.18   Many projects also use their project development grant to purchase the financial and management information system that the school requires in advance of opening. Some trusts which take possession of their site before opening will also need to use their project development grant to purchase insurance (although

periods when contractors are working on a site are often covered by the contractor – you should check the arrangements with your EFA capital lead).

8.19 Where possible, it is good practice to maintain a contingency of about 5% in your initial financial plan to cover unexpected costs. As set out above, if any grant funding is left when the school opens it should be rolled into the school's budget.

8.20 It is up to you to decide how you allocate your project development grant spending. Requirements vary from project to project depending on the local context, the school and the wider resources available to the trust.

8.21 The New Schools Network provides a budgeting tool to help free schools prepare a budget for their school once open. You may find this a helpful tool too. Local schools and academies may also be a good source of peer-to-peer support and advice.

Setting up governance and accounting arrangements

8.22 You will need to ensure that the trust's spending choices and decisions are in the school's best interests and are transparent and defensible. Your trust will need sound financial procedures - the capacity to handle public money, and good governance arrangements. You must consider the potential for conflicts of interest and have an agreed policy in place setting out how you will deal with them. Your lead contact will consider the progress made towards developing effective financial governance arrangements for the open school.

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

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

• setting out the role of the chief financial officer (who is usually the finance director or business manager and a member of the school's senior leadership team) and recruiting an appropriate person (see Section 3) ;

• forming the finance committee of the governing body, agreeing its terms of reference and making sure that the committee's membership includes appropriate financial expertise;

• preparing appropriate auditing arrangements (including the appointment of a responsible officer as set out in the academies financial handbook, found

here along with useful guidance on financial governance and accountability);

- ratifying the appointment of the accounting officer (normally the chief financial officer);

- securing formal governing body approval for the first year's budget; and

- developing policies and manuals covering procurement (including competitive tendering), delegation of responsibilities, financial procedures, internal control (including a split between purchasing, authorising and payment roles) and management of conflicts of interests.

8.25 The governance section of this guides give further advice on some of these tasks.

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

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

- If your trust was incorporated on or after 1 March 2014, you may defer your first period of accounts to cover the period ending 31 August 2015.

- If your trust was incorporated on or before 28 February 2014, you cannot extend your first period of accounts to 31 August 2015. Rather, you should prepare your first accounts to cover the period ending 31 August 2014.

8.28 Filing requirements for accounts vary on when you enter into a funding agreement by the end of your accounting period. For UTCs who have entered into a funding agreement with the Secretary of State for Education by the end of their accounting period, the requirements are in line with those for open academies. The timetable for submission and publication of accounts, including how accounts are submitted, is set out in detail in the Accounts Direction. Key deadlines are given below:

- By 31 December following 31 August year end: The trust should send audited accounts and auditor's management letter to EFA. These must be submitted as scanned electronic documents, in pdf form, to AcademiesFinancialMonitoring.EFA@education.gsi.gov.uk

- By 31 May following 31 August year end (i.e. within nine months of the end of the accounting period): Academy trust to file accounts with Companies House. This is with the exception that where a trust is preparing accounts for its first period after incorporation and is preparing them for a period of greater than 12 months, accounts must be filed within 21 months of incorporation, or within three months of the end of the accounting period, whichever is later.

- By 31 May following 31 August year end: Academy trust to publish accounts on trust website (although this should be done as soon as possible after approval by the board of trustees).

8.29 The Companies House website also provides the date that companies must file their accounts with them. Further information can be found here.

8.30 The financial management and governance self-assessment (FMGS) is for new academies. It highlights the main requirements academies must have in place soon after opening. It can be a helpful tool to assess compliance with these requirements during pre-opening. The deadline for the FMGS return to EFA is four months after opening.

Developing a viable financial plan for the proposed open school

8.31 Once the school is open, it will be funded by the EFA. The funding for UTCs is set at an equivalent level to funding for all other state-funded schools, after taking account of functions that a UTC will have to fulfil for itself rather than relying on a local authority.

8.32 Funding is largely based on a payment for each pupil who attends the school, but the detailed funding methodology may vary over time with changes to the funding of the school system as a whole. Financial, and therefore, educational viability is dependent upon you admitting sufficient pupils.

8.33 The UTC financial template is updated each year to reflect the changes in national and local funding rates. When you made your application, therefore, the rates in the template you used may not be the ones for the year in which you will open. You will need to ensure that you refresh your financial plan in the spring before opening when the new rates are available. Your lead contact will keep you updated on any changes.

8.34   The approval of your application to the pre-opening stage is conditional on you submitting revised financial plans at key points during pre-opening so that the Department can be assured that your UTC is on-course to be financially viable on opening. In particular, you will be asked to share your current financial plans with the Department before entering into a funding agreement (this should include a version modelled around the lowest viable number of pupils for year 1) and in June/July before opening in order for draft funding allocation packs to be issued. You should be ready to submit plans at these points with evidence to underpin your pupil number assumptions which must be realistic and achievable. The Department will want to see that as far as possible the plans reflect your income based on the best estimates of available grants, your outgoings and the likely number of pupils. The plans should show that your UTC will not go into deficit at any point.

8.35   Developing your UTC's financial plan should be an on-going process with financial plans updated as plans for the school are progressed, further details of funding arrangements become available, staff are appointed, site plans are firmed-up, the number of pupils become clearer and other costs are more confidently established.

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

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

8.38   A guide to UTC revenue funding, found here on the gov.uk website, also contains details of how the post-opening grant – which is provided to new schools as they build up to full capacity – will be calculated.

8.39   Your lead contact may ask you to revise your plans or give further information if needed to show that the school will be viable. They will need to see that the school has complete and robust financial plans and financial governance arrangements, that the plans are consistent with up-to-date educational and staffing plans, and that the school will be viable and not go into deficit in any year.

8.40   The Department will only enter into a funding agreement if it is confident that the UTC has a viable financial plan.

Section 9 - Procurement and additional support

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

Securing additional support

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

The procurement options

9.3.   There are three ways in which you can buy additional support using your project development grant and you can use any combination of these options:

•   using the Department's established Project Management and Educational Services (PMES) framework;

•   open procurement, whereby the trust issues a specification for the required services and appoints a supplier based on an evaluation of the bids received; and

•   in-house, whereby the trust uses its own employees to deliver specified services on an 'at cost' basis. This arrangement can include full time or part-time staff brought in through a secondment or employed on a fixed term contract.

Project Management and Educational Services (PMES) framework

9.4.   The Department has a purchasing framework to buy specific Project Management and Educational Services from known suppliers (the PMES framework). A framework is an agreement with a list of suppliers that sets out the terms and

conditions under which specific purchases can be made from those suppliers. You can use this framework to buy some or all of the services on offer.

9.5.   To select a supplier you will need to run a mini-competition amongst the suppliers on the framework list. This involves preparing an invitation to tender specifying the work required and issuing it to all the companies on the framework. You must then assess all the bids received and issue a contract award letter. Once you have appointed a supplier, you will be responsible for the on-going contract management and payment processes. Detailed guidance on how to use the Department's PMES Framework is here.

9.6.   Using the PMES framework gives you access to a group of suppliers with relevant experience. Selecting a supplier via the PMES framework can take less than three weeks, which can be significantly quicker than running a new procurement competition of your own.

Open procurement

9.7.   Under this option you can invite any third party supplier, including those on the Department's PMES framework, to bid for your work by tendering. You will need to specify what it is you want to buy, and what criteria you will use to assess the tenders.

9.8.   The procurement approach you use should be proportionate to the estimated value of the contract you plan to let. The trust will need to decide the approach it will take at different contract values. The greater the value, the more you need to demonstrate to all potential bidders that the competition is open and fair. We provide more detail on procurement here and further guidance on low value procurement can be found here .

In-house delivery

9.9.   In-house delivery is where the trust uses its own employees to deliver specified services, using the project development grant to cover the employment costs of the staff involved. This arrangement can include staff brought in through a secondment or employed on a fixed term contract as long as they are not appointed as a way of circumventing public procurement rules.

9.10.   In choosing this option you need to be sure that the individual has the experience and capacity in place to undertake these tasks and that the services provided through the in-house route and the costs quoted offer good value for money.

9.11.   Where a trust uses its own employees – including those of sponsors - costs to the project are expected to be 'at cost'. This means not charging any element of profit

on the goods and/or services provided. For people based resources, this will be based on a day rate calculated by dividing the salary of the person plus employment related taxes borne by the employer (for example national insurance), pension, essential training and other directly employee related costs, by 210 working days a year, pro rata as appropriate. Reasonable incidental travel expenses and (if required) reasonable accommodation and essential subsistence is to be charged at cost. Fixed overheads will not be recoverable but if additional overheads or costs are incurred for the purposes of providing the services, then these would be allowable within the no profit principle subject to mutual agreement between the parties to this agreement. All such calculations will be subject to open book and audit.

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

Provision of services by sponsors/partners/trustees

9.13. When using public money to award contracts and you need to demonstrate the highest standards of propriety. In particular, you need to have considered the scope for conflicts of interest (see Section 3) and take steps to manage them.

9.14. The [Academies Financial Handbook](#) provides clear guidance on the Department's expectations around delivery of services to UTCs from anyone with a governing relationship to the school. It is clear that:

- anyone with a governing relationship, or any individuals or organisations connected or related to them, wishing to provide services to the studio schools are required to bid for and deliver services at cost; and

- It has always been the case that open, fair, and proportionate procurement processes must be followed whenever outsourcing services from the trust – including if sourcing such services from sponsors.

9.15. When spending money, you should also check that your plans comply with your articles of association as these will include specific conditions on who can be employed by the trust or enter into a contract for the supply of goods and services to the trust. It is the responsibility of the trust to ensure that these requirements are met, and that audit trails are kept. The Academies Financial Handbook includes a requirement for trusts to secure a statement of assurance and open book arrangement with restricted suppliers, but beyond this it is up to the trust to decide how best to meet the requirements.

Section 10 - Funding Agreement

What is the funding agreement?

10.1   The funding agreement is the contract between the trust and the Secretary of State which defines the terms and conditions upon which a UTC is funded. Signing the funding agreement is a significant step towards opening your UTC.

10.2   Entering into a funding agreement is an important decision for both parties and so requires careful consideration. For the Secretary of State, signing a funding agreement represents a commitment to fund your school. Your lead contact will want need to be sure that your trust is ready to enter the agreement and, crucially, that it is likely to establish and maintain a popular and successful school that is likely to achieve a good or better Ofsted inspection.

10.3   The funding agreement is a legally binding contract that either party must give at least seven years notice of their intention to exit the contract unless there is a breach of contract or one of the specific termination clauses is triggered.

10.4   The contract sets out what the UTC trust needs to do to receive funding; how the funding is allocated; how the trust can spend that funding; and the circumstances in which it might be withdrawn, i.e. the contract is terminated.

Why does the Department use model funding agreements?

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

10.6   The terms of the model funding agreement have been developed since the beginning of the academies programme. The Secretary of State has agreed these terms and is not willing to negotiate different terms for individual projects. The only acceptable variations between different funding agreements are those clauses that reflect the specific circumstances of that school, e.g. land arrangements and the planned capacity of the school. The model funding agreement makes clear where these variations will be made and your lead contact will tailor them accordingly before sending the document to you.

When should we begin the process for entering into the funding agreement?

10.7   The timing for entering into a funding agreement will vary depending on the project. Before either party can begin the process there are certain statutory duties and other tasks that must first be fulfilled by both parties.

Statutory duties

10.8   The trust must consult under Section 10 of the Academies Act 2010 and have due regard to Section 149 of the Equality Act 2010 – see Sections 5 (on Statutory Consultation) and 11 (on the equality duty) of this guidance for full details.

10.9   The Secretary of State is required under Section 9 of the Academies Act 2010 to complete an assessment of the impact that the opening of the UTC will have on other state-funded educational institutions in the area. He/she is also required under Section 149 of the Equality Act 2010 to consider the impact on equalities of the opening of the UTC before the funding agreement can be signed. This will be undertaken by your lead contact (see below).

10.10   The Secretary of State will also want to be satisfied that the UTC will be popular and successful upon opening. In making his/her decision, the Secretary of State will consider:

- Whether the UTC will deliver a good or outstanding education, according to the Ofsted criteria. Have enough high quality teachers been appointed or are they likely to be appointed by the time the UTC opens? Is the UTC's leadership strong? Are the necessary policies in place?

- Whether the UTC will recruit enough pupils, be financially viable and will it be full within two to three years of opening. Are the admissions arrangements for the school compliant with the School Admissions Code?

- Whether the governing body will be capable and effective. Does the proposed board of trustees have appropriate educational, financial and business experience/expertise? Are there arrangements in place to manage conflicts of interest?

- Whether the school will open on an appropriate value for money site (or sites if a temporary solution is needed).

- Whether the UTC is financially viable. The recruitment of pupils and an appropriate staffing structure are crucial for ensuring financial plans are affordable. Can the school cope with reasonable levels of change to its income and expenditure?

Pupil recruitment clause

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

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

10.13   Your lead contacts will work with you from an early stage to agree the minimum number of pupils necessary to ensure that the UTC is viable (at Y10 and Y12). This will be agreed as part of the process of reviewing financial plans for the UTC prior to the funding agreement being signed. Lead contacts will also ensure that you are aware of the decision points at which action plans will be needed should the trust fail to recruit in line with this agreed minimum viable number.

10.14   The funding agreement will include a clause enabling the Secretary of State to terminate the funding agreement if by an agreed date (usually the end of March in the expected year of opening), or at any time after the funding agreement has been signed, fewer than the minimum number of pupils in either Year 10 or Year 12 have been recruited, or if at any time after opening the Secretary of State considers the academy is not financially viable because of low pupil numbers. Ultimately, this clause means that the opening date may be deferred or the funding agreement terminated where insufficient pupils have accepted offers of places at a new UTC or where there are on-going problems with pupil retention and recruitment at an open school.

The funding agreement process

10.15   At the appropriate point, the lead contact sends the trust a tailored version of the relevant model funding agreement. The trust may then consult lawyers (if necessary) on school specific clauses, which if changed must be approved by the Department. We strongly recommend trusts wait to receive tailored version of their funding agreement from their lead contact before engaging their lawyers in the process.

10.16 Previously, we have received drafts of funding agreements from trusts with suggested amendments to the model. This is no longer the case. The Secretary of State will not negotiate terms for individual projects.

10.17 If approved, the trust prints and signs (but not dates) two hard copies (each copy should have a copy of each Annex attached to it) and sends to the lead contact. The lead contact will arrange for both copies to be signed, dated and sealed by the Department and then sends one hard copy back to the trust. To ensure the funding agreement is executed correctly, trusts must arrange for two directors (or one director and a witness) to sign the two copies. In addition, trusts should leave the documents undated when they send it to their lead contact – the Department will date the document at the point it is signed and sealed.

How long does this process take?

10.18 The timings for this process will vary, depending on individual projects. However, historically, the stage that most often holds up the process is agreeing the final version of the funding agreement. It is for that reason we ask trusts to focus only on the school-specific clauses (as highlighted by your lead contact).

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

Section 11 - The equality duty

11.1   When your UTC opens it will be a public authority. Section 149 of the Equality Act 2010 requires all public authorities when exercising their functions and making decisions to have due regard to the three aims of the public sector equality duty (PSED). This must be considered throughout the pre-opening process and once the school is open.

11.2   In parallel, the Secretary of State has a statutory duty to consider the potential equality impact (positive and negative) of his/her decisions, and so the Secretary of State must consider how your UTC might affect the equality of different groups before deciding whether to enter into a funding agreement.

11.3   The three aims of the PSED are to:

• eliminate unlawful discrimination, harassment, victimisation and any other conduct that is prohibited under the Act;

• advance equality of opportunity between those who share a relevant protected characteristic and those who do not; and

• foster good relations between those who share a relevant protected characteristic and those who do not.

11.4   The protected characteristics that you need to consider are: age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; and sexual orientation. You also need to note that discrimination on the grounds of marriage and civil partnership is unlawful.

11.5   When making all your key decisions in pre-opening you should ensure you comply with the equality duty. Your lead contact at the Department will be looking for evidence that the equality duty is being considered throughout the whole pre-opening process. To show that consideration has been given to the relevant protected characteristics in the UTC plans and policies, some examples of the information the lead contact will need are:

• Details of your marketing plan: to show how you will engage and promote community cohesion in both the local and surrounding community.

• Your staff recruitment policy: to show how you will ensure that all candidates will be treated in a fair and transparent way.

• Your SEN policy: to show what provision will be available for the pupils at the school and what other specialist provision will be available.

• Details of your consultation.

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

Section 12 - Preparing to open

Readiness to open

12.1 There will be a readiness to open (ROM) checkpoint with the Department before the end of June of the year of opening to ensure that everything is in place for the school to open successfully and on time.

12.2 ROMs are formal meetings between the Department and the trust to

- consider the progress the project has made through the pre-opening phase;

- tackle any remaining obstacles and risks to opening; and

- consider any further actions that need to be taken to ensure a successful opening and first year of operation.

12.3 Education will be the key focus of the ROM. The Department will use the meeting to make a judgement on how confident it is that the proposer group will open a successful school.

12.4 Attendees from the proposer group should be:

- Chair of the trustee board;

- Principal Designate;

- any other person who can provide information useful to the meeting, e.g. Chair of Finance Committee, Business Manager; and

- a university and/or employer member could also be invited.

12.5 Only those who hold a governance or leadership role should attend, with a maximum of five attendees overall.

12.6 Your lead contact will discuss the format and aims of the ROM with you in advance of the meeting. There will also be an opportunity to consider the content of the risk report to be completed by the PD. Your lead contact will inform you of the venue of the ROM and will agree a date that is convenient. The ROM will be chaired by a senior Departmental official and will also be attended by your education adviser, lead contact and, where appropriate, representative(s) from EFA.

12.7 They will ask questions about progress, risks and issues in key areas of the project and agree actions for each area where appropriate.

Inspection and registrations

12.8   Before opening, given its legal status as an independent school (i.e. independent of the local authority), your UTC must undergo an Ofsted pre-registration inspection and be registered on the independent schools register (Edubase).

12.9   In order to be added to the independent schools register and legally be allowed to open, the Secretary of State must decide whether or not your UTC is likely to meet the relevant Independent Schools Standards once open. The Ofsted pre-registration inspection informs that decision. The inspection is not like a full inspection which you will be subject to once open, as it is not judgement-based - it merely seeks to establish if the school is fit to open based on certain standards.

Timing of pre-registration inspections

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

12.11 Schools that have made the most progress towards opening will be prioritised for early inspection, while projects that would benefit from more time before their inspection will be scheduled later. It may seem advantageous to have the inspection as late as possible to give yourselves the greatest possible time to prepare. However, having an early inspection gives you longer to put right any issues identified by Ofsted before your opening day. A UTC cannot legally open unless it has been added to the independent schools register.

What you need to do ahead of the inspection

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

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

- A copy of the school's written policies on:

    o   preventing bullying. Changes to the Independent School Standards in 2013 mean that it is no longer prescribed that bullying policies must take into account the Department's guidance 'Safe to Learn: Embedding anti-bullying work in schools'. However, you may still find it useful to consider the Department's advice for headteachers, staff and governing bodies

- safeguarding and promoting the welfare of children who are pupils at the school. This should be compliant with the relevant health and safety law. Again this no longer needs to have regard to the Department's guidance here, but you may find it useful.

- safeguarding and promoting the health and safety of pupils on activities outside the school which has regard to the Department's guidance 'Departmental Advice on Health and Safety for schools'.

- promoting good behaviour amongst pupils setting out the sanctions to be adopted in the event of pupil misbehaviour.

- a copy of the school complaints procedures, as outlined Part 7 of The Education (Independent School Standards) (England) Regulations 2010.

- Evidence that the school has appropriate procedures in place for undertaking Disclosure and Barring Service (DBS) checks of staff and recording the results (formerly known as CRB checks). All schools should have a single central register to record this information and it is the trusts responsibly to keep it up to date

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

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

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

Compliance with fire safety requirements

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

12.17   You will need to be able to demonstrate that your school is meeting the requirements of the Regulatory Reform (Fire Safety) Order 2005. Trusts should ensure that they comply with the fire safety order and registration will not be agreed until confirmation of satisfactory fire precautions is received. The local fire and rescue authority will update its database and carry out fire safety audits of school premises in accordance with its risk-based inspection regimes. Trusts

should be aware that the fire service is not under any obligation to provide this service before the school opens, though many are still happy to do so.

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

- documentation/certificate issued by an independent fire safety adviser;

- confirmation that you have a fire risk assessment and are complying with the Regulatory Reform (Fire Safety) Order 2005; or

- a Completion Certificate confirming construction in accordance with Building Control Regulations and compliance with the fire safety standards.

The day of the inspection

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

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

After the inspection

12.21   After the inspection, the inspector will produce an advice note and a checklist. The advice note is for the Secretary of State but the checklist will be sent to you by your lead contact. If your checklist includes no conditions of registration, you have a signed funding agreement and you have satisfied any conditions set following your readiness to open meeting, the UTC can be added to the independent schools register.

12.22   In the event that the Ofsted checklist indicates that there are issues that must be addressed – known as 'conditions of registration' – the UTC trust must take action to resolve these before the school can open. Your lead contact will be in touch to make sure that the conditions have been met and that you have evidence to demonstrate this.

12.23   In the event that Ofsted recommends that your school should not be registered your lead contact will work with you to address urgently the issues and will arrange for the school to have a re-inspection. After the re-inspection the inspector will produce a second advice note and checklist.

12.24   It is the Department, not Ofsted, that decides when your conditions have been met. Only then can you be registered. If you are not added to the independent schools register, you cannot open.

12.25   Ofsted does not publish the advice note or the checklist. However, in every year of free schools/UTCs opening so far there has been a Freedom of Information request to the Department to publish these documents, and we have. It is therefore likely that yours will also end up in the public domain. You should also be careful in how you communicate the outcome of your inspection to your local community. These inspections are about whether or not the school is fit to open rather than any judgement of quality. For example, it would be misleading to say that Ofsted has visited and said you are 'outstanding'.

EduBase

12.26   EduBase is the Department's database of all educational establishments across England and Wales. Being entered onto EduBase gets your UTC its DfE number and unique reference number – these are used in a variety of circumstances to identify the school.

12.27   The first thing that needs to happen is for you to complete your EduBase form (your lead contact will provide this) and submit a copy to EduBase.FreeSchools@education.gsi.gov.uk . This form is different from the one available on the independent schools part of the gov.uk website as the process for UTCs is slightly different. You will need a landline phone number to put on this form (others are not accepted on the EduBase system).If you don't have one for the school, use another but remember to change it to the school number immediately on your EduBase record going 'live'. You will then be issued with a set of numbers that can be used for things like registering with pension schemes or ordering equipment.

12.28   Your EduBase record will not be live and be viewable by the public until you have a funding agreement in place and you have passed the conditions of your

Ofsted pre-registration inspection (if any). Once this has happened you will be issued with login details for EduBase so you can update and amend your own record. It is important that someone at the school has the responsibility for keeping the UTC's EduBase record up to date, as the Department will not do it for you.

12.29   Please note that your school will not be able to open and your record will not go live unless the Department is satisfied you have met all the conditions identified in the pre-registration inspection.

Inspections once open

12.30   Once open, you will not be inspected as an independent school. All UTCs will be inspected under the Section 5 Ofsted framework – the same as maintained schools. The first full inspection will normally take place during the second year of opening. It is the responsibility of the trust to keep abreast of inspection developments and the latest information can be found on the Ofsted website. These inspections are judgement-based and the reports and judgements will be made public by Ofsted.

12.31   Ahead of UTCs' first Ofsted inspection, the Department's education advisers will carry out monitoring visits to open UTCs in their 1st and 3rd terms.

12.32   The objectives of these visits are to ensure that schools are satisfactorily addressing risks identified at ROMs (first term visits only), that they are providing a high standard of education, are likely to get a good or better first Ofsted inspection and to assure the Department that there are no other issues or concerns that need to be addressed.

12.33   Monitoring uses the Section 5 Ofsted Inspection Framework as a basis for assessing schools' educational performance. EAs will make contact in September to make arrangements for visits. EAs may conduct follow-up monitoring visits should schools' require additional support in their first year.

12.34   Visits are supportive but are also designed to provide challenge in order to highlight areas schools should focus on ahead of their first Ofsted inspection. In addition to monitoring visits, many open UTCs have found it useful to buy in support to undertake a trial run inspection ahead of the real thing to identify any outstanding issues. Many providers offer this service and employ ex-HMI to deliver it.

12.35   These external assurance exercises will help validate schools' own self-evaluations and inform school improvement plans ahead of their first Ofsted inspection.

Lessons learnt – open free school experiences of Ofsted inspections

12.36   In 2013, the first free schools were inspected by Ofsted in February 2014, the New Schools Network (NSN) analysed the reports of all free schools inspected, to date. They have drawn out the key issues where inspectors found further development was needed: The full NSN analysis and guidance for free schools facing their first inspection can be found on their website.

12.37   Although this analysis is about mainstream free school experiences of Ofsted, there are some useful lessons for UTCs in it on the things inspectors have concerns about in all schools. This includes strong governance with the right skills to provide support and challenge especially on pupil progress; having good systems in place can help you track this and external validation; a rigorous curriculum, both in academic core subjects and the UTC specialist areas, with the employer and university sponsors fully on board; and high quality teaching with systems to spot poor quality teaching and to ensure that mentoring and professional development are available to all teachers.

Section 13 - Once your school is open

The final stage of the pre-opening period

13.1 The final stage of the pre-opening process is to prepare for opening, which includes the hand-over of your UTC's project from your lead contact to the Education Funding Agency (EFA), who are responsible for all open academies, including UTCs.

13.2 Your lead contact will ensure that your EFA representative is fully briefed on all the intricacies of your project so they know what challenges you may experience in your early days of opening. Once your project is handed over to the EFA it is vitally important that you understand that all communication goes through the EFA and not your original lead contact.

13.3 It is only in exceptional circumstances where you will retain your contact with your lead contact rather than the EFA. Such circumstances are at the discretion of the Department and will be communicated to you prior to opening.

13.4 During your second week of opening, your EFA ling will contact you to introduce yourself, ask how many pupils have actually been enrolled and to arrange a first term visit.. The role of the EFA link officer is significantly different to the lead contact and the expectation is that now you are open, you have the freedom, autonomy and responsibility to run your school but to call on the EFA if issues arise.

13.5 The role of the EFA is to calculate and pay revenue and capital funding, as well as seek assurance over the use of public funds from academies of all types, including free schools, UTCs, and studio schools. The EFA will also handle any requests you may make of the Secretary of State as required by the funding agreement. This may include things such as: approval to enter into a lease, to dispose of land, or to make significant changes to provision.

13.6 Within the Department, the Open Free Schools Unit and the UTC and Studio School Division will also retain an interest in open UTCs. You will be invited to an event in the October of the year of opening for all new free schools, UTCs and studio schools. This will provide support and practical advice in the first two years of opening, on both educational, governance and financial issues.

13.7 From September, eight new Regional Schools Commissioners are taking up post working to, and representing, ministers in their regions of the country (see Section 1). RSCs will be responsible for taking important decisions about open free schools, UTCs and studio schools in their region. This includes ensuring that schools at risk of receiving a less than Good Ofsted judgement receive additional support as required.

Key tasks in the early days of opening

- Meet with your EFA representative.

- Attend the October DfE event for all new free schools, UTCs and studio schools.

- Update EFA on pupil recruitment numbers and any early issues.

- Prepare for a Departmental education adviser visit in your first term of opening (see Section 12).

- Ensure that the academy trust has approved an annual budget for the first year of operation and submitted this to the EFA in accordance with the published timetable.

- Ensure that the academy trust has implemented the requirements of the 'Academies Financial Handbook'.

- Prepare, audit and file accounts in accordance with the 'Academies Accounts Direction'.

Annex A RSC regions and Local authorities

East Midlands & Humber	North East London & East	North West London & South Central	South London & South East	South West
Barnsley	Barking & Dagenham	Barnet	Bexley	Bath & North East Somerset
Derby	Cambridgeshire	Bedford	Brighton & Hove	Bournemouth
Derbyshire	Essex	Bracknell Forest	Bromley	Bristol
Doncaster	Hackney	Brent	Croydon	Cornwall
East Riding of Yorkshire	Haringey	Buckinghamshire	East Sussex	Devon
Kingston upon Hull	Havering	Camden	Greenwich	Dorset
Leicester	Newham	Central Bedfordshire	Hampshire	Gloucestershire
Leicestershire	Norfolk	City of London	Isle of Wight	Isles of Scilly
Lincolnshire	Peterborough	Ealing	Kent	North Somerset
North East Lincolnshire	Redbridge	Enfield	Kingston upon Thames	Plymouth
North Lincolnshire	Southend on Sea	Hammersmith & Fulham	Lambeth	Poole
Nottingham	Suffolk	Harrow	Lewisham	Somerset
Nottinghamshire	Thurrock	Hertfordshire	Medway	South Gloucestershire
Rotherham	Tower Hamlets	Hillingdon	Merton	Swindon
Rutland	Waltham Forest	Hounslow	Portsmouth	Torbay
Sheffield	**North**	Islington	Richmond upon Thames	Wiltshire
York	Cumbria	Kensington & Chelsea	Southampton	**West Midlands**
Lancashire & West YorksHIRE	Darlington	Luton	Southwark	Birmingham
Blackburn with Darwen	Durham	Milton Keynes	Surrey	Cheshire East
Blackpool	Gateshead	Northamptonshire	Sutton	Cheshire West & Chester
Bolton	Hartlepool	Oxfordshire	Wandsworth	Coventry
Bradford	Middlesbrough	Reading	West Sussex	Dudley
Bury	Newcastle upon Tyne	Slough		Herefordshire
Calderdale	North Tyneside	West Berkshire		Sandwell
Halton	North Yorkshire	Westminster		Shropshire
Kirklees	Northumberland	Windsor & Maidenhead		Solihull
Knowsley	Redcar & Cleveland	Wokingham		Staffordshire
Lancashire	South Tyneside			Stoke-on-Trent
Leeds	Stockton-on-Tees			Telford & Wrekin
Liverpool	Sunderland			Walsall
Manchester				Warwickshire
Oldham				Wolverhampton
Rochdale				Worcestershire
Salford				
Sefton				
St Helens				
Stockport				
Tameside				
Trafford				
Wakefield				
Warrington				
Wigan				
Wirral				