



Department  
for Education

# **Free schools application process:**

**Background information and glossary**

**December 2015**

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# 1. Things to know before you start

## Opportunities to apply and which forms to send where

You can apply to open a free school in Wave 11 from **27 January 2016** to midday on **2 March 2016**. Completed applications **must** be submitted to us within this application timeframe and any applications received after this time will be considered in the next wave.

There will be further opportunities to apply for free schools, usually in September and March each year. If you wish to apply to open a school in the next or a subsequent wave, please [register your interest](#). Please do this as early as possible as this will allow us to start looking for potential sites for your school and check the level of need for a new school in your preferred location. We may then contact you if the need position doesn't appear strong, based on the latest data we hold.

This guidance and application process is for anyone applying to the Department for Education to open a free school. There are separate processes for UTC applications and for free school competitions run by local authorities (see below). You need to submit **one copy by email** to: [FS.applications@education.gsi.gov.uk](mailto:FS.applications@education.gsi.gov.uk)

For Wave 11 the title of your email should be as follows:

**Free School Application – School Name: [insert]**

If your application is for a Studio School you should also send **a copy by email** to: [applications@studioschooltrust.org](mailto:applications@studioschooltrust.org).

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

In addition, you also need to send **two hard copies** by a guaranteed delivery method such as **'Recorded Signed For'** post to:

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

Applications may be hand-delivered if you prefer. It is essential that the hard copies you provide are identical to the electronic version that you email, as discrepancies may lead to the rejection of your application.

The Word application form should be formatted for printing on A4 paper; completed in Arial 12 point font; and include page numbers. Annexes are excluded from the page limit

and should be restricted to CVs and information about key individuals. Please do not include photographs, images and logos in your application (other than any demand map, if relevant).

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

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

## **Simplification**

We are making the application process simpler for everyone applying to open a new free school. For example, where an applicant group has a published track record or we already hold information you will not have to provide it again as part of your application.

Please read this section carefully before completing your application(s) as there are different requirements depending on whether or not you have experience and already run schools.

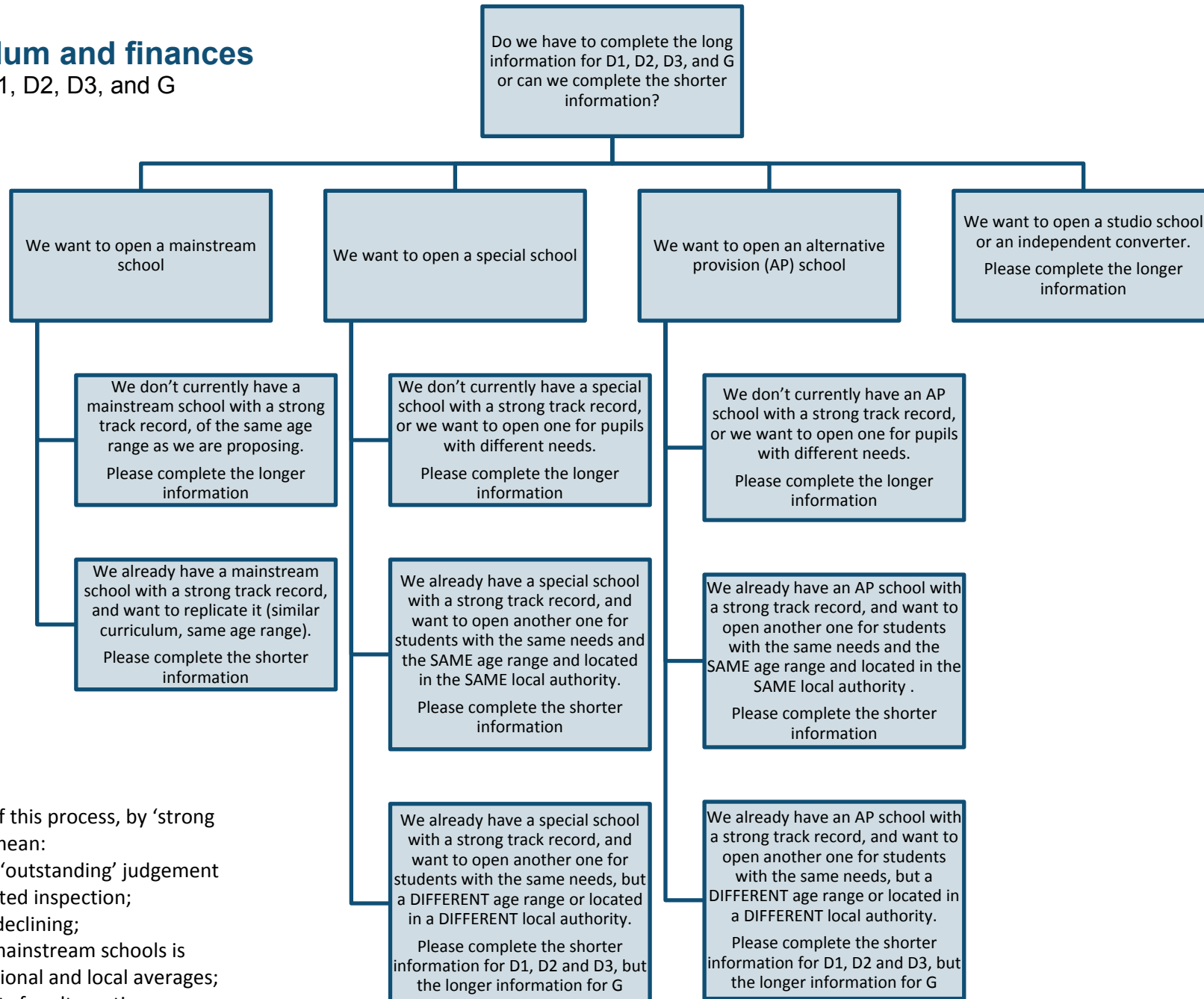
For the section of the application about vision and curriculum, most applicants that want to replicate a strong school they already have open (ie open a new mainstream school of the same type and age range) will only need to tell us how the curriculum or vision differs from existing provision and refer us to Ofsted results and data for that school and for their trust as applicable.

For the section of the application about capacity and capability, we know MATs and approved sponsors may already have discussed their capacity and capability with their RSC, or may have plans to do so. Where MATs and sponsors have agreed in principle with their RSC how many free schools their trust currently has the expertise and time available to open, we will use that information to assess capacity. We will require written confirmation from their RSC's office saying how many free schools the trust has capacity to open.

The diagrams on the following two pages explain which sections of the application form are relevant to which applicants.

# Curriculum and finances

Sections D1, D2, D3, and G

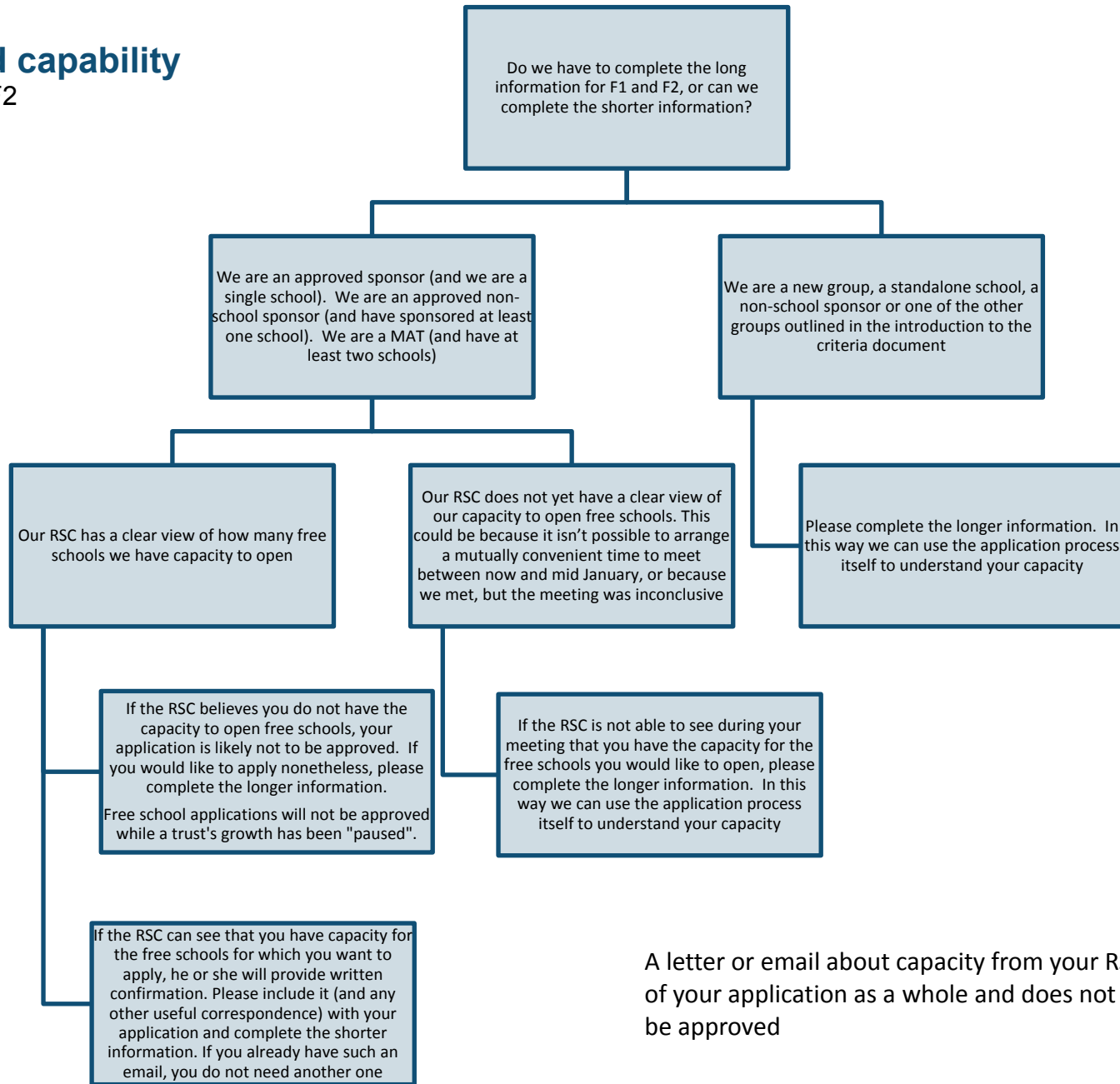


For the purpose of this process, by 'strong track record' we mean:

- 'Good' or 'outstanding' judgement in last Ofsted inspection;
- Data not declining;
- Data for mainstream schools is above national and local averages; equivalents for alternative provision and special.

# Capacity and capability

## Sections F1 and F2



A letter or email about capacity from your RSC is not an endorsement of your application as a whole and does not imply your application will be approved

## Suitability of applicants and Section I suitability forms

The Secretary of State will seek to ensure that only suitable persons are permitted to establish publicly-funded free schools and will seek disclosure and barring service certificates for all members and trustees of the academy trust. She will consider each application on its merits, and take into account all matters relevant to the application. She will reject any applications put forward by organisations which advocate violence or other illegal activities, or by individuals associated with such organisations. We carry out a range of checks on those proposing to set up and run free schools. These include due diligence checks, credit checks, and enhanced Disclosure and Barring Service (formerly Criminal Records Bureau) checks and may include police and other checks necessary to ensure the suitability of people to be part of the free school programme. Personal information provided as part of the application process, including the information requested below, may therefore be passed to third parties for the purpose of these checks. We will check members and trustees of the academy trust, lead applicants who are not a member or trustee of the academy trust and also principals designate either identified at application stage or once appointed.

We require a Section I Suitability and Declarations form for each trust member, trustee and principal designate (when appointed) who has not submitted this form within the past 365 days. If any individuals have already submitted Section I forms within this time period please provide a list of their names stating the role of each within the trust. For example, if your application was unsuccessful in the previous round and you are reapplying with the same members, these members do not need to re-submit Section I forms. We do not require Section I forms from local governing body members and trustees unless these are specifically requested. The department reserves the right to request section I forms from any group if we deem it necessary. This is important information required to assess the suitability of applicants. Failure to submit Section I forms for all members and trustees is likely to delay the progress of your application to the next stage.

Scanned copies of signed Section I forms should be emailed to [due.diligence@education.gsi.gov.uk](mailto:due.diligence@education.gsi.gov.uk) stating the school name in the email subject title.

We must receive all documents within the application window in order for them to be considered. Please use the checklist in Annex C of this document to ensure that you have provided all the information we need to assess your application.

For the purposes of the Data Protection Act 1998, the Department for Education is the data controller for personal information supplied on these forms and for ensuring that this information is processed in accordance with the requirements of the Act. Any third parties processing personal information on behalf of the Department for Education will be acting as its data processors. The Department for Education will hold all personal information you supply securely and will only make it available to those who need to see it as part of the application process. All personal information supplied in these forms will be destroyed when it is no longer needed for the purpose of the due diligence process.



## Single and multiple applications

Applicants are welcome to complete one application form covering more than one school, where this avoids duplication.

Applicants can:

- Submit one application covering all schools if all the proposed schools:
  - are of the same phase and type;
  - will follow the same or similar curriculum plan; and
  - will be staffed in the same or similar way.
- Submit different applications for each school if:
  - each of the proposed schools are of a different phase or type; or
  - each of the proposed schools will follow a different educational model.
- Submit a mix of combined and single applications if:
  - some of the proposed schools will be of the same phase and type, and follow a similar educational model, but others will be different.

## What we mean by a 'strong track record'

Throughout the criteria documents and the application forms we talk about schools, groups, individuals, or trusts with a 'strong educational track record'.

When we use this phrase, we mean:

- You have a 'good' or 'outstanding' judgement from Ofsted;
- Your achievement is above local authority and national averages (looking at KS2/4/5 results, including absolute results and trajectories, and Best 8 value-added scores) and should not be on a downward trajectory since the last Ofsted inspection. If there is an anomaly in your data we should know about, or a specific reason why the school does not meet this definition (eg the school has not been open long enough for exam results) tell us.

If you want to replicate an existing school (ie open a new school that is the same type and age range), then the existing school needs to meet the above definition (anomalies/specific reasons aside).

If you have several schools, they do not all need to meet this definition, but we need to know why any schools are weaker (if they are), and we need to understand why/how you have the capacity both to improve them and to run the free school and make sure it is

strong. In Section F we ask you to use this definition to explain the educational track record of your free school group and (where applicable) your trust as a whole.

**All applicants – including those that do not yet run schools –** should keep this definition in mind when explaining the track record of the individuals in their group.

## Proposed opening dates

We previously asked applicants to state when they wanted to open their school(s). We will now ask you to state the earliest year(s) in which you think you can be ready to open the school(s). You are welcome to propose whatever opening dates you think are most appropriate, and you are welcome to suggest different years for different schools. This approach will allow you to better plan your programme of opening and give the department time to fully assess site options and need for your school in advance. This is also to reflect that we cannot agree an opening date with you until a site is identified and we have assessed how long it will take to secure planning permission and build the school. You are encouraged to market your school to the local parents and community, but you **should not market it on the basis that it will be located on a specific site or open on a specific date, until you have had written confirmation from the department.**

You should note that if circumstances change, your school may not open, need to open elsewhere, or be subject to other changes. This is more likely to happen where you are applying a long time in advance.

## Local authorities

The route described in this process – where groups apply directly to the Department for Education to set up a new school – is the route that produces the vast majority of new schools, but it is not the only route that exists. When a local authority identifies the need to set up a new school, they can launch a competition to choose a group to run it under Section 6A of the Education and Inspections Act (EIA) 2006. This route is led by local authorities as part of their responsibility to provide sufficient school places. The resulting academies are deemed to be free schools, which is the department's term for new provision academies.

The local authority will draw up a specification for the new provision; set out a timetable; and invite sponsors to bid to establish the new school. The process for establishing these free schools is set out in [separate guidance](#).

Local authorities may also encourage schools in their area to apply via the department's free school route or support groups in pre-opening or provide a site where they know the free school will help them to meet need in their area. Groups are welcome to apply through the process described in this guide with or without local authority involvement.

## Information about and for different types of free school

Free schools are funded by the government, but are not run by the local council. They have more control over how they do things and are 'all-ability' schools, so cannot use academic selection processes.

There are six main categories of free school:

- [Mainstream](#);
- [Studio schools](#);
- [16 to 19](#);
- [Special](#);
- [Alternative provision](#); and
- Independent converters ([see guidance closest to your school type](#)).

This section aims to provide general information about different types of free schools, and outlines their key requirements.

You can find more information on the assessment criteria for each category of free school on the [GOV.UK](#) website or by clicking on the links above.

### Mainstream free schools

Mainstream free schools are state-funded primary, secondary, middle, 16-19 or all-through schools that are independent of local authorities and are academies in law. They are funded on locally determined funding formulae in line with all other schools in the area. They are funded directly by the Education Funding Agency (EFA) on a per-pupil basis. Mainstream free schools are also able to offer nursery provision and post-16 provision.

### Studio schools

Studio schools are all-ability, mixed gender state-funded schools (usually for 14-19 year olds, although some studio schools start at an earlier age), typically with around 300 students. They are academies in law and funded in the same way as mainstream free schools and academies. They are an innovative model of educational provision, developed by the [Studio Schools Trust](#), combining academic and vocational qualifications taught through practical project-based learning. Study is combined with work placements from local and national employers who are involved in the school. Learning in this way encourages students to develop employability skills like punctuality, good communication, reliability and team working, whilst gaining a strong grounding in English, maths and science.

Our experience of the studio schools programme over the last five years shows there is benefit to being part of a strong partnership with successful secondary schools. We therefore have a presumption that any future studio schools will be established as part of

a multi-academy trust (MAT) alongside other highly performing secondary schools. Any application for a studio school to operate as a single academy trust will need to set out tangible evidence of how the educational and financial benefits offered by MATs will be secured in alternative ways.

### **16 to 19 free schools**

16 to 19 free schools are stand-alone educational institutions for the education of 16 to 19 year-olds. They are funded directly by the EFA on the basis of the national funding formula for 16 to 19 provision. We do not accept applications to set up 16 to 19 free schools from 11 to 16 schools that want to extend their existing school. Existing 11 to 16 schools wanting to establish 16 to 19 provision should make an application to the EFA (in the case of academies) or their local authority (in the case of local authority maintained schools, including voluntary aided and voluntary controlled schools). We do, however, accept applications from 11-16 schools wishing to set up 16 to 19 schools which would serve a wider area and a wider group of students than those in their existing school.

### **Alternative provision free schools**

Alternative provision schools cater principally for children of compulsory school age who, for reasons such as behaviour or medical needs, would not receive a suitable education in a mainstream school. They may also cater for 16 to 19 year olds (further guidance on law and policy for alternative provision schools can be found on page 16 of this guide). Children of compulsory school age can be referred to alternative provision free schools by local authorities, schools and academies ('commissioners'). Students aged 16 to 19 can either be referred by commissioners or apply to the free school directly, where 16 to 19 funding arrangements will apply.

New alternative provision free schools will receive £10k per pre-16 place from the EFA and negotiate top-up funding levels with the commissioners (and/or budget holders) of pupil places. After the first two years, the funding will still be paid directly to the school by the EFA, but the cost will be recovered from the local authority. This is to recognise the fact that some alternative provision free schools accept pupils from local authorities other than the one in whose area they are located or from schools and academies in other local authority areas. The initial two years will provide the opportunity for the new schools to become established and give local areas time to plan. After the first two years the local authority (and their alternative provision schools) will bear the cost of the place funding.

### **Special free schools**

Special free schools are specially organised to offer educational provision for pupils with special educational needs and disability (SEND). They are designated for specific type(s) of SEND. Once a school is open, approval from the Secretary of State would be required if the school wishes to change or extend its designation to cater for children with other types of SEND. A special free school can cater for statemented pupils/pupils with an

education, health and care (EHC) plan, non-statemented pupils/pupils without an EHC plan or a mixture of both<sup>1</sup>.

Special free schools receive £10k per statemented/EHC plan place from the EFA and negotiate top-up funding levels with local authorities. Students without statements/EHC plans can either be referred by commissioners or apply to the free school directly, where mainstream funding arrangements will apply.

### **Independent converters, including existing alternative provision and special institutions**

Registered independent schools currently educating five or more pupils full time, or one pupil with a statement or EHC plan, are entitled to apply to join the state sector as a state school and as such, will be able to: teach more pupils; respond to an area's basic for more school places; and offer a 'good' or 'outstanding' education to a more diverse cohort of students whilst being brought under more rigorous rules of regulation and inspection standards.

### **Hybrid schools**

We will also assess applications for schools that do not necessarily fall into one of the main categories of free schools. These are termed **hybrid schools**. If you are proposing a hybrid school, you should apply using the application form and guidance for the type of provision to which you think your new school will be closest. For example:

- If you want pupils<sup>2</sup> to be permanently on roll at your free school (as opposed to short-term placements), your school will not be an alternative provision free school (even if it wishes to offer an alternative curriculum) and you should follow the mainstream form and guidance. If you want your school to offer a mix of provision which includes mainstream education, then the mainstream form may be the most appropriate; or
- A school that combines elements of alternative provision and special.

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

### **University Technical Colleges**

There is a separate process for applying to open a University Technical College. Please read the [guidance](#).

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<sup>1</sup> The admission of children without statements or EHC plans is limited to those that have a type of SEND in which the school specialises. In addition, pupils without statements/EHC plans are considered to be mainstream pupils for admission purposes and the process for admitting them will be regulated by the [school admissions code](#) and the school's funding agreement.

<sup>2</sup> Other than key stage 4 pupils who may be full time in alternative provision.

## Obligations on specific types of free school

These lists are not exhaustive.

### Mainstream free schools and studio schools must:

- Adopt fair practices and arrangements that are in accordance with the [school admissions code](#)<sup>3</sup>, the School Admission Appeals Code and the law on admissions as it applies to maintained schools. Free schools designated as having a religious character will have to balance the needs of children of the particular faith and children of other faiths or none. When oversubscribed, faith designated free schools can only reserve up to 50% of places on the basis of faith;
- Follow the statutory assessment (ie testing) arrangements as they apply to maintained schools;
- Collect performance data, publish results<sup>4</sup> and be subject to Ofsted inspection under the same framework that applies to maintained schools;
- Have regard to the [SEND Code of Practice](#)<sup>5</sup>;
- Provide a broad and balanced curriculum<sup>6</sup> including the core subjects of English, mathematics, and science, and make provision for the teaching of religious

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<sup>3</sup> We provide detailed guidance and a template at the following site to help schools to adopt fair Code-compliant admission arrangements: <https://www.gov.uk/government/publications/free-schools-admissions>

<sup>4</sup>The primary school and 16 to 19 accountability system will change in 2016. The new [primary accountability measures](#) will expect primary schools to support at least 85% of their pupils to achieve a new higher standard (closer to the present 4b level). In addition, a new reception baseline will be used to assess schools' progress for children who start reception in September 2015 and beyond. Schools that choose not to use an approved baseline assessment from 2016 will be judged on the 85% attainment standard alone. The EYFS statutory framework continues to be the basis for Ofsted inspection of early years settings including children in a school nursery and reception classes. Schools' early years provision down to age two is inspected by Ofsted as part of the school inspection under the [common inspection framework](#), which includes a separate judgement on the quality of the early years provision in the school. In **secondary schools**, the [updated accountability framework](#) will use value added progress scores as key performance measures from 2016. In tables based on 2016 exams, the existing 5 A\*-C (including English and mathematics) floor standard will be replaced with the new [Progress 8 measure](#). Schools will be able to choose to opt-in to the new secondary accountability arrangements one year early – see further information about [early opt-in](#). For [16 to 19 free schools or free schools with sixth forms](#), results reports will include five headline measures and the percentages of students achieving the academic and vocational minimum standards.

<sup>5</sup> Reforms to the SEND arrangements came into force from September 2014, including a new [SEND Code of Practice](#). Revised duties are set out in Part 3 of the Children and Families Act 2014. Mainstream free schools have the same specific duties as other mainstream schools in relation to meeting the needs of pupils with SEND and disabilities, including the requirement to have a SENCO who is a qualified teacher and holds appropriate specific qualification, to publish an SEND Information report and more generally to have regard to the [SEND Code of Practice](#). They must do their best to make the provision children's special educational needs call for.

<sup>6</sup> The curriculum must (a) promote the spiritual, moral, cultural, mental and physical development of pupils at the school and of society, (b) prepare pupils at the school for the opportunities, responsibilities and experiences of later life and (c) include English, mathematics and science.

education and a daily act of collective worship. Early years provision including reception classes must follow the early years foundation stage.

**16 to 19 free schools** must:

- Have admissions arrangements and criteria which are fair, objective and transparent. They are able to select pupils based on GCSE grades or other criteria. They do not need to admit students on the basis of the [school admissions code](#)<sup>7</sup>;
- Have a curriculum that meets the 16 to 19 study programme requirements. It can include vocational, social, physical and recreational training;
- Ensure students who do not hold an A\*-C GCSE in English and mathematics continue to study towards them as a part of their 16 to 19 study programme<sup>8</sup>;
- Collect performance data, publish results and be subject to Ofsted inspection under the [common inspection framework](#) (CIF);
- Ensure equality of opportunity for students with any disability including learning difficulties that constitute a disability, have regard to the [SEND Code of Practice](#) and do their best to make the provision called for by children's special educational needs.

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<sup>7</sup> These admissions arrangements apply solely to 16 to 19 free schools. The admission arrangements for schools with sixth forms must comply with the [school admissions code](#), although schools can select pupils at year 12.

<sup>8</sup> Further information can be found in [the EFA funding guidance](#)

### **Alternative provision free schools must:**

- Only admit children of compulsory school age by referral from local authorities, schools and academies using existing referral powers or duties. They do not need to admit students on the basis of the [school admissions code](#);
- Collect performance data, publish results and be subject to Ofsted inspection under the same framework that applies to all publicly-funded schools;
- Have a majority of pupils who are of compulsory school age. They may also have 16 to 19 year old students, but they must be fewer than 50% of pupils<sup>9</sup>. Students aged 16 to 19 can be either admitted by referral from local authorities, schools and academies, or apply in the same way as they would to any other 16 to 19 provision;
- Have regard to the [SEND Code of Practice](#);
- Offer a broad and balanced curriculum including English, mathematics, and science;
- Seek ongoing support of local authorities and schools/academies, in terms of a commitment to commission placements and services and their willingness to provide associated funding.

### **Special free schools must:**

- Admit a child where the school is named in a child's statement or EHC plan;
- Admit pupils without statements or EHC plans in accordance with the [SEND Code of Practice](#);
- Follow the statutory assessment (ie testing) arrangements as they apply to maintained schools;
- Collect performance data, publish results<sup>10</sup>, and be subject to Ofsted inspection under the same framework that applies to all publicly-funded schools. Since

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<sup>9</sup> Any group where more than 50% of its pupils are aged 16 to 19 should apply to set up a 16 to 19 free school.

<sup>10</sup> The primary school and 16 to 19 accountability system will change in 2016. The new [primary accountability measures](#) will expect primary schools to support at least 85% of their pupils to achieve a new higher standard (closer to the present 4b level). In addition, a new reception baseline will be used to assess schools' progress for children who start reception in September 2015 and beyond. Schools that choose not to use an approved baseline assessment from 2016 will be judged on the 85% attainment standard alone. From September 2016, the early years foundation stage (EYFS) profile will no longer be compulsory. The EYFS itself will continue to be statutory and the basis for Ofsted inspection of early years settings including children in a school nursery and reception classes. In **secondary schools**, the [updated accountability framework](#) will use value added progress scores as key performance measures from 2016. In tables based on 2016 exams, the existing 5 A\*-C (including English and mathematics) floor standard will



September 2007, special and mainstream schools have been required to submit data, using attainment data (the P scales), for pupils aged 5 to 16 with SEND who are working below Level 1 of the national curriculum. P scales are needed for English, mathematics, and science;

- Ensure all teachers have Qualified Teacher Status (QTS);
- Have regard to the [SEND Code of Practice](#).

**Free schools do not have to:**

- Follow the national curriculum;
- Employ teachers with QTS<sup>11</sup>;
- Follow local authority term dates or standard school hours; or
- Comply with the provisions in the [School Teachers' Pay and Conditions Document](#).

The following paragraphs set out our policies for establishing schools with boarding, nursery provision, faith schools, and independent school conversion.

## **Boarding**

It is possible for free schools of all categories to offer boarding provision. This means they can provide residential accommodation for some or all of their pupils. For mainstream free schools and non-statemented pupils in special free schools, admission arrangements must be in line with the boarding requirements set out in the [school admissions code](#) and fees may be charged to cover the cost of board and lodging only. For 16 to 19, special and alternative provision free schools, the school admissions code does not apply. For alternative provision schools and statemented pupils/pupils with an EHC plan in special free schools, the associated costs will form part of the commissioned rate.

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be replaced with the new [Progress 8 measure](#). Schools will be able to choose to opt-in to the new secondary accountability arrangements one year early – see further information about [early opt-in](#). For [16 to 19 free schools or free schools with sixth forms](#), results reports will include five headline measures and the percentages of students achieving the academic and vocational minimum standards.

<sup>11</sup> With the exception of a special educational needs co-ordinator and the school's designated lead for looked after children, although please note that certain head teachers may hold these roles without having QTS. Note also that the early years foundation stage still requires QTS/early years professional status/early years teacher status/other suitable Level 6 qualification (international qualifications) if they want to use a 1:13 not 1:8 staff to child ratio in a class.

## Nursery provision

Free schools are able to offer nursery provision either directly or in partnership with private or voluntary early years providers. Where we approve it for the purpose, capital funding provided by the free school programme can be used to support nursery provision. When completing your free school application you will need to demonstrate that you have a credible plan for the nursery and that you have ensured that there is need in your local area. Please refer to the assessment criteria for more information on what you should include in your application.

Additionally, the provision for compulsory school age pupils cannot be dependent on any income or resource that you may gain from the nursery and funding for compulsory school age pupils cannot subsidise the nursery provision. Information on nursery funding is provided in [Annex A](#) and the [financial template guide](#) provides guidance on how to reflect this in your financial templates. Please note that if you do not provide a credible proposal for the nursery, but your application is otherwise strong, we may approve the rest of your proposal without the nursery element.

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

If you are proposing to set up a faith free school (either a school with a faith ethos or a school designated as having a religious character<sup>12</sup>), or a free school with a distinctive educational philosophy or world view, you should note that:

- All free schools are expected to be inclusive. This requirement applies to all free schools including those with a designated faith or faith ethos. The requirement is tested rigorously at every stage of assessment and ‘pre-opening’ as well as after schools open;
- Faith designated free schools benefit from some freedoms, in particular:
  - The right to prioritise up to 50%<sup>13</sup> of pupil places by reference to faith, when the school is oversubscribed<sup>14</sup> ;
  - The right to appoint teachers by reference to faith;
  - The right to deliver religious education and collective worship according to the tenets of their faith.

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<sup>12</sup> Definitions of faith ethos free schools and schools designated as having a religious character are in the glossary (**Annex B**).

<sup>13</sup> There is no cap on admissions by faith. A faith free school may end up with more than 50% of pupils who share the school's faith, but could not prioritise more than 50% for entry on the basis of faith.

<sup>14</sup> Every school, including faith free schools, must admit all children who apply if there are places available

- You will note the admissions freedom for faith free schools is different to that offered to 'traditional' faith schools (foundation, voluntary aided schools and converter academies with religious designation, which can prioritise 100% of places by reference to faith). The limit on faith admissions in particular should make clear the need for you to demonstrate that your free school will appeal to a wide range of parents and pupils, including those of other faiths or none;
- Free schools, including faith free schools, are subject to the [Public Sector Equality Duty](#), which forms part of the [Equality Act 2010](#). This duty requires you and your trustees, both in planning and running your school, to have regard to the need to eliminate discrimination, harassment and victimisation; advance equality of opportunity and develop good relations between communities;
- We will look for evidence that you have considered these responsibilities in your application and that your school will provide for and be attractive to parents and pupils from outside your faith community. You may find it helpful to consult the [guidance for schools on the Equality Act](#);
- Schools can help to overcoming segregation by fostering a sense of shared belonging and understanding through meaningful contact between people of different backgrounds and faiths;
- We will consider whether or not there are elements of your application that might deter parents of children of other faiths or none, or those that do not specifically espouse your distinctive educational philosophy from applying, or could prevent their children from playing a full part in the life of the school. This could include lessons taught in community languages, large proportions of curriculum time devoted to faith-related studies, restrictive dietary requirements, any segregation of pupils – including when they are eating, or the mandatory wearing of symbols or clothing associated with your faith or world view;
- Parents have the right to withdraw their children from religious education at any age and from collective worship until the age of 16. From the age of 16 the right to opt-out of collective worship passes to the pupil. Your school must provide a meaningful alternative for pupils whose parents wish to withdraw them from religious education, collective worship or other faith-related studies;
- We will not approve any application where we have any concerns about creationism being taught as a valid scientific theory, or about schools failing to teach evolution adequately as part of their science curricula;
- As part of the assessment process, we may also speak to representatives of the relevant faith denominations, including those who form part of the department's Faith Schools Providers' Group, about the faith elements of your application;

- While all free schools must be inclusive, there is also the opportunity to propose integrated free schools which explicitly aim to bring together children of different backgrounds.

Please note that 16 to 19, alternative provision, and special free schools cannot be designated as having a religious character. Applicants may seek to establish a distinct religious ethos or world view that is reflected within the vision and values of the school. However, they will not be able to appoint teachers on the basis of faith and will not be able to have faith-based admissions arrangements for pupils or have the right to deliver religious education and collective worship according to the tenets of their faith.

Faith designated free schools with nursery provision are able to reflect their religious outlook within the life of the nursery, for example celebrating religious festivals or using stories based on scripture. They are not permitted to apply any faith criteria for admissions to nursery places and must abide by the same requirements in the funding agreement and regulations as apply to the rest of the school in areas such as providing a broad and balanced curriculum and actively promoting fundamental British values.

Free schools registered as having a faith ethos are not permitted the freedoms that apply to designated schools with a religious character. They cannot give priority by faith within admissions, teach religious education or deliver collective worship according to the tenets of their faith. However they can request the department's permission to appoint senior leaders with reference to faith on case-by-case basis. We will expect you to be able to explain clearly how faith will (or will not) manifest itself in and influence the curriculum, school policies, and the look and feel of your school in proposing a faith ethos free school. We will also expect you to be able to demonstrate that you have made this clear to parents and pupils.

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

In most cases, Transfers of Undertakings (Protection of Employment) (TUPE) will not apply to new free schools. However, where your application is associated with existing provision you should take specialist advice and let us know if there are likely to be any potential TUPE issues. If TUPE is likely to apply, we would expect the existing provision to have been judged at least 'good' in its last Ofsted inspection. If the school is rated as 'inadequate' or 'requires improvement', then the application will not be approved and you may not receive feedback on all or part of the application. Where the existing provision is an independent school, the requirements for independent schools below apply.

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

Strong independent schools wishing to join the state sector may apply to become free schools. If you have an existing institution that is educating five or more full-time pupils or one pupil with a statement or EHC plan, your institution must be registered as an independent school before applying to become a free school. If you are an independent school applying to become a free school you should note that:

- All free schools should enhance choice and increase the number and quality of school places locally and you will need to show how your independent school will do this;
- As an independent school you already have at your disposal established leadership, governance and resources. We therefore expect your application to evidence the substantial progress you will have made to develop and adapt your governance, leadership, and management systems already, so that they are ready for the rigours of the state sector and the Ofsted inspection under the [common inspection framework](#) (CIF);
- You will also need to show how you will admit numbers of children attracting the pupil and service premiums that are proportionate to such children resident in the local authority, including prioritising children who are eligible for the pupil and service premiums in your admissions arrangements;
- If your independent school becomes a free school you must cease selecting your intake according to academic ability and comply with the [school admissions code](#) and free schools policy from the date the funding agreement is signed. For faith schools this means admitting a maximum of 50% of pupils by reference to faith, if you are oversubscribed. You may no longer admit pupils from overseas who are non-European Union or European Economic Area citizens. A list of the nationalities meeting the criteria can be found [here](#);
- You must demonstrate how your school can and will meet the needs of a new and different pupil population. You should also demonstrate how your behaviour and safety policies reflect the impact of different groups of children in the school, including children with SEND, looked after children, and children with English as an additional language;
- You must also demonstrate how effectively you have **already** prepared your school to succeed in the state sector as soon as it opens as a free school and achieve at least 'good' or 'outstanding' in its first Ofsted Inspection. In particular, demonstrate how you will monitor and track pupil progress effectively and meet both Ofsted's pre- and post-16 achievement criteria (as appropriate to your school);
- You should demonstrate how the leadership in your school has or will have successful systems in place to monitor and develop the effectiveness of teaching and learning, and the continuous professional development arrangements to underpin that;
- You should complete a self-assessment of current governance arrangements and provide clear transition plans, if necessary, to a highly effective governing body within the state sector;

- In proposing any expansion you will need to set out clearly how this will be managed. You should set out the suitability of the related curriculum offer and be clear about the capacity of the school, in terms of site, staff, and resources to make expansion a success;
- You should set out clearly how, as a free school, your proposal will be financially viable and with sufficient reserves to develop and remain a successful school in the state sector.

You will need to show that your team includes the right people to set up your school in the pre-opening phase and the right people to hold it to account as trustees once it is open. These may not necessarily be the same people.

If you are an independent school you should already have established capacity and capability. We will therefore expect your application to be substantially more developed, compared to a new free school application with your education, leadership, management systems and governance ready for the rigours of the state sector. We will want to see this greater level of preparedness woven through all aspects of the criteria in each section of your application.

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

- Sign a declaration guaranteeing that you have disclosed all your financial liabilities, including any tax disputes;
- Complete a self-assessment against the [Ofsted common inspection framework](#). We require that you get this self-assessment externally validated by a credible and experienced individual or organisation from an outstanding setting, such as:
  - An Ofsted trained inspector with recent experience;
  - An academy chain with 'good' or 'outstanding' schools;
  - A local authority with excellent education in its area (where educational support is available).
- Have no significant outstanding issues on compliance in your most recent inspection report;
- Provide a link to your most recent inspection report; and
- Demonstrate that you have a good track record of managing finances.

Schools inspected by [Ofsted](#), the [Bridge Schools Inspectorate](#) or the [School Inspection Service](#) should have achieved a judgement of 'good' or better in the following areas:

- The quality of education;
- Safeguarding pupils' welfare, health and safety;

- Promoting the spiritual, moral, social, and cultural development of pupils.

Schools inspected by the [Independent Schools Inspectorate](#) should have achieved a judgement of 'good' or better in the following areas:

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

**Your independent school is unlikely to be approved to become a free school unless you can prove it will provide good value for money and will be successful in the state sector.**

When assessing your independent school application, we expect the benefits to justify any associated costs (in terms of capital investment, arrangements to deal with any existing liabilities and the fact that the state would have to pay for places previously paid for by parents). We will consider cost benefit trade-offs based on factors including:

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

We favour applications from independent schools that can expand their pupil intake, either by filling vacant places or creating entirely new places on their existing sites. If your independent school has significant debts or requires large capital investment, it is very unlikely to be approved.

If your independent school passes the paper-based assessment, your school will receive a visit from one or more representatives of the department before your interview. This visit will form part of the assessment of the transition plans in your application and your self-assessment and will inform interview questions.

## **Non-maintained Special Schools**

We are aware that some non-maintained special schools (NMSS) would like to become academies. NMSS can apply to become an academy through a new process which is similar to the route followed by maintained schools that convert to academy status. Any NMSS interested in moving to academy status should email: [nmss.academies@education.gsi.gov.uk](mailto:nmss.academies@education.gsi.gov.uk), providing your school name and contact details. You will then be sent an expression of interest form to complete and return. If you have any queries about any of this, you can email us at the above address.

## **Existing state or independent schools setting up new schools**

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

## **Small schools**

In order to provide a sustainable broad and balanced curriculum there is a presumption that primary provision should have a minimum of two forms of entry of 30 pupils, and secondary provision have a minimum of four forms of entry of 30 pupils. If you are looking to open a smaller school then we expect you to provide a clear rationale.

Even if your application is approved, we may still ask you to consider expanding the proposed size of your school or sixth form to ensure that we get the maximum value from the investment of capital funding and to improve the educational and financial sustainability of your school.

## **Practical information about governance compliance**

Each free school is run by an academy trust, a charitable company limited by guarantee, formed specifically to establish and run a school<sup>15</sup>. 'Limited by guarantee' means that the

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<sup>15</sup> This is a requirement under the [Academies Act 2010](#).



personal liabilities of the members who establish it are restricted. The academy trust is the body that submits the application to open the free school.

If you already run one or more schools (whether maintained or academy) our presumption is that you will propose the new school forms part of a multi-academy trust with the existing schools. If you are proposing something different, please explain in Section F2 of the criteria.

An academy trust is made up of members and trustees. The members are akin to the shareholders of a company. The members are the original subscribers to the trust's memorandum of association, and any other individuals permitted under its articles of association. Members have an overview of the governance arrangements of the trust and have the power to appoint and remove trustees. To set up your trust you will need a minimum of three signatory members<sup>16</sup>, referred to as the 'founding members'.

An employee of the school/trust must not be a member. The members have the power to appoint trustees of the trust and you will need to name at least one trustee to set up your trust. The members also have the power to amend some of the provisions of the articles of association, although certain amendments to provisions relating to the appointment and removal of members and trustees will need prior approval by the Secretary of State.

Other amendments, known as regulated amendments (including the trust's objects provisions), will need to be approved in advance by the Charity Commission<sup>17</sup>. The trustees are responsible for the oversight of the operation of the trust and governance of the free school, including the three core functions common to all governing bodies; these are:

- Setting the strategic direction of the school;
- Creating robust accountability for the performance of the school; and
- Ensuring best use of financial resources within the school.

They are also responsible for ensuring compliance with charity and company law and the funding agreement agreed with the Secretary of State. They also have responsibility for approving the trust's company accounts and annual report, although as a matter of best

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<sup>16</sup> Academy trusts should be established with at least three signatories to the Memorandum of Association. The department recommends that trusts should ideally have at least five members, though they may choose to have more or fewer than five. A minimum of five members helps to ensure that, to the extent that members are available to attend meetings, 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 members are in favour).

<sup>17</sup> See Section 198 of the [Charities Act 2011](#) for a full list of amendments requiring Charity Commission consent

practice the members should have an opportunity to review these prior to their approval by the board of trustees.

MATs<sup>18</sup> can establish local governing bodies to which the trustees can delegate functions. Individuals on the local governing body are referred to as local governors. Local governors are not trustees (unless they also sit on the board of trustees). While MATs can delegate functions to local governing bodies, they remain accountable and responsible for these.

#### **A note on terminology:**

- Members of the trust are akin to shareholders;
- Trustees are the trust's directors and charity trustees and sit on the board;
- Local governors sit on local governing bodies in MATs.

There should be a degree of separation between those who are members and those who are trustees. This means that whilst some members can be trustees not all of them should be. This separation promotes strong accountability and is particularly important in MATs.

When putting together their governance arrangements, all groups need to ensure the proportion of 'local authority-associated persons' among the members and trustees is below 20%. Local authority-associated persons include:

- Employees of local authorities (including staff in maintained schools) or people who have been local authority within the last four years;
- Employees of associated organisations such as companies that local authorities have set up and own; and
- Local authority-appointed governors in maintained schools.

People are not local authority-associated persons just because they are governors in a maintained school, unless they are appointed or employed by the local authority. You should bear in mind also, if you do want to have members/trustees who are local authority-associated persons, that they need their local authorities' permission.

**Competitive tenders:** You may appoint a third party to provide support through an open and competitive tender process. However, you must not enter into any contracts in the expectation of public funds. If you have been assisted in writing your application by any individuals or organisations that are not part of your trust, you should explain how you will secure further support during the pre-opening phase if you are approved.

If you do not yet have an academy trust you will need to set one up, using the [department's model articles](#). Please do so before you apply. If your application is

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<sup>18</sup> Multiple academies (including free schools) that are governed by one academy trust.

approved you will need our approval for your articles, then you will need to submit a completed model memorandum and articles of association to Companies House, along with an application to register a company and the relevant fee. Information on how to set up a company is available from [Companies House](#) and additional guidance is available from the [NSN website](#). In your articles, you will need to specify how many trustees will be appointed by the members. As a general rule the department recommends between six and 12 trustees.

## Conflicts of interest

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

Conflicts are most likely to arise when a trust is considering awarding a contract to an individual or organisation in which one of its members or trustees has an interest. Before you form your trust and recruit your board of trustees, you must consider your plans for contracting work (pre- and post-opening) to minimise the risks of a conflict. This will include ensuring that:

- Bodies that sponsor or promote schools do not derive a financial profit from doing so;
- Any individual or organisation represented as a member of the trust, or with influence over the trust, understands that they will only be able to bid for contracts from the trust through an open procurement process and on an 'at cost' basis. This is in line with the requirements set out in the [Academies Financial Handbook](#) and applies to all academy trusts;
- There is sufficient challenge within the trust, with independent members and trustees, capable of holding suppliers to account;
- Trustees and members comply with the protocols set out at articles 6, 97 and 98 of the [model articles](#). These protocols ensure that decisions are taken without bias and that individuals who are 'conflicted' take steps to avoid influencing a decision;
- The trustees establish and maintain a register of interests to identify and record potential areas of conflict, and ensure the register is published on the trust's website;
- Trustees and members understand the need for all procurement to follow an open and fair competition. Guidance on procurement can be found on our [website](#) and the [Academies Financial Handbook](#) also includes guidance on conflicts of interest and appropriate procurement.

Conflicts of interest may also arise if family or other personal relationships between the individuals running an academy trust make it hard to hold an individual to account. For

example, if a husband and wife were to take the roles of chair of the board of trustees and principal, it may be more likely that decisions will be influenced by shared interests or views, and not taken in the best interests of the trust.

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

## 2. Application assessment and interviews

It is essential that you read the relevant [assessment criteria booklet](#) for your type of school before starting your application<sup>19</sup>. Under each criterion we have included a description of what you should include in your application.

### Assessment of your application

We will assess your application against:

- The criteria set out in the relevant [assessment criteria booklet](#) for your proposed type of school;
- Mainstream, studio school, 16 to 19, alternative provision, independent converter, and special free school applications as appropriate.

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

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

Checks are conducted on all applicants. This means we will use the personal information you provide to check your suitability to set up a free school. For more information on this please see the Section I description found in the introduction of this guide (page 8).

### Interviews

If your application is assessed as one of the strongest, we will invite your group to interview.

Interviews will be tailored based on the quality of the application, and the strength and track record of the proposer group. In some cases we may approve your project without interviewing your group.

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<sup>19</sup> If you are proposing a hybrid school, please use the assessment criteria booklet most relevant to your type of provision.

## Appeals and reapplying

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

If your application is not successful, you will receive a feedback letter giving information about the judgement. You should allow enough time to address any weaknesses and strengthen your application before reapplying.

If you are reapplying after being unsuccessful in a previous wave, we expect you to demonstrate explicitly under the relevant section of your new application how you have changed your application in response to the written feedback you received, as well as considering your overall application against the most recent version of this background information and glossary document and the criteria. If this feedback is not addressed, it is likely that your application will not be considered further, and you may not get full feedback on the application.

## Decisions and pre-opening

If the Secretary of State decides that your application should progress to the “pre-opening” stage – ie the stage between approval of the initial application and the opening of the school – we will provide you with a dedicated point of contact from the department, along with support from the EFA, to help you secure a suitable site and to open your school successfully.

We will not be able to agree an opening date with you until a site is identified and we have assessed how long it will take to secure planning permission and build the school.

If you have submitted a strong application, but we judge that there is insufficient need for a new school in the area you have proposed, we may approve your application on the condition that your school moves to an area of greater need.

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

The final decision to go ahead with the proposal depends on the Secretary of State formally entering into a funding agreement with your academy trust. The Secretary of State will consider signing a funding agreement only if you are able to develop your plans to the required standard during the pre-opening stage. In previous waves, some applications have been approved to enter the pre-opening stage but then failed to make sufficient progress. This meant that a funding agreement could not be signed, the project did not go ahead, and the school did not open. In other cases, the opening of the school had to be delayed by a year or more. This demonstrates the immense importance and challenge of the pre-opening stage.

We will provide a project development grant (PDG) to groups whose applications are approved to the pre-opening stage. The amount of funding depends on the type of school. If you are part of a MAT and are opening more than one new school in the same academic year, we expect there to be scope to realise efficiencies in expenditure so the PDG for additional schools will be reduced. This grant is intended to help cover everything that groups will need to buy up to the point that the school opens. This will include the cost of any project management and education support required, as well as other costs such as recruiting and paying a principal designate. The project development grant does **not** cover capital costs, which are funded separately. We will ask you to submit a budget plan to show how you will spend this money in pre-opening. For more detail on project development grant funding see [Annex A](#).

The final approval of your application is also conditional on the capital costs representing good value for money and being kept to a minimum. There is limited capital funding available. During the pre-opening phase the department will therefore seek to deliver your school with the lowest possible capital cost (acquisition and property costs, plus the costs of necessary works and fit-out). Approval of the application does not represent any commitment to a particular type of building or level of provision or equipment to deliver your vision. The EFA will make sure you receive a functional refurbished or new school building but we will not be able to accommodate requests for specific designs to meet the school vision. The school vision will need to be deliverable in whatever type of building you receive, within reason. In addition, if your school requires a new build, the school will have a standardised design. We continue to have difficulty finding sites in some areas, particularly London and the South East. This is likely to mean that you will need to be flexible about where the school is located if you have submitted an application in one of those areas. Your EFA project director will discuss this with you in due course.

Sometimes more than one applicant group will name the same site as their preferred option. In such cases, if there is sufficient need to approve all of the applications concerned, we will take the following approach to decide which of the applications should use this preferred site:

- As is normal practice, EFA will first assess whether the site offers good value for money and is suitable for a school;
- Assuming it is, EFA will then assess whether the site is big enough to accommodate all of the proposed schools;
  - If it is not, we will decide which project should be prioritised for that site, taking into account a range of factors such as the strength of the respective applications, local demand, basic need for more school places and the impact on existing provision;
- In exceptional circumstances, we may decide that another proposed school should have the site – for example where we assess the site to be large enough for this other school, but not for the strongest proposed school.

### 3. Support for applicants

We will only progress the strongest applications in each wave. Applications are assessed against the criteria and the relative merit of other applications received in the wave. It is essential therefore that you familiarise yourself with the available support for free schools applications, some of which are detailed below.

#### Useful contacts

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

- For general advice on free schools, please contact the [New Schools Network](#). The New Schools Network is an independent charity which provides free advice and guidance to free school applicants.
- For specific advice on studio schools, please contact the [Studio Schools Trust](#). The Studio Schools Trust is an independent charity which developed the studio school model and will be able to offer advice and support to applicants.
- Advice and guidance on how to find potential school sites, as part of developing your application, is available from the EFA by contacting them by email at: [FreeSchools.EFACAPITAL@education.gsi.gov.uk](mailto:FreeSchools.EFACAPITAL@education.gsi.gov.uk). This is the email address for premises queries and advice before you submit your application. There is a separate email address for any premises information you need to send once you have submitted your application; that email address is given in the Excel application form.

#### Further information and key documents

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

- [Academies Financial Handbook](#)
- [Academies Spend Data \(for examples of academy finances\)](#)
- [Basic need scorecards \(primary\)](#) and [pupil projections at planning area level \(primary and secondary\)](#)
- [Behaviour and exclusions policies and guidance](#)
- [Boarding schools: national minimum standards](#)
- [Charity Commission guidance](#)
- [Companies House](#)
- [Department for Education procurement guidance for free schools](#)
- [Education Funding Agency](#)



- [Education Services Grant](#)
- [The Equality Act 2010 and Public Sector Equality Duty](#) and departmental advice regarding [The Equality Act 2010](#)
- [Free schools financial plan templates](#). These templates will calculate your funding using 2015/16 funding rates. It will provide an indication of the funding you are likely to receive to assist you in your financial planning.
- [Fundamental British Values](#)
- [Governors' Handbook](#)
- [Information on existing free school projects](#)
- [Local authority](#)
- [Model free school funding agreements](#)
- [Model free school memorandum and articles](#)
- [New Schools Network](#)
- [Prevent duty: departmental advice for schools and childcare providers](#)
- [Prevent duty guidance](#)
- [Regional schools commissioners](#)
- [School food advice](#)
- [School admissions appeals code](#)
- [School admissions code](#)
- [Secondary School Accountability Consultation](#)
- [Seven Principles of Public Life](#)
- [SGOSS Governors for schools](#)
- [SEND Code of Practice](#)
- [SMSC development of pupils in independent schools](#)
- [Statutory framework for the early years foundation stage](#)
- [Studio Schools Trust](#)

## Annex A: Free school funding overview

### Project development funding

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

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

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

### School funding

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

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

All mainstream schools – including free schools, studio schools and academies – are funded based on a local (pre-16) or national (post-16) funding formula. Local formulae are revised before the start of each academic year. We expect to be able to provide final details of funding arrangements in the spring before the start of the academic year to which they will apply. The information set out below and in the financial template is based on the most recent free school funding figures which will be a close proxy for future funding rates. However, you should note that information set out below and in the template is illustrative only. No guarantee can be given that the levels of funding set out in the template will be received when your school opens. If your application is approved, you will be expected to revise your budgets as your plans develop and to reflect any changes to the funding arrangements when they are known.

Special and alternative provision free schools have different funding arrangements to mainstream schools. In both special and alternative provision free schools, funding is comprised mainly of two elements: base funding received directly from EFA; and top-up funding agreed on a case by case basis with the authority/ies or school(s) that commissions places within the provision. A free school may also receive funding for commissioned services (such as home tuition) from a local authority or school. Base funding for both special and alternative provision free schools is £10,000 per FTE place. When a free school is open, the EFA will decide on the number of places to be funded each year, based on the free school's plans and the number of pupils actually attending the school. This funding will be paid by the EFA directly to the free school.

For AP free schools only, and usually from the third year of the free school's operation, the EFA will start to deduct an appropriate proportion of the base funding from the dedicated schools grant of the local authorities who commission, or whose schools commission places at the alternative provision free school. There may be situations where the funding deducted from the dedicated schools grant of the relevant local authorities does not constitute the total base funding for places which the EFA determines to pay to the free school. It is therefore important that there is discussion locally with schools and relevant local authorities about what the alternative provision free school intends to provide and that it is meeting the demand for alternative provision. It needs to be clear to all parties how both pupil referral units (PRUs) maintained by local authorities and alternative provision free schools and academies are to be funded. Local authorities should not fund maintained schools and PRUs differently from the equivalent academies and free schools, under their conditions of grant.

The [GOV.UK website](https://www.gov.uk) has further information about how all types of free schools are funded.

## Post-opening funding

Most new schools receive additional funding to reflect the additional costs involved in the early years after opening. New schools being opened as free schools will be provided with this funding through the post-opening grant.

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

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

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

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

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

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

Free schools exclusively for 16 to 19 pupils also receive £500 in resources funding for each new mainstream place created in the 16 to 19 phase. 16 to 19 free schools will also receive a fixed rate leadership grant of £135,000, payable 80% in the first year and 20% in the second.

Studio schools will receive a fixed rate leadership grant of £180,000 payable over three years.

Special and alternative provision free schools receive £250 in resources funding for each new primary place and £500 for each new secondary place created (up until the school reaches capacity). Special free schools will also receive a fixed-rate leadership grant of £170,000, payable 50% in year one, 30% in year two and 20% in year three. For alternative provision free schools, the level of leadership funding is negotiated on a case-by-case basis and will normally be within the range £150,000-£230,000. The distribution of leadership funding while the school is building up is subject to negotiation. You should indicate in the financial template what level of leadership funding within this range is necessary to ensure your alternative provision free school is viable on opening. You should also show how it provides value for money.

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

### **Funding for nursery provision**

Free schools are also able to offer nursery provision if they wish. Free schools may offer places funded by the local authority for all three and four-year-olds, and the most disadvantaged two-year-olds. All schools have the additional flexibility of being able to charge parents for extra hours taken up (but not as a condition of receiving the free entitlement).

Where we approve it for the purpose, capital funding provided by the free school programme may be used to establish a nursery in your free school. Revenue funding for free early education is provided by the local authority using each local authority's Early Years Single Funding Formula. Local authorities are required to fund schools that deliver this free entitlement provision. If you are interested in offering nursery provision, you should speak to your local authority to find out how much you could receive. However, the funding you receive to establish your free school and provide for compulsory age children cannot be used for this purpose.

Free schools are also able to offer nursery provision which exceeds any local authority free entitlement, including for under three-year-olds. Subject to their funding agreement, free schools may fund this by charging parents directly to cover their costs in delivering this provision. This can also be done through a subsidiary company, or by contracting with an independent provider who levies charges. Free schools can give priority in their oversubscription criteria to children eligible for the early years pupil premium or the service premium who are in a nursery class that is part of the school or attend a nursery that is established and run by the school. The nursery must be named in the admission arrangements and its selection policy/criteria/practice must be transparent and made on reasonable grounds.

## Annex B: Glossary of terms

### **Academies Financial Handbook**

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

### **Academy**

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

### **Academy trust**

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

### **Articles of association**

Set out the governance arrangements of the company limited by guarantee (the academy trust).

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

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

### **Catchment area**

The geographical area which you intend your school to serve.

### **Collective worship**

All publicly-funded schools must provide a daily act of collective worship. For non-faith schools collective worship should reflect the broad traditions of this country which are in the main Christian. A school can reflect the religious backgrounds represented in its community, as long as the majority of provision is broadly Christian.

Schools with a religious designation must provide collective worship in accordance with their trust deed, or in accordance with the tenets of their faith. They can also choose to reflect the other principal religions and those found in the local community. Schools can apply for permission not to provide broadly Christian collective worship where the belief of its pupils or the local community is such that another faith would be more appropriate.

16 to 19 free schools must provide weekly collective worship. Parents have the right to withdraw their children from all or any part of collective worship. They do not have to give a reason to the school and the school must comply with their request. Pupils aged 16 or over can opt out of collective worship if they wish.

### **Community role**

Funding agreements require free schools to be at the heart of their community, promoting community cohesion and sharing facilities with other schools and the wider community. This can help to address segregation and help support pupils and the wider community in developing a shared understanding and promote meaningful contact between people from different backgrounds and faiths.

### **Company limited by guarantee**

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

### **Directors**

See definition for 'Trustees' below.

### **Due diligence**

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

### **Early years foundation stage (EYFS)**

The [early years foundation stage](#) (EYFS) sets the standards for the learning, development and care of children from birth to five years old. All schools and Ofsted-registered early years providers must follow the EYFS and they are assessed against it.

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

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

### **Education, health and care (EHC) plan**

An education, health and care (EHC) plan describes a child or young person's special educational and other needs and the outcomes they are working towards. The EHC plan specifies the special educational provision and any related health provision and social

care provision a child should receive. The local authority will usually issue an EHC plan if it decides, following a statutory assessment, that all of the special help a child or young person needs cannot be provided from within the resources of the school or other educational institution. These resources could include money, staff time, and special equipment. EHC plans are available from birth up to age 25.

## **Ethos**

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

### **Faith ethos**

If you want your school to have a distinct ethos based on a set of morals that are aligned with a particular faith and you want to make this explicit, you can describe your school as having a faith ethos. This could then be reflected within the vision for the school, the values the school represents and the importance placed on particular beliefs. Unlike schools that are faith designated as having a religious character, faith ethos schools, cannot teach religious education and provide collective worship in line with the tenets of their faith. Faith ethos schools are also not permitted to adopt faith-based admission arrangements. Having a faith ethos does not entitle free schools to any additional freedoms other than in making faith a genuine occupational requirement when hiring a senior leader.

### **Faith free schools**

See religious designation.

### **Financial viability**

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

### **Founding members of the company**

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

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

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

### **Free school presumption**

Section 6A of the Education and Inspections Act (EIA) 2006, (which came into effect in February 2012) sets out the requirements for establishing a free school through the



presumption route. Under this route, where a local authority thinks there is a need for a new school in its area it must seek proposals to establish a free school. This is a separate process to establish a free school than the one described in this guidance. The local authority is responsible for providing the site for the new free school and meeting all associated capital and pre-/post-opening revenue costs under this presumption route.

### **Fundamental British values**

All free schools and academies must meet the SMSC standard that is set out in Part 2 of Schedule 1 to the Education (Independent School Standards) (England) Regulations 2010, as amended. Through ensuring pupils' SMSC development, free schools also need to demonstrate they are actively promoting the fundamental British values of democracy, the rule of law, individual liberty, and mutual respect and tolerance of those with different faiths and beliefs. This includes enabling students to develop their self-knowledge, self-esteem and self-confidence; show respect for others including those of different faiths; and have respect for the law and support for participation in democratic processes.

Aspects of SMSC can be developed through virtually all parts of the curriculum and infused within the day to day operation of a school. Free school applications should demonstrate how they will promote fundamental British values across a range of subjects as part of a broad and balanced curriculum. The application should demonstrate how pupils will develop and demonstrate skills and attitudes that will allow them to participate fully in and contribute positively to life in modern Britain.

We will look for evidence that you have considered these responsibilities as part of your application. The SMSC standards for independent schools (including free schools) are set out in the departmental advice: Improving the spiritual, moral social and cultural (SMSC) development of pupils.

All schools are subject to the duty to have due regard to the need to prevent people from being drawn into terrorism. The Prevent duty: departmental advice for schools and childcare providers (June 2015) complements the statutory Prevent duty guidance and explains what the duty means for schools. It is intended to help schools and childcare providers think about what they can do to protect children from the risk of radicalisation and suggests how they can access support to do this. This includes building pupils' resilience to radicalisation by promoting fundamental British values and enabling them to challenge extremist views.

### **Funding agreement**

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

### **Governors**

See definition for 'Trustees' below.

## **Grant funding**

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

## **Integrated free schools**

Schools which aim to attract pupils from different backgrounds and different communities so they are educated together. The Prime Minister set out the Government's intention to support the creation of integrated free schools in areas of the country where children of different backgrounds tend to be educated apart.

## **Leadership grant**

The staffing element of post-opening grant.

## **Looked-after children**

Are children who are in the care of the local authority.

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

The company's legal owners. They play a strategic role in running the school, are responsible for appointing trustees of the free school (the board of trustees) and are akin to shareholders of the company.

## **Memorandum of association**

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

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

Multiple academies (which can include free schools) governed by one academy trust. The multi-academy trust may delegate functions to one or more local governing bodies.

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

Are independent schools specially organised to make provision for children with SEND. They run by charities or charitable trusts on a not-for-profit basis and are approved by the Secretary of State under section [342 of the Education Act 1996](#).

## **Post-opening grant**

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

## **Post-opening period**

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

## **Procurement**

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

## **Project development funding**

Funding provided to help set up the school before it opens. It can currently be used to: help develop detailed plans for the school including the curriculum; recruit a principal designate; run a consultation on the proposed school; and attract pupils.

## **Pupil premium**

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

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

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

## **Regional Schools Commissioners**

The Schools Commissioner and regional schools commissioners work with school leaders to promote and monitor academies and free schools in their area on behalf of the Secretary of State for Education.

## **Religious character**

See religious designation.

## **Religious designation**

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

You only need to do this if you intend to:

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

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

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

### **Religious education**

All schools must teach religious education. For schools that are not designated as a school with religious character, the religious education curriculum must reflect that the religious traditions in Great Britain are, in the main, Christian, while taking account of the teaching and practices of other principal religions in the country. Parents have the right to withdraw their children from religious education. They do not have to give a reason to the school and the school must comply with their request.

### **School admissions code and school admissions appeals code**

Mainstream free schools must comply with the [school admissions code](#) which is a statutory document we publish that ensures equity and fair access for all.

### **Service premium**

The service premium has been introduced for children whose parents are currently serving in the armed forces; this is £300 in 2014/15. This service premium is designed to address the emotional and social well-being of these pupils. The service premium is paid directly to mainstream free schools. Alternative provision and special free schools will need to negotiate any funding with their commissioning bodies.

### **Special educational needs and disability (SEND)**

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

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

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

## **Sponsor**

Sponsors are responsible for the performance and finances of the school, recruiting the head teacher, and selecting the governing body.

## **Statement of special educational needs (see education, health and care plan)**

A statement, or from September 2014, an education, health, and care (EHC) plan, describes a child's special educational needs and the special help a child should receive. The local authority will usually make a statement if it decides, following a statutory assessment, that all the special help a child needs cannot be provided from within the school's resources. These resources could include money, staff time, and special equipment.

## **Statutory assessment of SEND**

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

## **Statutory assessment arrangements**

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

## **Steady state**

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

## **Strong educational track record**

Sponsors and MATs with strong track records are able to give us less information than other applicants because we can use information we already hold to assess applications. To be considered as having a strong track record you must meet the criteria set out in Section 1 of this document.

## **Trustees**

Trustees oversee the day-to-day management of the school. All individuals on the board of trustees must be formally appointed as trustees of the company and registered with Companies House. It is possible for an individual to be a member and a trustee, but we would expect a degree of separation between the two layers of governance. Employees of the trust must not be members. Trustees are the directors of the company.

**Value for money**

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

We also use this term as an assurance of whether the potential benefits of a free school justify the costs of funding its establishment.

## Annex C: Application checklist

Task to complete	Yes	No
1. Have you established a company by limited guarantee?	<input type="checkbox"/>	<input type="checkbox"/>
2. Have you provided information on all of the following areas (where appropriate)?		
<b>Section A:</b> Applicant details	<input type="checkbox"/>	<input type="checkbox"/>
<b>Section B:</b> Outline of the school	<input type="checkbox"/>	<input type="checkbox"/>
<b>Section C:</b> Education vision	<input type="checkbox"/>	<input type="checkbox"/>
<b>Section D:</b> Education plan	<input type="checkbox"/>	<input type="checkbox"/>
<b>Section E:</b> Evidence of need	<input type="checkbox"/>	<input type="checkbox"/>
<b>Section F:</b> Capacity and capability	<input type="checkbox"/>	<input type="checkbox"/>
<b>Section G:</b> Budget planning and affordability	<input type="checkbox"/>	<input type="checkbox"/>
<b>Section H:</b> Premises	<input type="checkbox"/>	<input type="checkbox"/>
3. Is the information in A4 format, using Arial 12 point font, and includes page numbers?	<input type="checkbox"/>	<input type="checkbox"/>
4. Have you fully completed the appropriate budget plan(s) where necessary?	<input type="checkbox"/>	<input type="checkbox"/>
5. Have you included CVs in the appendices for all relevant individuals in the template provided and in line with the requirements set out in the criteria?	<input type="checkbox"/>	<input type="checkbox"/>
6. <b>Independent schools only*:</b> Have you provided a copy of the last two years' audited financial statements or equivalent?	<input type="checkbox"/>	<input type="checkbox"/>
7. <b>Independent schools only*:</b> Have you provided a link to your school's most recent inspection report and completed an externally validated self-assessment and governance assessment?	<input type="checkbox"/>	<input type="checkbox"/>

Task to complete	Yes	No
8. <b>Independent schools only*</b> : Have you provided the documents set out in the criteria document specifically around your current site?	<input type="checkbox"/>	<input type="checkbox"/>
9. <b>Re-applications only</b> : Have you changed you application in response to the written feedback you received, if you are re-applying after being unsuccessful in a previous wave, as set out in Section 4.4 of this guide?	<input type="checkbox"/>	<input type="checkbox"/>
10. Have you sent an email (of no more than 9 MB in size**), titled: <b>Free School Application – School Name: [insert]</b> with all relevant information relating to Sections A to H of your application to: <a href="mailto:FS.applications@education.gsi.gov.uk">FS.applications@education.gsi.gov.uk</a> before the advertised deadline?	<input type="checkbox"/>	<input type="checkbox"/>
11. <b>Studio schools only</b> : Have you emailed a copy of your application to the Studio Schools Trust at [add email address]?	<input type="checkbox"/>	<input type="checkbox"/>
12. Have you sent two hard copies of the application by a guaranteed delivery method such as ‘Recorded Signed for’ to the address below?  Free Schools Applications Team, Department for Education, 3 <sup>rd</sup> Floor Sanctuary Buildings, Great Smith Street, London, SW1P 3BT	<input type="checkbox"/>	<input type="checkbox"/>

\* Independent schools include existing alternative provision and special school institutions that are privately run.

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

Section I of your application	Yes	No
12. Have you sent: <ul style="list-style-type: none"> <li>• a copy of Section A (tab 1 of the Excel template); and</li> <li>• copies of the Section I Personal Information form for each member, director, and principal designate that has not submitted one of these forms within the past 365 days; and</li> <li>• a list of those lead applicants, members, directors, and principals designate who have submitted Section I forms within the past 365 days</li> </ul> by emailing scanned copies of Section I forms to <a href="mailto:due.diligence@education.gsi.gov.uk">due.diligence@education.gsi.gov.uk</a> stating the name of the school in the subject title, including a full list of members, trustees, and the principal designate (if appointed); and a copy of Section A?  (See guidance for dates and deadlines)	<input type="checkbox"/>	<input type="checkbox"/>





Department  
for Education

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