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Letter by email to:

[REDACTED]

2 September 2015

[REDACTED]

## FREE SCHOOL APPLICATION: XP East

I am delighted to tell you that the Secretary of State for Education has decided that your application to establish XP East should proceed to the next stage of the free schools process (the pre-opening stage). This is a significant step towards opening your school.

In the pre-opening stage, you will need to develop detailed plans to ensure that your school is in a position to open successfully, provisionally in 2017. You will need to draw on the capacity and skills within your group to turn your plans into reality. We know that 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 stage of the process is an important step, **but this should not be taken as final approval or as confirmation that we have agreed all aspects of your application.** In particular, approval does not constitute either:

- endorsement of your proposed site or budget. It is also subject to the Secretary of State's discretion to prioritise funding for the free schools programme as she sees fit. You should not therefore market your proposed new school to parents on the basis that it will be on a particular site; or

- confirmation of your proposed opening date. It is of course particularly important that prospective mainstream schools are in a position to be able to attract parents in time for the annual admissions rounds. If it proves impossible to find a suitable permanent site by January of the year when the school is due to open, we will review the situation and decide whether to defer the project in order to give clarity to local parents and prospective pupils or students.

The final decision to go ahead with the proposal 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 you are able to develop your plans to the required standard during the pre-opening stage. For mainstream (primary, secondary and all-through) schools, the ideal is to enter into a funding agreement before the relevant national offer day in the year in which the school is due to open, thereby giving parents receiving offers the confidence that the school will open that year. However, the Secretary of State will not enter into a funding agreement until she is confident that the school will open successfully on its proposed date. It is moreover open to the Secretary of State to cancel or defer a project at any point during the pre-opening stage – even after your funding agreement has been signed – if your plans are not to the required standard.

If you run an existing school – and/or have another application in pre-opening – and one of our education advisers or officials raises any concerns about it, we may need to reconsider the approval of this project, as a result of which it 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 decline in the performance of your existing schools.

This approval is subject to some very precise and strict conditions. Failure to meet these conditions would make it very unlikely that the Secretary of State would enter into a funding agreement with you, meaning that 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, model processes, admission arrangements and project development grant 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 (see link attached), which we have recently updated.

Your lead departmental contact will be [REDACTED] and your Regional Schools Commissioner is Jenny Bexon-Smith. 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 project. The hard work starts now!

We will be informing the relevant local authority and local MP about your successful application. I am copying this letter to Jenny Bexon-Smith, Regional Schools Commissioner for East Midlands and Humber.

Yours sincerely

A handwritten signature in black ink that reads "Mela Watts". The signature is written in a cursive style with a long horizontal stroke at the end.

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

**Conditions to be met**

The continued approval of your application is conditional on agreeing/meeting the following conditions:

1. That 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.
2. That the school is approved as an 11-16 school with plans for adding a sixth form to be reviewed following the post-16 review of education (approximately spring 2018).
3. In accordance with the memorandum and articles, that [REDACTED]  
[REDACTED]  
[REDACTED].
4. To ensure the delivery of an outstanding curriculum, that a secondary head from a school judged outstanding by Ofsted at its last inspection and with recent above average GCSE results is appointed to the local governing body, by December 2016.
5. To ensure that both schools have the leadership necessary to achieve an outstanding judgement at their first Ofsted inspections, that the capacity and structure of the SLT is agreed by the education advisor, by the end March 2016.

In addition:

6. To pause on future secondary expansion until the trust can evidence that its innovative curriculum can deliver strong GCSE results.

### Guidance

We have recently revised the guidance document to help proposer groups navigate the pre-opening phase effectively <https://www.gov.uk/government/publications/free-school-pre-opening-guide>. It contains the information and supporting materials needed to complete the critical 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 final approval of your application is conditional on the capital costs representing good value for money and being kept to a minimum. During the pre-opening phase we will seek to deliver your school with the lowest possible capital cost (i.e. acquisition and property costs, plus the costs of necessary works and fit out). You will be assigned a project director from the department’s Education Funding Agency (EFA) who will discuss this with you in due course.

The capital funding available is strictly limited. Approval of the application does not represent any commitment to a particular type of building or level of provision or equipment to deliver your vision. 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 more than one approved application – or an open free school – have expressed an interest in the same site as their preferred option. 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.

### Model processes

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. We will discuss with you any particular governance issues that you will need to consider.

## Admission arrangements (mainstream/not 16-19)

Although we will offer you advice on developing the school's first set of admission arrangements, you should bear in mind that, as the admission authority for its school(s), it is the trust which is responsible for getting these arrangements right. You will therefore need to understand the requirement placed upon you to comply with the [School Admissions Code](#) and the [Appeals Code](#). You will need to ensure that you quickly get to grips with these codes and consistently act in accordance with them. We have developed [comprehensive guidance](#) to help you develop your first set of arrangements.

Please remember that admission arrangements include not only your admissions policy but also your application process, application form and any catchment map (if you decide to operate catchments). You must therefore submit all documents relevant to your admission policy to your lead contact so that he or she can advise you on them.

In previous rounds, a significant number of admission policies and application forms submitted to the department have failed to comply with the Admissions Code. To ensure that this does not continue to occur, we are making it clear that:

- unless you are opening a boarding school (in which case your lead contact will send a separate template), you must use the template at this link in drafting your admission policy: <https://www.gov.uk/government/publications/free-schools-admissions>. If you plan to admit pupils to various phases (such as reception and year 7), the model documents also at this link will assist you in amending the template; and
- trusts must ensure that they comply with the School Admissions Code, particularly paragraphs 1.9(a) to 1.9(o) and 2.4, in drafting any application forms: <https://www.gov.uk/government/publications/school-admissions-code--2>.

We know that pupil recruitment is always a challenge in any school's first year of operation. Having clear and fair admission arrangements will support recruitment and help the school to reach capacity. Getting the admission arrangements wrong can hinder recruitment, and will damage the reputation of the school. For schools due to open in September 2017, we therefore require the trust to submit the proposed school's draft admission arrangements no later than the end of January 2016.

This will enable us to advise you on these arrangements in a timely manner so that you are able to have a Code-compliant set of arrangements in place in time for inclusion in your local authority's admissions prospectus, which will be published during the summer of 2016.

**In your first year of opening, our normal expectation is that you 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 free school [pre-opening guidance](#), which explains in detail how you can do this. You must not arrange for your school to be included in the local authority coordinated admissions process without seeking prior agreement from your lead contact first for the reasons set out below.**

Once your school is open, your admissions will be handled through the local authority’s co-ordinated admissions arrangements, like all other schools in the area. However, while your project is at the pre-opening stage, local authorities cannot offer places at your school under the co-ordinated admissions process until the Secretary of State has entered into a funding agreement with the trust. This is because, in law, a local authority can only make a firm offer for a place at an *open* school.

We will not advise the Secretary of State to enter into a funding agreement for your school until we are confident that it will open successfully on its proposed date. We need to be sure, for instance, that the site has been secured and the building work can be completed in time, and that appropriate staffing, educational, governance and financial arrangements are in place.

It is of course also important to make sure parents applying for your school are not left without a place – or with a place at a school they did not choose – if for any reason the school’s opening is delayed. You can do this by asking parents to make an application for your school directly to you while they also apply for a place at another school through the local authority’s co-ordinated admissions process. In this way, if your funding agreement is not ready by national offer day, you can make conditional offers to parents for places at your school, and parents can accept a place at an existing school as an insurance place while retaining a conditional offer for your school. Many free school trusts have used this approach in the past. On the other hand, if your school’s funding agreement has been signed by the national offer day you will be able to make firm offers.

In some cases, moreover, there can be local hostility towards a new free school before it opens. By running your own admissions you can ensure that parents hear the precise messages you want them to hear about your school and why it is opening.

We also recommend that you discuss your approach to admissions with the local authority as part of building good relationships from the outset – as well as to ensure that the local authority admissions team know how to describe your school and who to talk to if prospective parents have questions.

### Project development grant

Your 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. This is of course public money and 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 in any way mean 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 academy trust.

We will need to agree arrangements to enable you to access the grant as a matter of urgency. We will therefore be writing to you shortly with the formal grant agreement, which you will need to sign and return **by Friday 18 September at the latest**. 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.