



Department  
for Education

# **Special free schools: application guide and criteria**

**June 2018**

# Contents

1. Summary	4
Expiry or review date	4
Who is this publication for?	4
2. Overview	5
How to submit an application	5
Information about special free schools	6
Requirements of special free schools	6
Residential provision	9
Nursery provision	9
Special free schools with a faith ethos	10
3. Things you need to consider before you open a special free school	11
Setting up an academy trust	11
Governance	12
Suitability of applicants and due diligence checks	14
Disclosure and Barring Service (DBS) checks	14
Applying for an enhanced DBS check: guidance for members and trustees	15
Links to further information	17
Conflicts of interest	18
Proposed opening date	19
TUPE	19
Competitive tenders	19
Public sector equality duty	19
4. Information for all applicants to consider before applying	20
Who to speak to before you apply	20
5. Applying for a special free school – submitting your application, assessment and interviews	21
What we mean by strong track record	21
Assessment of your application	22
Interviews	22
Decisions	23
6. What happens if your application is successful	24

Pre-opening	24
Site and opening dates	24
7. Criteria for assessment guide	25
Section A: Tell us who you are	26
Section B: Your chosen school	27
Section C: Vision	28
Section D: Education plan	29
Section D1: An ambitious and deliverable curriculum plan which is consistent with the vision and pupil intake	30
Section D2: Measuring pupil performance effectively and setting challenging targets	31
Section D3: A staffing structure that will deliver the planned curriculum within the expected income levels	32
Section D4: The school will be welcoming to pupils of all faiths/world views and none, and will develop students' skills in leading healthy lives and being active citizens	33
Section E: Evidence of consultation and demand	36
Section F: Capacity and capability	37
F1: the necessary experience and credentials to deliver the school to opening	37
F2: A governance structure, and roles and responsibilities that will ensure accountability and effective decision making in this academy trust and drive improvement in the new free school	39
Section G: Accurate financial plans that are consistent with the rest of the application, demonstrate financial viability, and are based on realistic assumptions about income and expenditure	41
8. Further information and key documents	43
Annex A: CVs	45
Annex B: Free school funding overview	47
Project development grant	47
Post opening grant	47
Funding for nursery provision	47
Funding for residential provision	48
Revenue funding for special schools	48
Annex C: Glossary of terms	50

# 1. Summary

1.1 This publication provides non-statutory guidance from the Department for Education. It has been produced to help proposer groups to make an application to open a special free school.

## Expiry or review date

1.2 This guidance will be reviewed before July 2018.

## Who is this publication for?

1.3 This guidance is for:

- Local authorities
- Potential proposer groups

## 2. Overview

2.1 We are committed to an ambitious free schools programme that delivers innovation, choice and higher standards for parents. Young people with special educational needs and disabilities are more likely than others to come from disadvantaged backgrounds, and are amongst the most likely to be unemployed once they finish school. Local authorities need to have a broad range of provision to meet the special educational needs of children and young people in their area so that, regardless of individuals' needs, they all have an opportunity to make good progress. Developing new special free schools will contribute to this by better enabling local areas to meet the needs of children and young people with special educational needs and disabilities.

2.2 On 12 April 2017, we announced the approval of 131 new free schools, including approval of plans to launch a special free school competitions in Portsmouth. This guidance is for anyone wishing to apply to set up the special free school in Portsmouth

2.3 The deadline for applying to open a special free school is **midday on 04 October 2018**. The local authority cannot grant deadline extensions.

### How to submit an application

2.4 Completed full applications must be submitted by midday on 04 October 2018. You need to submit one copy of your application by email to: the relevant local authority (email address in the LA submission on LA webpage) and one to [FreeSchool.SPECIAL@education.gov.uk](mailto:FreeSchool.SPECIAL@education.gov.uk).

2.6 The size of your email should not exceed 9MB as anything larger will not be delivered. If the application is larger than 9MB, please split the documents and send 2 (or more) emails.

Please title your email as follows: **Special free school application – [insert free school name]**.

In addition, send **one hard copy** by a guaranteed delivery method (applications may be hand delivered) to:

- the **local authority** at the address given in the relevant specification; and

**two hard copies** to:

- the **Department** at:

Special Free Schools Team  
Department for Education  
Piccadilly Gate

Store Street  
Manchester  
M1 2WD

Electronic files:

- must be identical to the hard copies submitted by email.
- must include the name of your proposed school in the file name for both your Word and Excel documents

Application forms:

- 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, marketing leaflets, and information about key individuals.
- Please do not include photographs, images and logos in your application (other than any map(s), if relevant).

2.7 Please note, the information you provide, including personal information, may be subject to publication or disclosure in accordance with access to information legislation, primarily the Freedom of Information Act 2000 and the Data Protection Act 1998. Please note that we will publish a list of all applicants once the decisions have been made.

## Information about special free schools

2.8 Special free schools provide education for pupils with special educational needs and disabilities (SEND). They are designated for specific type(s) of SEN and disabilities. Please read this section to familiarise yourself with the different requirements and obligations on special free schools.

## Requirements of special free schools

These lists are not exhaustive.

### 2.9 Special free schools must:

- Admit a child where the school is named in a child's or young person's statement or EHC plan;
- Admit pupils without statements or EHC plans only in specified circumstances (as set out in section 34 (5)-(8) of the Children and Families Act 2014, or with express authority from the Secretary of State (section 34 (9)) which is provided in the Funding Agreement, and for types of SEN for which the school is designated;

- Co-operate with the local authority in developing and reviewing the published local offer of services and provision for children and young people with SEN and disabilities;
- Follow the statutory assessment (i.e. testing) arrangements as they apply to maintained schools;
- Collect performance data, publish results where appropriate<sup>[1]</sup>, and be subject to Ofsted inspection under the same framework that applies to all state-funded schools. Since 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 the standard of national curriculum tests and assessments. P scales are needed for English, mathematics, and science;
- Where practical, special schools must provide for the teaching of religious education and for acts of collective worship;
- Ensure all teachers have Qualified Teacher Status (QTS);
- Have regard to the [SEND Code of Practice](#); including using their best endeavours to make sure that a child with SEN gets the support they need (i.e. doing everything they can to meet children and young people's SEN). Special free schools are not required to have a SENCO as their principal purpose is to provide education for children with SEN;
- Comply with their duties under the Equality Act 2010, including the duty to make reasonable adjustments and the Public Sector Equality Duty;
- Maintain the support of local authorities in terms of a commitment to commission placements and services and their willingness to provide associated funding;

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<sup>1</sup> [1] Please note that changes were made to the primary, secondary and 16 to 19 school accountability systems in 2016. These can be found here [Primary Accountability](#) and here [Secondary accountability](#). Details about what will be published in the performance tables can be found in the Statement of Intent published each year on the [DfE School and college performance tables website](#). As of September 2016, the early years foundation stage profile (EYFSP) is no longer 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.

- If you wish to offer any provision to [students aged 19 to 25](#), this would need to be a legally and financially separate entity and not part of your free school.

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

- Follow the national curriculum<sup>2</sup>;
- Follow local authority term dates or standard school hours; or
- Comply with the provisions in the School Teachers' Pay and Conditions Document.

### **Special free schools**

2.10 For this competition we are only accepting applications to open special free schools in response to specifications published by local authorities which are listed on the DfE website. Applications for special free schools should only include early years and/or residential provision where requested in the published specification.

2.11 Once a school is open, approval from the Secretary of State is required if the school wishes to change or extend its designation to cater for children with other types of SEN and disabilities.

2.12 Generally, special schools are permitted only to admit pupils with EHC plans, or, on a temporary basis, pupils whose needs are being assessed– (as set out in section 34 (5)-(8) of the Children and Families Act 2014). Further details are set out in the SEND Code of practice paragraph 1.29. Exceptionally, special schools may seek permission to admit pupils with special educational needs but without an EHC plan (section 34 (9) of the Children and Families Act). If you wish to seek this permission you will need to provide evidence that the school will be “innovative and increase access to specialist provision for children and young people without EHC plans” (Code of practice, paragraph 1.30). You should therefore provide evidence that the school will meet those criteria, for example by outlining in your application:

- strong evidence of innovative practice for supporting pupils with SEN;
- evidence of a need for this innovative practice in the local area; and
- evidence that the innovative practice cannot reasonably be expected to be delivered in mainstream schools in the local area.

2.13 The SEND Code of practice sets out, at paragraph 1.26, the general presumption that children with SEN should be educated in mainstream settings. We will therefore wish to explore with you how your proposed school would seek to ensure, where

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<sup>2</sup> For more information, refer to the criteria section below.



appropriate, the reintegration of pupils with SEN but without EHC plans into mainstream schooling. You may wish to include this information as part of your application.

2.14 Special free schools receive £10,000 per place, per annum, from the Education and Skills Funding Agency (ESFA) for children and young people up to the age of 19 years with EHC plans. In addition, special free schools may receive top-up funding from the relevant local authorities at an agreed rate in respect of each individual child placed at the school. The specific rate of top up for each local authority is detailed in their specification document. Special schools can also receive income from specialist services provided to other schools and/or local authorities under a service level agreement.

2.15 Special free schools' continuing financial viability will depend on local authorities continuing to place children and young people with EHC plans in those schools, with the procedures for that (including the relevance of parental preference) being set out in law. It is therefore important that the school proposers offer the type of places that local authorities need, at a cost they are prepared to fund. Currently the costs of special free schools' place funding from the ESFA are not recovered from local authorities, but the department has indicated an intention to consult on proposals for changing the source of this funding. Free school proposers should bear this in mind in their discussions with commissioning local authorities.

## **Residential provision**

2.16 Applications for special free schools should only include residential provision where it is included in the local authority's published specification. This means residential accommodation for some or all pupils. For pupils with an EHC plan, the residential provision will be specified in their EHC plan, and the associated costs of board and lodging will be agreed by the local authority when they commission a place, and may be partly funded by through the local authorities children's social care budget.

## **Nursery provision**

2.17 Applications for special free schools should only include early years provision where it is included in the local authority's published specification. When completing your free school application, you will need to demonstrate that you have a credible plan for the nursery. Please refer to the criteria section below for more information on what you should include in your application.

2.18 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 B and the [financial template guide](#) provides advice on how to reflect this in your financial templates.

## Special free schools with a faith ethos

2.19 Like special schools in the maintained sector special free schools cannot be designated as having a religious character.

2.20 It is possible for special free schools to acknowledge the religious impetus behind their desire to open a special free school by registering the school as having a faith ethos.

2.21 Faith ethos schools must teach Religious Education and provide collective worship in the same way as a non-faith free school.

2.22 Faith ethos schools are not permitted to adopt faith-based admission arrangements and faith ethos free schools are not entitled to any additional freedoms. Faith ethos special free schools must admit pupils named in the EHCP, irrespective of faith. Faith ethos schools do have the freedom to take faith into account when appointing senior leaders. However, as with all such appointments the requisite skills required to fulfil the requirements of the post should be paramount in any selection process.

2.23 Schools with a faith ethos, in common with all schools without a religious designation, can however apply for permission not to provide broadly Christian collective worship where the belief of the majority of its pupils or the local community is such that another faith would be more appropriate.

2.24 We will expect you to be able to explain clearly how your faith ethos 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.

## 3. Things you need to consider before you open a special free school

### Setting up an academy trust

3.1 Each free school is run by an academy trust, a charitable company limited by guarantee, formed specifically to establish and run a school<sup>3</sup>. The academy trust is the body that submits the application to open the free school.

3.2 If you need to establish an academy trust, you will need to do so before you apply using the [department's model articles](#). Information on how to set up a company is available from [Companies House](#); additional guidance is available from the [NSN website](#).

3.3 We expect existing maintained schools to convert to academy status and the proposer group to form a Multi Academy trust (MAT) that incorporates both the new special free school and any existing schools. You do **not** need to convert to academy status before applying, but we expect your application to set out your plans for how you will do this, if your application is successful.

3.4 An academy trust comprises of members and trustees. The members are akin to the shareholders of a company; the trustees are responsible for the operation of the trust and all boards (no matter what type or how many schools they govern). In your articles, you will need to specify how many trustees the members will appoint. As a rule, the department recommends between 6 and 12 trustees.

3.5 The members of the academy trust 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>4</sup>, referred to as the 'founding members'. 'Limited by guarantee' means that the personal liabilities of the members who establish it are restricted.

3.6 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

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<sup>3</sup> This is a requirement under the [Academies Act 2010](#).

<sup>4</sup> Academy trusts should be established with at least three signatories to the Memorandum of Association. The department strongly recommends that trusts should have at least five members. 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).

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), will need to be approved in advance by the Charity Commission<sup>5</sup>.

## Governance

3.7 The [Governance Handbook](#) and Competency Framework between them outline the role of the board of trustees. They set out the six key features of effective governance and specify some of the skills, knowledge and behaviours needed for effective governance. The trustees have three core functions:

- Ensuring clarity of vision, ethos and strategic direction of the organisation;
- Holding executive leaders to account for the educational performance of the organisation and its pupils, and the performance management of staff; and
- Overseeing the financial performance of the organisation, and making sure its money is effectively used.

3.8 Trustees are also responsible for ensuring compliance with charity and company law and the funding agreement agreed with the Secretary of State. Trustees also have responsibility for approving the trust's company accounts and annual report.

3.9 MATs 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 bodies.

3.10 The structure and remit of the board and all committees (including local governing bodies) must be set out in a scheme of delegation published on the trust's website. The scheme of delegation must include the full names of the chair of each committee. An effective scheme of delegation, particularly for MATs, will:

- include details of all committees (whether decision making or advisory) in the MAT beneath the board, including local governing bodies, and explain in headline terms the role and remit of each committee;

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<sup>5</sup> See Section 198 of the [Charities Act 2011](#) for a full list of amendments requiring Charity Commission consent.

- provide clarity on which governance functions are retained at board level and which are delegated. The scheme of delegation should make clear (particularly if the board governs a number of schools) where all key governance functions are exercised in respect of each school – this includes the vision, budget setting, executive leader oversight, and performance management;
- explain clearly how the role of governance structures relates to that of key executive leaders. This could include the CEO, any executive principals or regional directors, and finance and HR directors. A MAT, for example, should avoid duplication between the role of MAT executives and local governing boards in holding individual academy leaders to account;
- explain the board's parental and community engagement arrangements, and explain how these feed into and inform governance both at board level, as well as the level of individual schools as applicable;
- be drafted clearly so that everyone in the organisation can understand the scheme of delegation, so that they are clear about their role and the role of others; and
- explain the circumstances in which the arrangements set out may vary: including both the timeframes for the overall scheme being reviewed and updated, and any triggers that might lead the board to review or change levels of delegations.

3.11 There should be separation between the members of the trust and the trustees; only a minority of members of the trust should also be trustees. This separation promotes strong accountability, and is equally important in SATs and MATs.

3.12 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 per cent. Local authority-associated persons include<sup>6</sup>:

- employees of local authorities (including staff in maintained schools) or people who are, or have been in the last four years, a local authority member, where that local authority has a responsibility for education, or is a district or parish council where there is land or other commercial relationships with the trust;
- employees of associated organisations such as companies that local authorities have set up and own; and
- local authority-appointed governors in maintained schools.

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<sup>6</sup> People are not local authority-associated persons just because they are governors in a maintained school – they must be appointed or employed by the local authority. You should also bear in mind that if you do want to have members/trustees who are local authority-associated persons, that they need their local authority's permission.

## **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.

## **Suitability of applicants and due diligence checks**

3.13 The Secretary of State requires that only suitable persons are permitted to establish publicly funded free schools.

3.14 To ensure the suitability of those proposing to set up and run free schools the department will complete due diligence checks including credit checks, this may include police and other checks as necessary and enhanced Disclosure and Barring Service (formerly Criminal Records Bureau) checks. To meet the suitability requirements it is necessary for the department to receive Disclosure and Barring Service certificates relating to members and trustees of the academy trust, lead applicants who are not a member or trustee of the academy trust, and principals designate either identified at application stage or once appointed. Personal information provided as part of the application process may therefore be passed to third parties for the purpose of these checks.

## **Disclosure and Barring Service (DBS) checks**

3.15 The Independent Schools Standards require that the chair of trustees must apply for an enhanced DBS certificate via the department. This DBS certificate will be counter-signed by the Secretary of State. This forms part of the department's checks to ensure that only suitable people are involved in establishing free schools.

3.16 All other members and trustees must obtain an enhanced DBS certificate. It is the responsibility of the chair of trustees to ensure that all members and trustees have an up-to-date (within the last 2 years) enhanced DBS certificate. They can apply online via an umbrella body which will carry out the checks on their behalf. The Disclosure and Barring Service's [website](#) has a searchable database of umbrella bodies that offer an online service. As volunteers you will not be charged £44 by DBS for an Enhanced Disclosure. Umbrella bodies request a small payment to cover their administrative costs per application.

3.17 The department does not counter-sign DBS certificates for principals designate and the Due Diligence Team does not require proof that a certificate has been obtained. The principal designate will be an employee of the school and as such the school is

required to ensure that all relevant checks (including vetting and barring checks) are conducted in line with safeguarding requirements.

## Applying for an enhanced DBS check: guidance for members and trustees

### **3.18 Chair of trustees**

The chair of trustees (of the trust, not a chair of a local governing body) must hold an enhanced DBS certificate counter-signed by the Department for Education.

#### **Chairs of trustees who already hold a valid, counter-signed enhanced DBS certificate:**

- Send a scanned copy of the certificate together with the declaration below to [due.diligence@education.gov.uk](mailto:due.diligence@education.gov.uk).

#### **Chairs of trustees who do not already hold a counter-signed and/or valid enhanced DBS certificate:**

- If the chair of trustees does not already hold an enhanced DBS counter-signed by the Department for Education that is dated within the past two years they must request a new DBS certificate by following this route:

Complete both **an enhanced DBS application form and a Verification of identity form** and send both in the same envelope to the Department for Education

- To get a copy of the Verification of identity form and its accompanying guidance email the Due Diligence Team on [due.diligence@education.gov.uk](mailto:due.diligence@education.gov.uk)
- Once completed ensure the verification form is signed by a professional:

### **3.19 Who can confirm your identity?**

The following people can be asked to confirm your identity:

- Head teachers - but **NOT** the head of the school for which the check is being undertaken
- Judges
- Magistrates
- Barristers

- Solicitors
- Civil Servants - Executive Officer grade or above
- Police Officers

A relative cannot confirm your identity even if they fall into one of the acceptable professions listed above.

- Phone DBS on 03000 200 190. Ask for a DBS Enhanced Disclosure application form, state it is for the Department for Education – **reference number 20881800002** – and that you are a volunteer.
- Complete the DBS form in black ink and capital letters following the instructions on the form.
- Do not complete sections w, x, y and z (the department will complete these).
- Make sure that you include your email address and telephone number so that we can contact you if further information is required.
- Post the Verification of identity form and the DBS application form at the same time by registered post to: Due Diligence Team, Department for Education, 4th floor Sanctuary Buildings, Great Smith St, London, SW1P 3BT.
- We do not require you to post identity documents to us at any stage of the process.
- Once you receive your certificate email a scanned copy of the certificate together with the signed declaration below to [due.diligence@education.gov.uk](mailto:due.diligence@education.gov.uk)

**Declaration:** I confirm that the certificate provided is an exact duplicate of that returned to me by the Disclosure and Barring Service (DBS). I understand that any false declaration or alteration of this certificate would be a criminal offence under Section 123 of the Police Act 1997.

Full name:.....Date:.....

### **3.20 All other members and trustees**

#### **Members and trustees who already hold a valid enhanced DBS certificate:**

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



- **Members and trustees who do not already hold a valid enhanced DBS certificate can apply online via an umbrella body using the [DBS umbrella body directory](#). The Disclosure and Barring Service's searchable database: [DBS umbrella body directory](#).**
- Once you receive your certificate, email a scanned copy of the certificate together with the declaration above to the chair of trustees.

## Links to further information

[View Table 4 Due diligence: checklist of activities](#)

- [Section I Suitability and Declarations form](#)
- [Companies House appointment of director form AP01](#)
- [Gov.uk website: DBS checks](#)
- [Gov.uk Verification form](#)

3.21 The Secretary of State will reject any applications put forward by organisations that advocate violence, extremism, or other illegal activities, or by individuals associated with such organisations. We require a Section I Suitability and Declarations form for each member and trustee of the academy trust, as well as the principal designate (when appointed) who has not submitted this form within the past 365 days. Please provide details of any individuals who have already submitted Section I forms within this time period: this should include their names, their role and position of each such individual 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 individuals on local governing bodies unless we specifically request them. The department reserves the right to request Section I forms from any group if we deem it necessary. Failure to submit Section I forms for all members and trustees is likely to delay the progress of your application to the next stage.

3.22 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.

Scanned copies of signed Section I forms and a passport-sized photograph attached to each applicant's **section I form must should be emailed at the point of application to [due.diligence@education.gov.uk](mailto:due.diligence@education.gov.uk)** stating the proposed school name in the email title.

## Conflicts of interest

3.23 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'.

3.24 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 the department's website, and the [Academies Financial Handbook](#) also includes guidance on conflicts of interest and appropriate procurement.

3.25 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.

3.26 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.

## Proposed opening date

3.27 This will be agreed between the Department, the local authority and the proposer group. Sites have been identified but not yet confirmed; this means the opening dates mentioned in specifications (and indeed, the sites themselves) are not final.

## TUPE

3.28 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.

## Competitive tenders

3.29 You may appoint a third party to support you in developing your application 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 would secure further support during the pre-opening phase if you are approved.

## Public sector equality duty

3.30 All free schools are subject to the [Public Sector Equality Duty](#), which forms part of the [Equality Act 2010](#). This duty requires the trust, both in planning and running your school, to have due regard to the need to eliminate discrimination, harassment and victimisation, advance equality of opportunity, and develop good relations between persons who share a relevant protected characteristic and persons who do not share it. We will look for evidence that you have considered this duty in your application. You may find it helpful to consult the [guidance for schools on the Equality Act](#).

## 4. Information for all applicants to consider before applying

### Who to speak to before you apply

4.1 Applications are assessed against the criteria and only the strongest will be successful. It is therefore essential that you consider the following sources of support and advice in preparing your application:

- **The New Schools Network (NSN)** - The New Schools Network is an independent charity that receives a grant from the Department for Education to provide free advice, guidance and resources to those hoping to open free schools. NSN can also put applicants in contact with previously successful groups. Groups currently running a standalone school (whether maintained or academy), or one or more maintained schools (even if they are in a federation), should take careful advice on governance arrangements as the transition to being a multi-academy trust is significant. You can find more information on the NSN website [here](#).
- **Regional Schools Commissioner** - Potential applicants may choose to contact the relevant Regional Schools Commissioner (RSC) to discuss their proposal.
- **Local authority** – Potential applicants may also want to talk to the relevant LA before applying.

4.2 A list of documents and websites providing detailed information to support you in developing your application can be found in Section 8, page 45 – Further information and key documents.

## 5. Applying for a special free school – submitting your application, assessment and interviews

### What we mean by strong track record

5.1 You do not need a track record in running state schools to apply to open a free school; we welcome applications from all groups, including those with education experience in other sectors and those with limited or no experience of state education.

5.2 But, of course, some applicants will have experience of running schools in the state sector and throughout the criteria document and application form we talk about schools, groups, individuals, or trusts with a 'strong educational track record'.

**5.3 Groups who currently run state funded schools** and multi-academy trust schools need to have a 'strong track record' in order to apply.

5.4 When we use this phrase, we mean: your existing school(s) currently has a 'good' or 'outstanding' judgement from Ofsted and strong attainment and progress data for mainstream schools.

5.5 If you run one state funded school then it needs to meet the above definition to apply. If there is an anomaly in your data that we should know about or a specific reason why the school does not meet this definition (e.g. the school has not been open long enough for exam results), please explain in your application.

5.6 If you have several schools, not all of them 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 set up and run the new free school successfully. 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. Additionally, in section F2 you are asked to talk about the capacity of your trust, and how you plan to improve results at your existing schools whilst managing your growth plan including the addition of this free school.

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

## Assessment of your application

For this application process we are asking all applicants to complete a full application form. This means that there are no different application requirements in place depending on the type of proposer but the information that you will provide and its context will vary depending on your experience and background. For details, please see the criteria section of this document.

If you are unsure what information to provide in the application form, please contact the local authority.

5.8 We will assess your application against the specification template and the criteria for assessment. It is therefore essential that you read this document in full before starting your application. Under each criterion, we have included a description of what you should include in your application.

5.9 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.

**5.10 If you do not provide information for any of the relevant criteria, or if your proposal does not respond to the specification set out by the relevant local authority, it is likely that your application will not be considered further and you may not get feedback.**

5.11 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, your application may be rejected.

## Interviews

5.12 If your application is assessed as one of the strongest, you will be invited to interview. Interviews will be tailored based on the quality of the application, the strength and track record of your group, and where applicable, your understanding of the state school system. Please note date changes will not be possible.

## Decisions

5.13 Decisions on applications are taken by the Secretary of State; **the decisions are final and there is no appeals process.** If your application is successful, you are given approval to move to the “pre-opening” stage; you are not being given approval to open a new school.

5.14 Approval of your application does not mean approval of every detail, such as your financial plans, preferred principal designate, proposed site, or budget. Approval may be conditional on amending certain aspects of your application. The approval of your application is also conditional on the capital costs representing good value for money. The Secretary of State may also decide to reprioritise funding for the benefit of the free schools programme as a whole.

5.15 If your application is not successful, you will receive an offer of feedback giving information about the decision.

## 6. What happens if your application is successful

### Pre-opening

6.1 If your application is successful, you will be invited to move to the next stage of the free schools process – the “pre-opening phase”. In this phase, proposer groups will need to develop and deliver detailed plans for their school.

6.2 The final decision to open any free school depends on the Secretary of State entering into a legal contract – the funding agreement – with the academy trust. The Secretary of State will only sign a funding agreement if she is satisfied that the school will be ready to deliver a good standard of education, with a viable and sustainable number of commissioned places from its first day of operation.

6.3 Where a project fails to make sufficient progress in pre-opening a funding agreement cannot be signed and the opening of the school may be delayed or even cancelled. This demonstrates the immense importance and challenge of the pre-opening stage.

6.4 For some projects, progressing to the pre-opening phase is subject to precise and strict conditions, which are set out in the approval letter. Further conditions may also be set during the pre-opening phase. These conditions often relate to a specific risk that must be addressed for the project to proceed successfully. Failure to meet any of these conditions would make it unlikely that the Secretary of State will be able to enter into a funding agreement with you.

### Site and opening dates

6.5 One of the key milestones in the pre-opening phase will be to agree your provisional opening date. This will be agreed between the Department, the local authority and the proposer group. A number of factors will affect a school’s opening date, not least the availability of a suitable and affordable permanent site for the school. We will agree the provisional opening date only after a permanent site has been confirmed, and once we have assessed the time needed for obtaining planning permission and completing necessary building works or refurbishment. In some cases, For special free schools, sites have already been identified but not yet confirmed; this means the opening dates mentioned in specifications (and indeed, the sites themselves) are not final and subject to change.

6.6 Only one applicant will be approved per specification. If a specification does not attract applications that meet both the local authority specification and/or the application criteria then no application will be approved.



## **7. Criteria for assessment guide**

7.1 The criteria by which your application will be judged is set out below. Applicants are strongly encouraged to read this section in full before submitting an application.

## Section A: Tell us who you are

### Things you need to know:

In this section we ask applicants for basic information about the applicant group and company limited by guarantee. There are no assessment criteria for this section.

### Notes on this section:

7.2 All applicants will need to provide details of their company limited by guarantee. If you have not done this, you will need to set one up using the department's model articles. Please do so before you apply.

7.3 As companies limited by guarantee, certain details will be publicly available on the Companies House website. However, the personal information you provide in Section A will be treated in accordance with the Data Protection Act 1998.

7.4 Personal data is collected on the Word and Excel templates in order to consider an application to set up a free school and will not be used for other purposes. For the purposes of the Data Protection Act, the Department for Education and the local authority are the data controllers for this information and for ensuring that it is processed in accordance with the terms of the Act.

7.5 The department and local authority 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 free school application process.

## Section B: Your chosen school

### **Things you need to know:**

For this section applicants should refer to relevant the local authority specification, which will provide most of the key information about the school that is being commissioned and for the place capacity table. This should also inform the other sections of your application. You need to tell us if you are proposing a faith ethos or other particular worldview.

There are no assessment criteria for this section.

## Section C: Vision

### Things you need to know:

All applicants should complete this section in full; you must:

- Explain your own vision for the proposed school, and how that is compatible with the local authority's specification;
- Explain how that vision comes across in your curriculum approach and approaches to meeting pupils' special educational needs; and
- Ensure that your vision is consistent with the rest of your application.

You do not need to provide details of your intended enrichment programme at this stage, unless it is crucial to achieving your vision in which case you should mention it in this section and provide more details in the education plan (D1).

7.6 This is your opportunity to tell us about the overarching vision for your school and how it informs your education plan. You will need to demonstrate in later sections that the vision is both deliverable and affordable within the funding that the local authority specification sets out (ie the specified funding rates combined with the specified table of how many places the school would have each year as it built up and then at full capacity). Your application should be coherent and consistent throughout and work together as a cohesive whole.

7.7 Please note that special free schools cannot be designated as having a religious character. Applicants may seek to register as having a distinct religious ethos and will be able to take faith into account when making senior appointments but will need to provide RE in the same way as a non-faith school would. As with any special free school admissions will be based on EHC plans and there is no faith based priority.

7.8 In addition to this applicants who already run more than one school should also:

- Provide a brief overarching vision for your trust/chain, including the number and types (including designation, for special schools) of open schools you already manage and have in pre-opening (including free schools, academies, voluntary aided schools and independent schools); and your planned expansion strategy (including how many schools you hope to have in total, your planned geographical spread and timescales and how you will manage the expansion); and explain how the new school you are proposing forms part of that vision, and any changes you want to make to the vision.

How much you should write:

We would normally expect section C to be no more than three pages long.

## Section D: Education plan

7.9 This is the heart of your application. Your education plan must explain both how your school will achieve your education vision, and how it will meet the special educational needs of its pupils, and how it will fulfil the local authority specification.

7.10 Things you need to know:

Part A – is the table that all applicants complete and will reflect the information in the specification and, where appropriate, further discussion with the local authority.

Part B is where you should provide the information relevant to the criteria below.

- D1 - the curriculum;
- D2 – measuring pupil performance;
- D3 - the staffing structure;
- D4 – Ensuring the school will be welcoming to pupils of all faiths/world views and none, and will develop students' skills in leading healthy lives and being active citizens;

7.11 These sections must demonstrate how you will deliver your vision. As well as being achievable, your education plan must be affordable within the funding that the local authority specification sets out (i.e. the specified funding rates combined with the specified table of how many places the school would have each year as it builds up and then at full capacity) and consistent with your financial plans.

Preparation for adult life is likely to feature throughout section D. Being supported towards greater independence and employability can be life-transforming for children and young people with SEN. This support needs to start early, and should centre around the child or young person's own aspirations, interests and needs.

The annual review of an EHC plan in Year 9, and every review thereafter, must include a focus on preparing for adulthood. Planning must be centred around the individual and explore the child or young person's aspirations and abilities, what they want to be able to do when they leave post-16 education or training and the support they need to achieve their ambition.

Schools should seek partnerships with employment services, businesses, housing agencies, disability organisations and arts and sports groups, to help children understand what is available to them as they get older, and what it is possible for them to achieve.

Your application should set out how your school would support preparation for adulthood for its pupils:

- higher education and/or employment – this includes exploring different employment options, such as support for becoming self-employed and help from supported employment agencies.

- independent living – this means young people having choice, control and freedom over their lives and the support they have, their accommodation and living arrangements, including supported living.
- participating in society, including having friends and supportive relationships, and participating in, and contributing to, the local community.
- being as healthy as possible in adult life.

## **Section D1: An ambitious and deliverable curriculum plan which is consistent with the vision and pupil intake**

### **Things you need to know:**

Within this section, all applicants will be assessed on the quality of their plans and the extent to which they meet the criteria, including how they meet the expectations set out in the local authority specification.

Applicants should include within this section the tables that are in the application form. These should show:

- A list of subjects to be offered with the number of hours spent per week on each. You do not need to provide sample timetables;
- The length of the school day, including any enrichment time, making a distinction between compulsory and voluntary activities.

### **7.12 Applicants must:**

- Demonstrate that your proposed curriculum will be deliverable
- Demonstrate that your curriculum is broad, balanced, and appropriate for the types of need for which you intend to cater. We will look at how you intend to develop literacy, numeracy and science skills. We will also look at how you prepare pupils for adulthood – including how your curriculum will improve pupils' skills and outcomes in independence, employability, healthy living and participation in society. If your curriculum plans rely on wrap-around facilities, you should mention that here;
- **Offer appropriate qualifications;**
- **Demonstrate an understanding of the expected pupil intake and their special educational needs;**

- **Provide a rationale for the type of curriculum proposed** which is consistent with your vision and the local authority specification. Please explain how it meets the needs of the expected intake, whilst having an ambitious approach to meeting those needs. If you are proposing to teach something other than the national curriculum, please reference (but do not copy and paste) evidence (where it is available) which demonstrates that it is a good and successful model (eg. results of academic research);
- **Describe the types of special educational need that the school will cater for** and include a strategy to assess and meet the needs of all pupils including looked after children, those requiring literacy recovery/intervention (including English as an additional language), the most able (gifted and talented), those with differing degrees of SEN and disabilities, and pupil premium. Your strategy should represent best practice, making best use of teaching specialisms and SEN expertise accordingly. Your strategy should also show evidence that you will ensure safeguarding, good behaviour and good attendance and that any health needs will be met;
- **Describe the extent to which you will engage with other agencies** and how they will be involved to support pupil development; and
- **Include the strategies you will put in place to support pupils** to be successful when they enter and leave the school;

How much you should write: we would normally expect section D1 to be 20 to 30 pages in length.

## **Section D2: Measuring pupil performance effectively and setting challenging targets**

### **7.13 Applicants must:**

- Describe how you will establish a baseline of students' current level of attainment (including external validation of this) and put in place an assessment and data tracking system that will allow pupil performance to be monitored and continuously improved, ensuring this relates to the outcomes in an individual's EHC plan;
- Have ambitious and realistic targets for pupil performance, behaviour and attendance, explaining why they are suitable to measure the delivery of your education vision, and what your strategy will be to achieve them;
- Explain how you will review success measures and targets regularly to improve the school's performance, including non-academic targets for students' skills and outcomes in independence, employability, healthy living and participation in society. This could include benchmarking assessment data with other relevant

schools. Explain how you will involve pupils themselves and their families in decisions about their support, ambitions, and progress.

We will also assess the quality of your plans to:

- use appropriate data to inform teaching and drive progression and attainment for all pupils;
- Focus on measuring and improving the quality of teaching in the classroom;
- Liaise with and report progress to parents, and
- Involve pupils themselves and their families in decisions about their support, ambitions, and progress.

How much you should write: We would usually expect Section D2 to be 5 to 10 pages long.

## **Section D3: A staffing structure that will deliver the planned curriculum within the expected income levels**

### **Things you need to know:**

Applicants will be assessed on the extent to which your staffing structure matches the curriculum proposed and your financial plans (which need to align with the top-up rates proposed in the specification).

You do not need to include statements about the affordability of your staffing plans in this section. This will be assessed in section G.

### **7.14 Applicants must:**

- Demonstrate that as the school grows to full capacity, you will have an affordable staffing structure and sensible phasing plans that deliver a suitable (interim/developing) curriculum plan.
- Provide an organogram showing the proposed staffing structure for teaching and support staff each year until the school is at full capacity in line with planned place numbers (including for nursery, sixth form and residential provision, where applicable). You can provide a table demonstrating the growth in staffing if that is easiest, as long as you have an organogram demonstrating lines of accountability for your school at steady state;



- Demonstrate that at full capacity, your staffing structure is sufficient to deliver your curriculum plan and consistent with the information provided in the budget plans;
- Demonstrate that at less than full capacity, your staffing structure is sufficiently flexible to respond to reductions in funding (i.e. lower funding levels than those in the specification) and can still deliver a sufficient curriculum, including an overview explanation of how you would approach making savings;
- To do this you should explain the actions you would take to reduce costs, the reasons for these actions and the reason you have prioritised the actions as you have. You should explain how your amended plans would continue to support delivery of your education vision and plan, and any changes you would have to make to the education plan;
- If you have any existing schools you should also tell us briefly whether you intend to use any of your existing staff in this school and if so, how this will work in practice.
- We will also assess the quality of the staffing structure through the extent to which: it includes an appropriate balance of roles, experience and expertise across the senior leadership team, middle managers, subject leaders, teachers, support staff, personal coaches etc;
- You have credible contingency plans to adapt your staffing structure and still deliver a sufficient curriculum if income were less than expected;
- The changes proposed, if there were a reduction in income compared to the specification, would result in an affordable, good quality education plan which would be consistent with your vision for the school; and reflective of its particular characteristics.

How much you should write: We would usually expect Section D3 to be 5 to 10 pages long.

## **Section D4: The school will be welcoming to pupils of all faiths/world views and none, and will develop students' skills in leading healthy lives and being active citizens**

### **7.15 Applicants must demonstrate:**

- That the school will be welcoming to pupils of all faiths/world views and none; and show how the school will address the needs of all pupils and parents;

- How the curriculum will prepare children for life in modern Britain including through the teaching of spiritual, moral, social and cultural (SMSC) education. Consideration must be given to relevant issues, for example how the school will teach PHSE, adhere to the Prevent Duty and have appropriate policies on safeguarding and welfare;
- How the school will promote fundamental British values of democracy, the rule of law, individual liberty, and mutual respect and tolerance of those with different faiths and beliefs, and how it will develop in students the skills to participate in society and be active citizens in their communities; how the school will aim to attract pupils from different backgrounds and different communities so that they all feel welcome and play a full and active role in the school in line with requirements of the Equality Act 2010;
- How the school will aim to encourage pupils from different communities, faiths and backgrounds to work together, learn about each other's customs, beliefs and ideas and respect each other's views.
- How the school will develop skills to lead healthy lives, for all its students.
- How the school will prepare pupils for adult life, so they can progress into employment, independent living, community participation and good health.

**7.16 If you propose a school with a religious ethos or a distinctive educational philosophy, please also provide:**

- A brief explanation of how the school's religious ethos will be reflected in the curriculum. This should include the proportion of the school's timetable devoted to religious education and other subjects that include some faith-based teachings or use faith-based materials. Please set out how the planned approach will help to prepare children for life in modern Britain. This should include elements of subjects that could overlap with faith teaching (for example, if a proportion of literacy teaching includes faith-based material).
- Information about engagement and consultation with diverse local community groups, faith authorities and parents demonstrating how you will seek to attract pupils of different faiths and backgrounds to the school.

**7.17 In preparing your application it is important to note that we will not approve any free school 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 curriculum.
- Any member of the applicant group holding extremist beliefs, as defined by the Government's counter-extremism strategy.
- A lack of genuine commitment to the inclusion of pupils of other faiths or no faith in the school.

How much you should write:

We would normally expect section D4 to be up to 4 pages in length.

## Section E: Evidence of consultation and demand

7.18 Special free schools will play an important part in the range of provision for special educational needs in any local area. The local authority specification sets out how many places local authorities intend to commission at the school and the top-up funding they intend to pay, but it is also important that families are likely to find the provision on offer at your school meets their needs of their child should the school be named on their child's EHC plan. This section is about parent demand (or demand from young people for 16 to 19 places). The assessment will consider evidence provided in your application, as well as information held by the department or provided by the local authority.

7.19 We will look at the extent to which you have engaged with parents (and/or young people for 16 to 19 places) for students with EHC plans and, if applicable, for those without.

### **E1 – Provide valid evidence of appropriate engagement with parents for pupils with an education, health and care (EHC) plan**

#### **7.20 All applicants must:**

- Explain how you have engaged with the local authorities likely to commission places, local groups, parents and students/young people.
- Include the text you propose to use on your school website or any information materials to inform parents, children and young people about the particular characteristics of your provision.
- You must make sure that this adequately describes **your vision** for achieving the provision stipulated in the specification. We will not consider generic expressions of interest in a school along the lines of the specification to be sufficient evidence that there is local authority evidence of demand for the specific vision you are proposing;

**7.21 You will be rated more highly** if you have engaged meaningfully with a high proportion of the local community (eg with the Parent Carer Forums in the areas where you intend to work, different community groups, parents of children with relevant types of need, feeder schools etc), and adapted your proposal in response to feedback if necessary.

How much you should write: we would normally expect Section E to be 1-2 pages long (in addition to the text of leaflets etc that you should include as annexes).

## Section F: Capacity and capability

7.22 This is your opportunity to show us your proposer group includes people with the right skills to open your school. You need to demonstrate that your group has the capacity and capability to set up and run the school(s) you are proposing, and that you have access to appropriate educational, financial and other relevant expertise, either within your group or externally.

### F1: the necessary experience and credentials to deliver the school to opening

**7.23 Applicants must** complete **all** the columns in table F1 (a) in the application form and provide a short commentary of your plans:

- Name;
- Where they live (ie town/city);
- Role in pre-opening and once the school is open (if any). Please include whether the individual is part of the core applicant group, or someone whose support you are accessing. If the latter, please indicate whether you would expect this support to be provided on a paid, at cost, or voluntary basis;
- Summary of all relevant expertise (eg educational, financial, including any relevant educational results/achievements);
- Approximate time commitments for each of the individuals named in pre-opening (in hours per week).

7.24 Please include CVs for all the individuals you name in this table. The CVs should include the information requested in Annex A to this document, should be on the template provided and should be included as an annex to your application.

7.25 The second table, Table F1 (b), asks you to set out any skills gaps that you think exist within your group and how you intend to fill them.

**7.26 All applicants must:**

- Complete table F1(a) with information, as outlined above, about each individual who is part of your group, including all company members of your academy trust, members of the pre-opening team, and anyone else providing a relevant contribution;

- Demonstrate that you have access to individuals with strong relevant education expertise (for example, strong school improvement experience, a head teacher of a school that meets the definition of a strong track record as outlined in section 5, page 21) and finance expertise with specific and sufficient time commitments;
- Demonstrate that you have access to individuals with specific and sufficient time commitments and relevant experience in as many of the following as possible:
  - Education of pupils with special educational needs;
  - Managing school finances;
  - Leadership;
  - Project management;
  - Marketing;
  - Human resources;
  - Safeguarding and health and safety.
- Conduct a skills gap analysis of your pre-opening group (including your existing governors/trustees if you already run one or more schools, as they will be in place during pre-opening) and complete Table F1(b);
- Include the CV of your principal designate if you already know who this is and of your executive head if you will have one. If you do not yet have a principal designate (and likewise if you intend to have an executive head but they are not yet recruited), you should provide a short timeline and strategy (less than one page) for your planned recruitment exercise(s).

**7.27 You will be rated more highly if:**

- The individuals with education and finance expertise form part of your core applicant group;
- Individuals with expertise in most of the additional areas listed under the heading above form part of your core applicant group, and have a strong track record in their areas of expertise;
- You already have individuals in your core applicant group who would make strong trustees once the school is open (or who are currently strong trustees/governors at your school(s)) and they have excellent school finance, leadership and/or other relevant experience;
- You illustrate a clear understanding of the required capacity and have secured sufficient time commitments from each individual.

- You outline clear and robust strategies to address any identified skills gaps

7.28 You will be assessed on the quality of your plans to fill the gaps identified and, where applicable, the track record of any individuals you have identified to fill the gaps.

7.29 You do not need to tell us how you will form/recruit the school's local governing body, but you do need to tell us about trust-level governance.

7.30 In Section C, you will have explained briefly any other plans for your trust (e.g. expansion plans, plans to take on a sponsored project) we will refer to those here to help us to assess your capacity to take on a new free school.

How much you should write: We would normally expect section F1 to be about 5 to 10 pages long, not including the CVs in an annex. You are likely to write up to 10 pages if you are a single school and would be becoming/setting up a MAT for the first time (including if your school is currently maintained), and/or if this would be your first special school.

## **F2: A governance structure, and roles and responsibilities that will ensure accountability and effective decision making in this academy trust and drive improvement in the new free school**

### **7.31 Applicants must:**

- Provide a diagram, in line with accepted academy trust models and in line with the Academies Financial Handbook, showing your proposed governance structure, including lines of accountability between the company members, the school's trustees, any local governing bodies or committees and the school's senior leadership team. The governance structure should cover all elements of the proposed school, including nursery and residential provision, where applicable;
- Include a brief explanation of the roles and responsibilities of the company members, the trustees, any proposed committees and the principal;
- Include a strategy for avoiding and minimising conflicts of interest and for securing independent challenge to members and trustees;
- Include a brief description of any specific conflicts of interest and an explanation of how you intend to manage them. Declare any financial transactions that are likely to take place between any member/trustee (or a connected party/business) and

the academy, the nature of the transaction(s) and that they will comply with the 'at cost' principles set out in the Academies Financial Handbook;

- Set out a plan to recruit and train any high-quality individuals you need, particularly those with education, school governance, and finance expertise (this will apply to your whole trust board if you do not yet have one. If you already have a trust board, you should set out how you plan to recruit and train high quality individuals for any skills gaps you may have);
- Demonstrate how you will ensure your governance structure, roles and responsibilities have an appropriate level of expertise in state education and academies finance (or access to someone with experience of academies finance);
- If you are a maintained school or a group of maintained schools, you should describe how the governance will work once you have established a MAT, but you do not need to have converted to academy status before applying.

7.32 We will also consider the proposed size and structure of your board of trustees and whether it will enable effective decision-making.

### **7.33 All applicants who run more than one school must:**

- Explain what changes, if any, you need to make to your existing governance structure, roles, and responsibilities, or schemes, or delegation in order to ensure your trust continues to exercise strong accountability for your free school(s) both before and after they open, and for the rest of your trust. You may be more likely to be proposing changes if you are adding a school of a new type or phase to your trust, moving into a new part of the country, or if you are growing your trust in other ways too (you should have listed the trust's other growth plans in Section C);
- Include a brief description of any specific conflicts of interest and an explanation of how you intend to manage them. Declare any financial transactions that are likely to take place between any member/trustee (or a connected party/business) and the academy, the nature of the transaction(s) and that they will comply with the 'at cost' principles set out in the Academies Financial Handbook;

7.34 We will assess the quality of your plans to manage conflicts of interest (if any) and whether any changes you are proposing will help ensure your trust continues to exercise strong accountability.



## **Section G: Accurate financial plans that are consistent with the rest of the application, demonstrate financial viability, and are based on realistic assumptions about income and expenditure**

7.35 Special free schools' continuing financial viability will depend on local authorities continuing to place children and young people with EHC plans in those schools, with the procedures for that (including the relevance of parental preference) being set out in law. It is therefore important that the school proposers offer the type of places that local authorities need, at a cost they are prepared to fund. Currently the costs of special free schools' place funding from the ESFA are not recovered from local authorities, but the department has indicated an intention to consult on proposals for changing the source of this funding. Free school proposers should bear this in mind in their discussions with potential commissioning local authorities.

7.36 As each specification is for a different school, each prescribes different numbers of places, funding rates, and accumulation of places over time. The financial template provided on the DfE or the local authority website is applicable to all special schools – it is not tailored to each of the specifications. This means that you will need to fill in the place numbers, funding rates, and accumulation of places over time by copying these details from the specification. Please be careful when doing this – if you make mistakes it will affect the expected income in each year.

### **7.37 Before you begin to develop and complete your plans, you should read:**

- The overview of free school funding in Annex B which explains how your school will be funded once open;
- The financial templates, together with guidance on how to complete them are on the local authority webpage and here.

7.38 We ask you to provide a financial plan showing your income and expenditure as your school grows to full capacity. We want to check that your financial plans will support delivery of your education vision and plan and that your school is viable within the funding provided. Even if you are an experienced education provider it can help us assess your understanding of managing a state school's finances.

### **7.39 Applicants must:**

- Complete the Excel financial template showing income and planned expenditure and the assumptions made about each line in the space provided. You should explain

clearly what you have based your assumptions on and the evidence you have to show these are realistic and appropriate.

- Make sure that the information in your plan is consistent with the other parts of your application, for example the staffing structure and pupil numbers in the education plan should agree with the financial plan;
- Show that you have allowed for unforeseen problems and contingencies;
- Not show a cumulative deficit in any year. Any in-year deficits must be planned for by accumulating a surplus in a previous year(s);
- Not be dependent on borrowing, third-party or nursery income to break even in any year. You may feel that the third party income you have identified is reasonable. However, while we want you to include this, your plans must not rely on this additional funding to break even.

7.40 We will also assess the quality of your financial plan by the extent to which it is reasonable, represents good value for money and is prudent. In making this assessment we will consider:

- Core operating income/expenditure assumptions (it is vital that these are included in the plan);
- Benchmarking information for income and expenditure (including for nursery provision, where applicable). These should also be entered in the assumptions/rationale column;
  - Contingencies;
  - Any centrally-provided services and their costs;
  - Proportion of spend allocated to each budget area – and particularly to staffing;
  - Staff to pupil ratios;
  - The context of the local area (e.g. the percentage of FSM and SEN pupils);
  - The school's particular education offer (e.g. specialist teachers, equipment).

## 8. Further information and key documents

8.1 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](#)
- [Children and Families Act 2014 – Part 3](#)
- [Companies House](#)
- [Department for Education procurement guidance for free schools](#)
- [Early Years Foundation Stage Framework 2](#)
- [Education and Skills Funding Agency](#)
- [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 2016/17 funding rates. It will provide an indication of the funding you are likely to receive to assist you in your financial planning.
- [Free schools admissions site. This site includes the templates you must use to develop your admission or referral policies](#)
- [Fundamental British Values](#)
- [Governors' Handbook \(including the new Competency Framework for Governors\)](#)
- [Information on existing free school projects](#)
- [Keeping children safe in education](#)
- [Local authority](#)
- [Model free school funding agreements](#)
- [Model free school memorandum and articles](#)
- [Multi-academy trusts good practice guidance and expectations for growth](#)
- [New Schools Network](#)
- [National minimum standards for residential provision](#)

- [Ofsted Common Inspection Framework](#)
- [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](#)
- [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](#)
- [Working together to safeguard children](#)

## Annex A: CVs

Below we explain what should be included in the CVs requested in Section F the criteria.

### **Educational expertise**

If an individual is or was a member of a school leadership team, head of department/faculty or a teacher (including in an EYFS setting), please provide their CV on the template provided, including:

- Details of their last three roles (this should cover the last four years. If not, please include additional roles) – the school(s) in which they were employed, their position(s) and how long they were in each position with dates;
- A brief commentary on why their previous experience is relevant to the role that they would have in pre-opening and how this will add value;
- Please also provide details of when they have supported other schools if applicable, and references to Ofsted judgements where they have been directly responsible for a positive transformation;
- At least one referee who is able to confirm their education credentials. We may make other enquiries as we see fit;
- Optionally: any other brief comments they wish to make on how their role(s) had an impact on raising standards.

### **Financial expertise**

For the group's nominated finance lead(s), please provide their CV on the template provided, including:

- Details of their last three roles (this should cover the last four years. If not, please include additional roles) – where they were employed, what their role was, how long they were in each role and what their financial responsibilities were;
- A brief commentary on why their previous financial experience is relevant to the role that they would have in pre-opening;
- Details of their professional financial qualifications;
- At least one referee who is able to confirm their finance credentials;

- We may make other enquiries as we see fit.

### **Other expertise**

Section F also asks you to provide information on individuals in your group who have other relevant skills and expertise that will ensure the success of your proposed free school. This may include communications, marketing, human resources and project management expertise. There are no specific requirements for these areas but please provide CVs on the template provided for these individuals including:

- A brief commentary outlining their previous experience, why this is relevant to the role that they would have in pre-opening and how they will add value;
- Details of any relevant professional qualifications.

Please note that CVs should be included in the appendices of the Word application form, and do not count within the page limit.

## Annex B: Free school funding overview

### Project development grant

Groups with applications approved into the pre-opening stage will receive a project development grant (PDG) to help cover everything they need to buy up to the point that the school opens. This includes costs associated with project management; education support; recruiting and paying a principal designate; and pre-opening office costs. Each group will receive a letter confirming the amount of the grant and the conditions for spending the money.

Trusts opening more than one school in a given academic year will receive full PDG funding for the first school but a reduced amount for each additional school. This is because we expect them to realise efficiencies in areas such as project management, educational services, administration and office costs. We will ask you to submit a budget plan to show how you will spend this money in pre-opening. Special free schools will receive £220,000 PDG funding for the first school opening in a given academic year and £150,000 PDG funding for each additional school opening in a given academic year

**Note:** these rates are subject to review and may change.

### Post opening grant

Most new schools receive additional funding to reflect the additional costs involved in the early years after opening. Free schools will be provided with this funding through the post-opening grant. The post-opening grant provides funding in two elements: per-place resources and leadership diseconomies.

The first element, **resources funding**, is paid annually as the school builds up to full capacity. Special free schools receive £250 for each new primary place and £500 for each new secondary place created (up until the school reaches capacity).

The second element, **leadership diseconomies**, is paid annually as the school builds up to full capacity. Special free schools will receive a fixed-rate leadership grant of £170,000, payable 50% in year one, 30% in year two and 20% in year three.

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

### Funding for nursery provision

Applications for special schools should only include early years provision where requested by the local authority in the published specification.

Free schools may offer places funded by the local authority for three and four-year-olds (universal funded hours for all three and four-year-olds and, from September 2017 additional funded hours for the children of working parents) and the most disadvantaged two-year-olds. All schools have the additional flexibility of being able to charge parents for extra hours taken up beyond entitlements (but not as a condition of receiving the free entitlement).

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 funded 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.

## **Funding for residential provision**

It is possible for special free schools to offer residential provision where agreed. This means residential accommodation for some or all pupils. For pupils with an EHC plan, the residential provision will be specified in their EHC plan, and the associated costs of board and lodging will be agreed by the local authority when they commission a place, and may be partly funded by children's social care.

## **Revenue funding for special schools**

Special free schools' funding comprises mainly two elements: base funding received directly from ESFA; and top-up funding agreed, usually on a case-by-case basis with the commissioning local authority or authorities.

Base funding for special free schools is £10,000 per FTE place, per year. Base funding for the first two years will be determined by the free school's agreed financial plans, information from the commissioning local authorities, and the number of pupils actually attending the school. The base funding beyond year two will be based upon previous years' place numbers unless a change is requested. Requests to increase place numbers should be supported by information from the commissioning local authorities, and the number of pupils actually attending the school. This funding will be paid by the ESFA directly to the free school.



Currently the costs of special free school place funding from the ESFA are not recovered from local authorities, but the department has indicated an intention to consult on proposals for changing the source of this funding. Free school proposers should bear this in mind in their discussions with commissioning local authorities.

The [GOV.UK website](#) has further information about how free schools are funded.

## **Annex C: Glossary of terms**

### **Academies Financial Handbook**

The Academies Financial Handbook sets out the financial management, control, and reporting requirements that apply to all academy trusts. It describes a financial framework for trusts that focuses on principles rather than detailed guidance, and reflects their accountability to Parliament and the public. Each trust's funding agreement requires compliance with the handbook.

### **Academy**

A state-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 that 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).

### **Basic need**

As part of the annual School Capacity Survey, local authorities produce pupil forecasts to highlight their upcoming need for places across a five-year timescale at primary, and a seven-year timescale at secondary. These forecasts are compared against current capacity, taking into account places funded through centrally funded programmes and local authority planned places to determine basic need for places. Basic need is calculated at planning area level, separately for primary and secondary. In order to prioritise limited capital we will seek to approve schools in the areas that have the greatest rising need for new school places due to demographic growth. Proposers can ask local authorities for information on their upcoming need for places in specific areas.

### **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 strategic 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 [Companies House](#).

### **Catchment area**

The geographical area that you intend your school to serve.

### **Collective worship**

All state-funded schools must provide a daily act of collective worship. For non-faith schools collective worship should reflect the broad traditions of this country that 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, 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 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 and Skills Funding Agency (ESFA)**

The ESFA is part of the Department for Education. It funds all academies; maintained schools through local authorities; other training for 16 to 19 year olds; and students with special educational needs and disabilities between the ages of 16 and 25. ESFA 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 achieving. 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 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. 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 for special free schools is currently per-place and per-pupil top-up funding plus an additional post-opening grant. When schools reach steady state, their income will be per-place and per-pupil top-up 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**

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 free schools meals funding is given for children aged 16 to 19.

### **Free schools 'presumption' route**

Where a local authority identifies the need for a new school in its area, it must seek suitable proposals to establish an academy (i.e. a free school) under the presumption route, and not via the central free school route.

### **Fundamental British values**

All free schools and academies must meet the spiritual, moral social and cultural (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.

### **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.

### **Leadership grant**

The staffing element of post-opening grant.

### **LocatED**

LocatED is an arm's length body wholly owned and funded by the Secretary of State for Education and set-up to acquire sites for free schools.

### **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).

### **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.

### **Prevent**

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.

### **Procurement**

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

### **Project development grant**

Funding provided to help set up the school before it opens. Examples of tasks the funding can currently be used for include: developing detailed plans for the school, including the curriculum; recruiting a principal designate; running a consultation on the proposed school; and attracting pupils.

### **Pupil premium**

The pupil premium is additional funding for publicly funded schools in England in order to raise the attainment of disadvantaged pupils of all abilities, and to close the gaps between them and their peers. In the financial year 2016 to 2017, schools will receive the following funding for each child registered as eligible for free school meals at any point in the last 6 years: £1,320 for pupils in reception year to year 6; £935 for pupils in year 7 to year 11.

Schools will also receive £1,900 for each pupil who left local authority care because of, adoption, a special guardianship order, a child arrangements order, or a residence order, as identified in the spring school census.

If a pupil has been registered as eligible for free school meals, and also left local-authority care for any of the reasons above, they will attract the £1,900 rate.

Children who have been in local authority care for 1 day or more also attract £1,900 of pupil premium funding. Funding for these pupils is managed by the virtual school head (VSH) in the local authority that looks after the child.

More information on the pupil premium can be found [online](#).

### **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 (RSCs)**

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 or designation**

Free schools designated with a religious character benefit from some freedoms, in relation to their staffing, admissions policies and the ability to provide religious education and collective worship according to the tenets of the faith of the school.

Special free schools cannot be designated as schools with a religious character.

### **Religious education**

All schools must teach religious education. As special schools cannot be designated as a school with religious character, the religious education curriculum must reflect that the religious traditions in Great Britain, which 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 2016/17. 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, a child or young person has special educational needs if he or she has a learning difficulty or disability that calls for special educational provision to be made for him or her. (2) A child of compulsory school age or a young person has a learning difficulty or disability if he or she— (a) has a significantly greater difficulty in learning than the majority of others of the same age, or (b) has a disability which prevents or hinders him or her from making use of facilities of a kind generally provided for others of the same age in mainstream schools or mainstream post-16 institutions. (3) A child under compulsory school age has a learning difficulty or disability if he or she is likely to be within subsection (2) when of compulsory school age (or would be likely, if no special educational provision were made).

### **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 describes a child's special educational needs and the special help a child should receive. From April 2018, statements will no longer exist - see Education, health and care plan.

### **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 that you have pupils in each year group.

### **Strong track record**

To be considered as having a strong track record you must meet the criteria set out in Section 5, page 21 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 at least the majority of members to be independent of trustees. 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.



Department  
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