



Department
for Education

Alternative provision academy and free school: supplemental funding agreement

December 2014

Contents

SUMMARY SHEET	4
Information about the Academy:	4
1. ESTABLISHING THE ACADEMY	7
Definitions and interpretation	7
The Academy	8
2. RUNNING OF THE ACADEMY	9
Teachers and staff	9
Pupils	9
SEN unit	10
Admissions	10
Curriculum	12
3. GRANT FUNDING	13
General Annual Grant (GAG)	13
Calculation of GAG	14
Other relevant funding	14
5. TERMINATION	15
Termination by either party	15
Termination Warning Notice	15
Termination by the Secretary of State after inspection	16
Funding and admission during notice period	18
Notice of intention to terminate by Academy Trust	19
Effect of termination	21
6. OTHER CONTRACTUAL ARRANGEMENTS	22

Annexes	22
The Master Agreement	22
General	23
ANNEXES	25
7. PUPILS WITH SPECIAL EDUCATION NEEDS (SEN) AND DISABILITIES	25
8. ADMISSION OF PUPILS WITH SEN AND DISABILITIES	25

SUMMARY SHEET

Information about the Academy:

Name of Academy Trust	The Great Schools Trust
Company number	07641004
Date of Master Funding Agreement	3 September 2012 as varied by a Deed of Variation dated 24 March 2015 and a Deed of Variation dated 14 August 2015
Name of academy	Aspire Centre Kings Leadership Academy Liverpool
Opening date	3 April 2018
Type of academy (indicate whether academy or free school)	Free School
Name of predecessor school (where applicable)	N/A
Capacity number	40
Age range	11 - 16
Number of sixth form places	N/A
Number of boarding places	N/A
SEN unit / Resource provision	N/A
Land arrangements (Version 1-7 or other)	N/A
Address and title number of Land	Land At Dingle Vale Lane, Liverpool, Merseyside [REDACTED] registered under Title Number MS565652

Please confirm which clause variations have been applied or marked as 'Not used'

Clause No.	Descriptor	Applied	Not used
1.I	Only applies to free schools and new provision academies	x	
2.D, 2.E	Only applies where the academy has an SEN unit		x
2.F	Only applies where there was a predecessor independent school		x
2.I	Clause does not apply to free schools (unless there was a predecessor independent school), or new provision academies		x
2.U	Clause reflects the requirements for religious education and daily collective worship	x	
3.C	Clause only applies to full sponsored and intermediate sponsored academies with approved Academy Action Plans		x
3.D	Clause does not apply to free schools (unless there was a predecessor independent school), or new provision academies		x
5.G.1	Clause applies only to a boarding academy/free school		x
5.I	Clause only applies to sponsored academies		x
5.K	Clause applies to free schools and may be applied to new provision academies	x	
5.L	Clause applies to free schools and may be applied to new provision academies	x	
5.M	Clause applies to free schools and may be applied to new provision academies	x	
5.N	Clause applies to free schools and may be applied to new provision academies	x	

Clause No.	Descriptor	Applied	Not used
5.0	Clause applies to free schools and may be applied to new provision academies	x	

Please identify any other variations from the model that apply to this academy (e.g. clauses relating to PFI, or any required because the multi academy trust includes academies designated with different religious characters, or a mixture of those designated with a religious character, and those which are not):

These clauses will be supplied by your project lead if needed.

Descriptor	Clause No.	Applied	Not used

1. **ESTABLISHING THE ACADEMY**

1.A This Agreement made between the Secretary of State for Education and The Great Schools Trust is supplemental to the master funding agreement made between the same parties and dated 3 September 2012 as varied by a Deed of Variation dated 24 March and a Deed of Variation dated 14 August 2015 (the “**Master Agreement**”).

Definitions and interpretation

1.B Except as expressly provided in this Agreement words and expressions defined in the Master Agreement will have those same meanings in this Agreement.

1.C The following capitalised words and expressions will have the following meanings:

“**The Academy**” means Aspire Centre Kings Leadership Academy Liverpool.

“**The Academy**” means the Alternative Provision Academy which is an Academy or a Free School which meets the requirements set out in section 1C(1) of the Academies Act 2010 .

“**Commissioner**” means local authorities and/or schools referring children/pupils to the Alternative Provision Academy for admission under the legal powers set out in clauses 2.G to clauses 2.M

“**Land**” means land known as, King’s Leadership Academy Liverpool (formerly Shorefield Community Comprehensive School), Dingle Vale, Liverpool registered with title number MS595255 as at the date hereof.

“**Prospective Pupils**” means those pupils who have been referred to the Academy and accepted a place.

“**Pupil Premium**” means the amount allocated by a local authority from the pupil premium grant to a school under the terms and conditions of the grant;

“Pupil Premium Grant” means a grant of that name paid to a local authority by the Secretary of State under section 14 of the 2002 Act in respect of pupils who are entitled to a pupil premium;

“Pupil Referral Unit (PRU)” means an Academy or Free School which meets the requirements set out in Section 19(2) of the Education Act 1996.

“SEN” means Special Educational Needs and the expressions **“special educational needs”** and **“special educational provision”** have the meaning set out in sections 20(1) and 21(2) of the Children and Families Act 2014.

“Start-Up Period” means up to 6 Academy Financial Years from/after the date of this agreement and covers the period up to the first Academy Financial Year in which the Academy can offer its planned places (as set down in clause 2.B) whichever is the shorter

“Termination Notice” means a notice sent by the Secretary of State to the Academy Trust, terminating this Agreement on the date specified in the notice.

“Termination Warning Notice” means a notice sent by the Secretary of State to the Academy Trust, stating his intention to terminate this Agreement.

1.D The Interpretation Act 1978 applies to this Agreement as it applies to an Act of Parliament.

1.E Reference in this Agreement to clauses and annexes will, unless otherwise stated, be to clauses and annexes to this Agreement.

The Academy

1.F The Academy is an Alternative Provision Free School as defined in clause 1.4 of the Master Agreement.

1.G The Academy Trust will establish and maintain the Academy in accordance with the Master Agreement and this Agreement.

1.H The Academy Trust will open the Academy on 3 April 2018.

- 1.I The Academy Trust must ensure that so far as is reasonably practicable and consistent with clause 2.U of this Agreement and the Equality Act 2010, the policies and practices adopted by the Academy (in particular regarding curriculum, uniform and school food) enable pupils of all faiths and none to play a full part in the life of the Academy, and do not disadvantage pupils or parents of any faith or none. For the avoidance of doubt, this requirement applies irrespective of the proportion of pupils of any faiths or none currently attending or predicted to join the school.
- 1.J Further to clause 1.13(b) of the Master Agreement the Academy Trust must ensure that the educational provision is made at the Academy for children of compulsory school age who, by reason of illness, exclusion from school or otherwise, may not for any period receive suitable education unless alternative provision is made for them.

2. RUNNING OF THE ACADEMY

Teachers and staff

- 2.A Subject to clause 2.4 of the Master Agreement and 7.A of this Agreement (if used), the Academy Trust may, in accordance with any relevant Guidance, employ anyone it believes is suitably qualified or is otherwise eligible to plan and prepare lessons and courses for pupils, teach pupils, and assess and report on pupils' development, progress and attainment.

Pupils

- 2.B The planned number of places at the Academy is 40 places in the age range 11 to 16. The planned number of places and the age ranges are not determinative of GAG. GAG for each Academy Financial Year will be determined by the Secretary of State in accordance with clauses 3.12 and 3.15 of the Master Agreement.
- 2.C Where the Company considers that there is a need to increase the overall planned number of places stated in clause 2.B, the Company must seek the

approval of the Secretary of State and the requirements of this Agreement may be amended accordingly by agreement between the Secretary of State and the Company.

SEN unit

2.D Not used.

2.E Not used.

Charging

2.F Not used.

Admissions

2.G The Academy Trust will act in accordance with equalities law

2.H Except where clauses 2.I, 2.J, 7.A and 8.A apply, the Academy Trust may not admit a child of compulsory school age unless it is by way of a referral from a Commissioner through one of the referral routes set out in Clause 2.J

2.I Not used.

2.J The Secretary of State may:

- a) direct the Academy Trust to admit a named pupil to the Academy:
 - i. following an application from an LA including complying with a school attendance order as defined in section 437 of the Education Act 1996. Before doing so the Secretary of State will consult the Academy Trust; or
 - ii. where in relation to a specific child or children the Academy Trust has failed to act in accordance with the Codes or this Agreement or has otherwise acted unlawfully; or
- b) direct the Academy Trust to amend its admission arrangements where they no longer meet the requirements at 1C of the Academies Act, do not comply with this Agreement, or are otherwise unlawful.

- 2.K The Academy Trust may only admit a child of compulsory school age:
- a) referred by a local authority where the local authority has a duty to that child under section 19 of the Education Act 1996.
 - b) referred by a maintained school or Academy where the maintained school or Academy has a duty under Section 100 of the Education and Inspections Act 2006.
 - c) referred by a maintained school under powers set out in section 29(A) of the Education Act 2002.
 - d) referred by an Academy under general powers in the Articles of the Academy Trust for the purpose of improving the child's behaviour.
- 2.L The Academy Trust shall have admission arrangements agreed with the Department which will include oversubscription criteria, a fair, transparent and objective process for considering whether the education provided will be appropriate for prospective pupils and an admission number for each relevant key stage. The Academy Trust will consult on its admission arrangements with relevant parties.
- 2.M Any changes to admission arrangements proposed by the Academy Trust should be discussed with Commissioners and must be agreed with the Secretary of State.

Pupil registration and information sharing

- 2.N The Academy Trust must ensure that pupils attending the Academy are appropriately registered, in line with its legal duties and those of any other school that the pupil attends.
- 2.O As far as reasonably practicable, in agreeing contractual arrangements with Commissioners the Academy Trust shall request appropriate information on the needs and prior attainment of pupils who will attend the Academy.

2.P The Academy Trust will provide regular feedback to Commissioners (and in any event when requested by the Commissioner to do so) on progress made by the pupil, the pupil's needs and attainment.

Objections and determinations

2.Q The Academy Trust must make clear when determining the Academy's admission arrangements, that objections should be submitted to the ESFA or any successor to it.

2.R A determination of an objection, by the ESFA or any successor to it on behalf of the Secretary of State, or by the Secretary of State, will be binding upon the Academy.

Curriculum

2.S The Academy Trust must provide for the teaching of religious education and a daily act of collective worship at the Academy.

2.T The Academy Trust must comply with section 71(1)-(6) and (8) of the School Standards and Framework Act 1998 as if the Academy were a community, foundation or voluntary school, and as if references to "religious education" and "religious worship" in that section were references to the religious education and religious worship provided by the Academy in accordance with clause **2.U**.

2.U At its discretion in accordance with clause 2.T, where the Academy Trust has made provision for the teaching of religious and/or for a daily act of collective worship (in accordance with section 124B of the School Standards and Framework Act 1998 or further to section 6(8) of the Academies Act 2010):

- a) provision must be made for religious education to be given to all pupils at the Academy in accordance with the requirements for agreed syllabuses in section 375(3) of the Education Act 1996 and paragraph 2(5) of Schedule 19 to the School Standards and Framework Act 1998;
- b) the Academy must comply with section 70(1) of and Schedule 20 to, the School Standards and Framework Act 1998 as if it were a

community, foundation or voluntary school which does not have a religious character, except that paragraph 4 of that Schedule does not apply. The Academy may apply to the Secretary of State for consent to be relieved of the requirement imposed by paragraph 3(2) of that Schedule.

- 2.V The Academy Trust must have regard to any Guidance, further to section 403 of the Education Act 1996, on sex and relationship education to ensure that children at the Academy are protected from inappropriate teaching materials and that they learn the nature of marriage and its importance for family life and for bringing up children. The Academy Trust must also have regard to the requirements in section 405 of the Education Act 1996, as if the Academy were a maintained school.
- 2.W The Academy Trust must prevent political indoctrination, and secure the balanced treatment of political issues, in line with the requirements for maintained schools set out in the Education Act 1996, and have regard to any Guidance.

3. GRANT FUNDING

General Annual Grant (GAG)

- 3.A GAG for each Academy Financial Year for the Academy will include:
- a) funding equivalent to that which would be received by a PRU maintained by the local authority with similar characteristics, determined by the Secretary of State and taking account of the number of pupils and/or places at the Academy;
 - b) funding to cover necessary functions which would be carried out by the relevant LA if the Academy were a school maintained by a local authority;
 - c) payments in respect of further, specific grants made available to schools maintained by the local authority, where the Academy meets

the requisite conditions and criteria necessary for a school maintained by the local authority to receive these grants.

- d) funding for matters for which it is necessary for the Academy to incur extra costs, for as long as those costs are deemed necessary by the Secretary of State; and
- e) The Secretary of State may make provision, within his absolute discretion, for GAG to be adjusted in-year if the number of pupils attending the Academy at specified dates exceeds or falls below thresholds specified by letter. Arrangements for this will be set out in the Annual Letter of Funding or its equivalent.

Calculation of GAG

- 3.B The Secretary of State recognises that if he serves a Termination Notice or a Termination Warning Notice, or otherwise terminates the Master Agreement, the intake of new pupils during the notice period may decline. In these circumstances the Secretary of State may pay a larger GAG in the notice period, to enable the Academy to operate effectively.

Other relevant funding

- 3.C Not used.
- 3.D Not used.

Carrying forward of funds

- 3.E Any additional grant made in accordance with clause 3.3.B, for a period after the Secretary of State has served a Termination Notice or a Termination Warning Notice under this Agreement, or otherwise terminates the Master Agreement, may be carried forward without limitation or deduction until the circumstances set out in clause 3.3.B cease to apply or the Academy closes.

5. TERMINATION

Termination by either party

5.A Either party may give at least seven Academy Financial Years' notice to terminate this Agreement. Such termination would take effect on 31 August of the relevant year.

Termination Warning Notice

5.B The Secretary of State may serve a Termination Warning Notice where he considers that:

- a) the Academy Trust has breached the provisions of this Agreement or the Master Agreement; or
- b) the standards of performance of pupils at the Academy are unacceptably low; or
- c) there has been a serious breakdown in the way the Academy is managed or governed; or
- d) the safety of pupils or staff is threatened, including due to breakdown of discipline.

5.C A Termination Warning Notice served under clause 5.B will specify:

- a) the action the Academy Trust must take;
- b) the date by which the action must be completed; and
- c) the date by which the Academy Trust must make any representations, or confirm that it agrees to undertake the specified action.

5.D The Secretary of State will consider any representations from the Academy Trust which he receives by the date specified in the Termination Warning Notice. The Secretary of State may amend the Termination Warning Notice to specify further action which the Academy Trust must take, and the date by which it must be completed.

5.E If the Secretary of State considers that the Academy Trust has not responded to the Termination Warning Notice as specified under clause 5.C.c), or has not completed the action required in the Termination Warning Notice as specified under clauses 5.C.a) and 5.C.b) (and any further action specified under clause 5.D) he may serve a Termination Notice.

Termination by the Secretary of State after inspection

5.F If the Chief Inspector gives notice to the Academy Trust that:

- a) special measures are required to be taken in relation to the Academy;
or
- b) the Academy requires significant improvement

the Secretary of State may serve a Termination Warning Notice, specifying the date by which the Academy Trust must make any representations.

5.G In deciding whether to give notice of his intention to terminate under clause 5.F, the Secretary of State will have due regard to the overall performance of the Academy Trust.

5.G.1 Not used.

5.H If the Secretary of State has served a Termination Warning Notice under clause 5.F and:

- a) has not received any representations from the Academy Trust by the date specified in the notice; or
- b) having considered the representations made by the Academy Trust remains satisfied that this Agreement should be terminated;

he may serve a Termination Notice.

5.I Not used.

Termination by the Secretary of State

5.J If the Secretary of State has determined that the Academy will be removed from the Register of Independent Schools and no appeal against that determination is pending, he may serve a Termination Notice.

5.K If at any time before the Academy opens, the total number of prospective pupils who have accepted offers of places to attend the Academy in April 2018 is less than 12, the Secretary of State may:

- a) require the Academy Trust not to open the Academy until the number of prospective pupils has reached 12; or
- b) serve a Termination Notice.

5.L If at any time after the Academy has opened, the Secretary of State considers that the Academy is not financially viable because of low pupil numbers, then he may:

- a) serve a Termination Warning Notice; or
- b) serve a Termination Notice.

5.M If both parties agree that the Academy is not financially viable because of low pupil numbers, they may jointly terminate this Agreement after agreeing the precise terms of termination.

5.N If full planning permission (including where relevant listed building consent) in respect of the Land has not been obtained by September 2020, the Secretary of State may serve a Termination Notice.

5.O If at any time before the Academy opening date, the Secretary of State considers that:

- a) the Academy would, on opening, provide an unacceptably low standard of education; or

- b) the safety of pupils or staff at the Academy would, on opening, be threatened; or
- c) the staff employed at the Academy are unsuitable; or
- d) there is a serious breakdown in the way the Academy Trust is being managed or governed; or
- e) the buildings and other structures on the Land are unsuitable or the Academy Trust has not obtained Building Regulations approval,

he may either:

- A. require the Academy Trust:
 - i. not to open the Academy; or
 - ii. not to admit pupils of a particular age range, to be determined by the Secretary of State; or
 - iii. not to use any building or other structure on the Land,

until each relevant matter in paragraphs 5.O.a) to 5.O.e) above has been resolved to the Secretary of State's satisfaction; or

- B. serve a Termination Notice.

5.P If at any time the Secretary of State considers that it is not viable for the Academy to open or remain open on a permanent basis on the Land then the Secretary of State may:

- (a) serve a Termination Notice; and/or
- (b) require the Academy Trust to close the Academy.

Funding and admission during notice period

5.Q If the Secretary of State serves a Termination Notice under clause 5.A, the Academy Trust may continue during the notice period to admit pupils to the Academy, and to receive GAG and EAG, in accordance with this Agreement.

5.R If the Secretary of State serves a Termination Warning Notice or a Termination Notice otherwise than under clause 5.A, the Academy Trust may continue during the notice period to admit pupils to the Academy (unless the Secretary of State specifies otherwise), and to receive GAG and EAG, in accordance with this Agreement.

Notice of intention to terminate by Academy Trust

5.S The Secretary of State will, before the start of each Academy Financial Year, provide the Academy Trust with a final funding allocation indicating the level of GAG and EAG to be provided in the next Academy Financial Year (the **“Funding Allocation”**).

5.T If the Academy Trust is of the opinion that, after receipt of the Funding Allocation for the next Academy Financial Year (the **“Critical Year”**) and after taking into account all other resources likely to be available to the Academy, including other funds that are likely to be available to the Academy from other academies operated by the Academy Trust (**“All Other Resources”**), it is likely that the cost of running the Academy during the Critical Year would cause the Academy Trust to become insolvent (and for this reason only) then the Academy Trust may give written notice of its intention to terminate this Agreement on 31 August before the Critical Year.

5.U Any notice given by the Academy Trust under clause 5.T must be provided to the Secretary of State within six weeks of the Secretary of State issuing the Funding Allocation. The notice given by the Academy Trust under clause 5.U must specify:

- a) the grounds upon which the Academy Trust’s opinion is based, including:
 - i. evidence of those grounds;
 - ii. any professional accounting advice the Academy Trust has received;

- iii. a detailed statement of steps which the Academy Trust proposes to take to ensure that the running costs of the Academy are reduced such that costs are less than the Funding Allocation and All Other Resources, and the period of time within which such steps will be taken; and
 - b) the shortfall in the Critical Year between the Funding Allocation and All Other Resources expected to be available to the Academy Trust to run the Academy and the projected expenditure on the Academy; and
 - c) a detailed budget of income and expenditure for the Academy during the Critical Year (the “**Projected Budget**”).
- 5.V Both parties will use their best endeavours to agree whether or not the cost of running the Academy during the Critical Year would cause the Academy Trust to become insolvent. Both parties recognise that they will need to engage in a constructive dialogue at the time about how best to provide education for the pupils at the Academy and use their best endeavours to agree a practical solution to the problem.
- 5.W If no agreement is reached by 30 April (or another date if agreed between the parties) as to whether the cost of running the Academy during the Critical Year would cause the Academy Trust to become insolvent, then that question will be referred to an independent expert (the “**Expert**”) for resolution. The Expert’s determination will be final and binding on both parties. The Expert will be requested to specify in his determination the amount of the shortfall in funding (the “**Shortfall**”).
- 5.X The Expert will be an insolvency practitioner with significant professional experience of educational institutions or academies. If the parties fail to agree upon the appointment of the Expert then the Expert will be appointed by the President of the Institute of Chartered Accountants in England and Wales. The Expert’s fees will be borne equally between the parties.
- 5.Y The Expert will be required in reaching his determination to take account of advice from an educational specialist who is professionally familiar with the

issues arising from the budget management of schools. If the parties fail to agree upon the appointment of the educational specialist then the educational specialist will be appointed by the Chairman of the Specialist Schools and Academies Trust (or any successor or equivalent body). The educational specialist's fees will be borne equally between the parties.

- 5.Z If the Expert determines that the cost of running the Academy during the Critical Year would cause the Academy Trust to become insolvent, and the Secretary of State will not have agreed to provide sufficient additional funding to cover the Shortfall, then the Academy Trust will be entitled to terminate this Agreement, by notice expiring on 31 August before the Critical Year. Any such notice will be given within 21 days after (a) the Expert's determination will have been given to the parties or (b), if later, the Secretary of State will have given written notice of his refusal to provide sufficient additional funding for the Academy to cover the Shortfall.

Effect of termination

- 5.AA If this Agreement is terminated, the Academy will cease to be an Academy within the meaning of sections 1 and 1C of the Academies Act 2010.
- 5.BB Subject to clauses 5.CC and 5.DD, if the Secretary of State terminates this Agreement under clause 5.A, he will indemnify the Academy Trust. If the Secretary of State terminates this Agreement otherwise than under clause 5.A, he may at his discretion indemnify or compensate the Academy Trust.
- 5.CC The amount of any such indemnity or compensation will be determined by the Secretary of State, having regard to representations made to him by the Academy Trust, and will be paid as and when the Secretary of State considers appropriate.
- 5.DD The categories of expenditure incurred by the Academy Trust in consequence of termination, for which the Secretary of State may indemnify the Academy Trust under clause 5.BB, may include:
- a) staff compensation and redundancy payments;

- b) compensation payments in respect of broken contracts;
- c) expenses of disposing of assets or adapting them for other purposes;
- d) legal and other professional fees; and
- e) dissolution expenses.

5.EE If this Agreement is terminated, and the Academy Trust owns capital assets which have been partly or wholly funded by HM Government, the Academy Trust must, as soon as possible after the termination date:

- a) transfer a proportion of those capital assets, equal to the proportion of the original financial contribution made by HM Government, to a nominee of the Secretary of State to use for educational purposes; or
- b) if the Secretary of State directs that a transfer under clause 5.EE.a) is not required, pay to the Secretary of State at the termination date (or, by agreement with the Secretary of State, at the date of their subsequent disposal) a sum equivalent to the proportion of the original financial contribution made by HM Government.

5.FF The Secretary of State may:

- a) waive all or part of the repayment due under sub-clause 5.DD.b) if the Academy Trust obtains his permission to invest the sale proceeds for its charitable purposes; or
- b) direct the Academy Trust to pay all or part of the sale proceeds to the relevant LA.

6. OTHER CONTRACTUAL ARRANGEMENTS

Annexes

6.A Any annexes to this Agreement form part of and are incorporated into this Agreement.

The Master Agreement

6.B Except as expressly provided in this Agreement, all provisions of the Master Agreement have full force and effect.

General

6.C The Academy Trust cannot assign this Agreement.

6.D Failure to exercise, or a delay in exercising, any right or remedy of the Secretary of State under this Agreement (including the right to terminate this Agreement), or a single or partial exercise of such a right or remedy, is not a waiver of, and does not prevent or restrict any initial or further exercise of, that or any other right or remedy.

6.E Termination of this Agreement will not affect the accrued rights, remedies, obligations or liabilities of the parties existing at termination.

6.F This Agreement may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all of which will together constitute the same agreement.

6.G This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales, and submitted to the exclusive jurisdiction of the courts of England and Wales.

This Agreement was executed as a Deed on

29/03/2018

Executed on behalf of the **Academy Trust** by:



Director



Witness

Name:



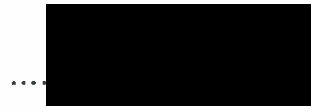
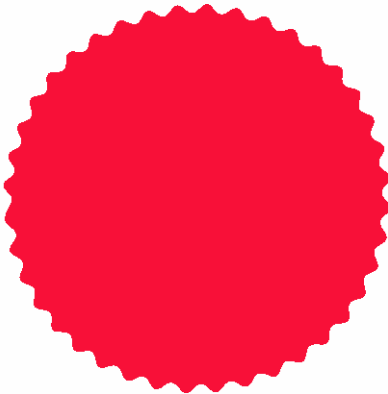
Address:



The Corporate Seal of

THE SECRETARY OF STATE FOR EDUCATION

affixed to this deed is authenticated by:



Duly Authorised

ANNEXES

7. PUPILS WITH SPECIAL EDUCATION NEEDS (SEN) AND DISABILITIES

“**Statement of SEN**” means a statement made under section 324 of the Education Act 1996.

“**EHC plan**” means an Education, Health and Care plan made under sections 37 to 40 of the Children and Families Act 2014.

7.A Except as set out in clause 8 below, the Children and Families Act 2014 imposes duties directly on Academies in respect of pupils with special educational needs, including the admission of pupils with EHC plans. If an Academy Trust considers that a LA should not have named the Academy in an EHC plan, it may ask the Secretary of State to determine whether the LA has acted unreasonably, and to make an order directing the LA to reconsider. The Secretary of State’s determination will be final, subject to any right of appeal which a parent of the child may have to the First Tier Tribunal (Special Educational Needs and Disability) or the Upper Tribunal Administrative Appeals Chamber.

7.B Not used.

7.C Not used.

7.D Not used.

8. ADMISSION OF PUPILS WITH SEN AND DISABILITIES

8.A The Academy Trust must for each of its Academies, subject to its right of appeal to the Secretary of State, admit all pupils with a statement of SEN naming the Academy.

8.B Where an LA proposes to name one of the Academies in a statement of SEN, it must give the Academy Trust written notice of this, stating why it considers that Academy to be suitable for the pupil in question. Within 15 days of receipt of the LA’s notice, the Academy Trust must consent to being named, except

where admitting the child would be incompatible with the provision of efficient education for other children, and no reasonable steps could secure compatibility. In deciding whether a child's inclusion would be incompatible with the efficient education of other children or the efficient use of resources, the Academy Trust must have regard to the relevant Guidance issued to maintained schools.

- 8.C If the Academy Trust decides that admitting the child would be incompatible with the provision of efficient education or the efficient use of resources, it must, within the 15 days, notify the LA in writing, giving its reasons for its decision.
- 8.D The Academy Trust must then seek to establish from the LA whether or not it agrees with this determination. If the LA does not agree with the Academy Trust's response, and names the Academy in the child's statement of SEN, the Academy Trust must admit the child to the school as specified in the statement or otherwise by the LA.
- 8.E If in such case, the Academy Trust considers that the LA should not have named the Academy in the statement, it may ask the Secretary of State to determine whether the LA has acted unreasonably, and to make an order directing the LA to reconsider. The Secretary of State's determination will be final, subject only to any right of appeal which a parent of the child may have to the First-tier Tribunal (Special Educational Needs and Disability) or the Upper Tribunal Administrative Appeals Chamber.
- 8.F If a parent of a child for whom the LA maintains a statement appeals to the First-tier Tribunal (Special Educational Needs and Disability), either for or against the naming of the Academy in the child's statement, then the Tribunal's decision will be binding, even if it is different from that of the Secretary of State.
- 8.G Where it has been finally determined that the Academy be named in a child's statement of SEN, the Academy Trust must admit the child to the Academy, notwithstanding any other admissions requirements in this Agreement.

8.H Clauses 8.A to 8.G only apply insofar as the relevant provisions of the Children & Families Act 2014 relating to SEN and disability do not apply to Academies and Free Schools.



Department
for Education

© Crown copyright 2014

You may re-use this document/publication (not including logos) free of charge in any format or medium, under the terms of the Open Government Licence v2.0. Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

To view this licence:

visit www.nationalarchives.gov.uk/doc/open-government-licence/version/2

email: psi@nationalarchives.gsi.gov.uk.

We welcome feedback. If you would like to make any comments about this publication, please email AFSPD.feedback@education.gsi.gov.uk, quoting the title of this document. Specific project queries should be sent to the allocated project lead/lead contact.

About this publication:

enquiries www.education.gov.uk/contactus.

download www.gov.uk/government/publications.

Reference: DFE-00724-2014



Follow us on Twitter:
[@educationgovuk](https://twitter.com/educationgovuk)



Like us on Facebook:
facebook.com/educationgovuk