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[REDACTED]

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Letter by email to:

[REDACTED]

[REDACTED]

5 February 2016

[REDACTED]

### **FREE SCHOOL APPLICATIONS: Livingstone Academy East London and Livingstone Academy Bournemouth**

I am delighted to tell you that the Secretary of State for Education has decided that your applications to establish **Livingstone Academy East London and Livingstone Academy Bournemouth** should proceed to the next stage of the free schools process – the pre-opening phase. This is a significant step towards opening your schools.

In the pre-opening phase, you will need to develop detailed plans to ensure that your schools are in a position to open successfully. You will need to draw on the capacity and skills within your group to turn your plans into reality. The scale and range of tasks you will need to undertake over the coming months will be challenging, but ultimately very rewarding.

Entry into the pre-opening phase is an important step, but this should not be taken as final approval or as endorsement of all aspects of your application, such as the site, budget and opening date. The final decision to go ahead with the proposals depends on the Secretary of State formally entering into a funding agreement with the academy trust. The Secretary of State will consider signing a funding agreement only if she is satisfied (a) that we have found a suitable site upon which we can construct and open a school in a way that provides good value for money; and (b) that the school will be ready to deliver a good standard of education, with a viable and sustainable number of pupils, from its first day of operation.

We want to ensure that when parents of prospective pupils or students apply for a place at a proposed new free school, they are confident that it will open on schedule. You will have your own *preferred* opening date for your projects. If you are marketing your schools to parents on this basis, you are of course free to do so, but you must make clear that this is your own preferred opening date. We will work to try to open your schools on your preferred date, but the opening date cannot be agreed until we have identified the site(s) and assessed the time needed for obtaining planning permission and completing necessary building works or refurbishment.

Once we have discussed our conclusions with you, we will write to confirm the *agreed* opening date, as well as providing an assessment of whether the schools are likely or not to open in permanent or temporary accommodation. Once you have this letter, you should make it clear in your marketing or public communications that you are working towards an opening date that has been agreed with the department.

We will as a priority agree a critical path with you to ensure that all the key actions needed to ensure that the schools open successfully, such as the appointment of a suitable principal designate and the agreement of robust governance arrangements, are completed on schedule. We expect you to inform the department immediately of any risk of delay to any key milestone.

The Secretary of State has discretion to prioritise funding for the free schools programme as she sees fit. It is therefore open to the Secretary of State to cancel or defer a project at any point during the pre-opening stage – even after the funding agreement has been signed – if she is not confident that your plans are on schedule and up to the required standard.

As you run existing schools, if a departmental education adviser or official raises any concerns about them, we may need to reconsider the approval of these projects, as a result of which they could be deferred or cancelled. The same would apply if Ofsted inspects a school you run and rates it *requires improvement* or *inadequate*, or if there is a significant decline in the performance of one or more of your existing schools.

This approval is subject to some precise and strict conditions. Failure to meet these conditions would make it unlikely that the Secretary of State would enter into a funding agreement with you, in which case your school would not open. These conditions are set out at **Annex A**. This should not be taken as an exhaustive list of the issues that will need to be resolved. As plans develop, further conditions may be set during the pre-opening stage.

Further information about capital and site issues, admissions arrangements, governance and finance are attached at **Annex B**. We would also encourage you to familiarise yourselves with our guidance for proposer groups in the process of opening a free school, which can be accessed at <https://www.gov.uk/government/publications/free-school-pre-opening-guide>.

Your lead departmental contact will be [REDACTED] and your regional schools commissioners will be Dr Tim Coulson (East London) and Sir David Carter (Bournemouth). Your lead contact will be in touch shortly to confirm arrangements for liaising with the department during the pre-opening stage, including setting up a 'kick-off meeting' with you, and to finalise the grant payment process.

In the meantime I would like to thank you and your colleagues for the commitment and energy that you have shown in developing your application and at interview. I wish you every success with your projects.

We will be informing the relevant local authority and local MP about your successful application. I am copying this letter to Dr Tim Coulson, regional schools commissioner for East of England and North East London and Sir David Carter regional schools commissioner for the South West region.

Yours sincerely

A handwritten signature in black ink that reads "Mela Watts". The signature is written in a cursive, flowing style.

**MELA WATTS CBE**  
**Director, Free Schools Group**

**Conditions to be met**

1. The continued approval of your application is conditional on capital costs representing good value for money and being kept to a minimum. During the pre-opening phase the department will seek to deliver your school with the lowest possible capital cost (acquisition and property costs, plus the costs of necessary works and fit out). Your EFA project director will discuss this with you in due course.

### Guidance

Our guidance document to help proposer groups navigate the pre-opening phase effectively can be accessed at <https://www.gov.uk/government/publications/free-school-pre-opening-guide>. This contains the information and supporting materials needed to complete the key tasks required to open a successful free school. Your lead contact will discuss this with you at your initial 'kick-off' meeting.

### Capital and site

The capital funding available is strictly limited. The final approval of your application is conditional on the capital costs representing good value for money. During the pre-opening phase we will seek to deliver your school at the lowest possible capital cost (i.e. the cost of acquiring the site plus construction and fit out costs). The department will not pay for sites which proposer groups already own. You will be assigned a project director from the department's Education Funding Agency (EFA) who will discuss this with you in due course.

Approval of your application does not represent any commitment to a particular type of building or level of provision or equipment to deliver your vision. We will not be able to accommodate requests for specific designs. If your school requires a new build, the school will have a standardised design. We continue to have difficulty finding sites in some areas, particularly London and the south-east. You may need to be flexible about where the school is located – as well as about the year of opening – if your project is in one of those areas.

Sometimes several applicants or trusts running open free schools have expressed an interest in the same site. In such cases, where it is clear that the site is suitable and affordable, but cannot accommodate all the schools proposed, we will decide which application should take priority based on a range of factors, including the strength of the respective applications, local demand, the need for local school places and the impact on existing provision.

### Admissions

We will work with you to advise you on developing your admission arrangements. If it is your current intention to open your school in 2017, you must submit your draft admissions or referral policy to your lead contact by 23 March 2016; if it is your intention to open in 2018, you will need to submit your draft admissions or referral policy to your lead contact by 10 January 2017. If your project is subsequently approved to open in a later year, we will work with you to amend your policies appropriately.

Mainstream free schools are required to have admission policies which comply with the School Admissions Code. Special, alternative provision and

16-19 free schools must adopt admissions and referral policies that comply with the law and should also comply with guidance. This means that they must be clear, fair and transparent. Proposers must use the relevant admissions templates to draw up their arrangements and also follow the guidance on the free school admissions site, which can be accessed at <https://www.gov.uk/government/publications/free-schools-admissions>.

If you are proposing to open a mainstream school, you should be aware that our normal expectation is that, in your first year of opening, you should either (a) operate your own admissions process or (b) arrange for the local authority to process admissions on your behalf. Either way, this should be done outside – but as far as possible in parallel with – the local authority’s co-ordinated admissions process. Please read section 8 of the guidance document, which explains in detail how you can do this. You must not arrange for your school to be included in the local authority co-ordinated admissions process without seeking prior agreement from your lead contact.

If you are proposing to open a 16-19 institution or a secondary school with a sixth form, we may wish to discuss your 16-19 plans with you in the light of any relevant outcomes emerging from the local area review of post-16 education and training.

### Governance

Our expectation is that, if the Secretary of State approves the proposal, free school proposer groups will adopt in full the department’s model funding agreement and model memorandum and articles of association. Where the group is an existing academy trust and therefore already has articles in place, we would expect you to consider adopting key provisions from the latest model, which reflects the department’s experience of best practice in the governance of academy trusts, as well as charity and company law. Where the group is a new trust, you should adopt the latest model. We will discuss with you any particular governance issues that you will need to consider in order to establish a highly effective governance structure.

### Finance

The approval of your application to the pre-opening stage is conditional on you submitting robust financial plans at key points during pre-opening so that the department can be assured that your school is on course to be financially viable and sustainable on opening. The department will need to be confident that your plans reflect your income based on the best estimates of available grants, your outgoings and the likely number of pupils.

Your lead contact may ask you to revise your plans or give further information if needed to show that the school will be viable and sustainable. We will need to be satisfied that the school will have robust financial management and governance arrangements in place.

We will also need to be assured that your financial plans are consistent with up-to-date educational and staffing plans, and that the school will not go into deficit in any year. The department will not enter into a funding agreement unless it is confident that the school has a viable and sustainable financial plan.

The academy trust will be paid a project development grant to cover appropriate pre-opening costs in the run up to the opening of your school. The grant is set at a level commensurate with the type of school you are proposing to open and the nature of the academy trust. Because this is public money, you must be able to account for having spent the grant properly and seek the best value for money at all times.

The payment of this grant does not imply that the Secretary of State has given final approval for the free school to open. That remains subject to the Secretary of State entering into a formal funding agreement with the trust.

We will need to agree arrangements to enable you to access the grant. We will therefore be writing to you shortly with the formal grant agreement, which you will need to sign and return to the department by Monday 29 February. If you have not already done so, you will also need to ensure that the trust sets up a bank account to receive the grant. Without a bank account we will not be able to pay you this money.

On entering pre-opening you are eligible to benefit from the government's risk protection arrangement (RPA) as an alternative to insurance, whereby the UK government funds any losses that arise. RPA will be provided free of charge in pre-opening. The current rate for open schools is £25 per pupil/place. There is no compulsory requirement to enter into the RPA and you are free to make your own insurance arrangements.

Further information about RPA and the membership rules can be found at <https://www.gov.uk/guidance/academies-risk-protection-arrangement-rpa>. If you would like to join the RPA scheme, please email your lead contact with the type of cover you need and start date. If you do not think the RPA cover is right for you, we would welcome your feedback, so that we can consider whether any changes to the arrangements should be made in the future.