

PEOPLE (CHILDREN) SCRUTINY PANEL

31st March 2014

INFORMATION REPORT – ESTABLISHING A FREE SCHOOL

Report of the Director for People

STRATEGIC AIM:	Creating a Brighter Future for All
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1. PURPOSE OF THE REPORT

- 1.1 This report provides background and outlines the process for establishing a Free School.
- 1.2 The report also includes details of the application method, assessment criteria and related contextual information.

2. RECOMMENDATIONS

- 2.1 **That People (Children) Scrutiny Panel notes the contents of this report .**

3. BACKGROUND

- 3.1 A free school is a school in England funded by taxpayers, which is free to attend, but which is not controlled by a local authority. Mainstream free schools are academically non-selective (following admissions law as it applies to maintained schools), while 16-19 free schools are able to select pupils based on GCSE grades or other criteria.
- 3.2 Free schools are an extension of the existing Academies Programme. The Academies Act 2010 authorises the creation of free schools and allows all existing state schools to become academy schools. The first free schools opened in autumn 2011.
- 3.3 Free Schools are governed by non-profit charitable trusts that sign funding agreements with the Secretary of State. There are different model funding agreements for Single Academy Trusts and Multi Academy Trusts.
- 3.4 Free schools are subject to the England School Admissions Code of Practice, with the exception that they are allowed to give priority to founders' children. To set up a free school, groups submit applications to the Department for Education. Groups may include those run by

parents, education charities and religious groups,

- 3.5 Ongoing funding is on an equivalent basis with other locally controlled state maintained schools, although additional start-up grants to establish the free school are also paid.
- 3.6 Free schools are expected to offer a broad and balanced curriculum. They are subject to Ofsted inspections and are expected to comply with standard school performance measures.
- 3.7 Free schools can:
 - a. set their own pay and conditions for staff;
 - b. employ teachers without qualified teacher status;
 - c. determine their own admissions arrangements;
 - d. decide upon their own curriculum;
 - e. set the length of terms and school days;
 - f. operate independently of the local authority and outside the local family of schools
- 3.8 Following the passing of the Education Act 2011, local authorities that need to create a new school must, in most circumstances, seek proposals for an Academy or Free School. They can only propose a traditional community school if no suitable free school or academy proposal is made.

4. FREE SCHOOL APPLICATION METHOD

- 4.1 There are 3 waves for applications each year. Details about how to apply in May 2014 (wave 7) will be published by April 2014. There will also be an application window in Autumn 2014 (wave 8).

The wave 6 (January 2014) application window has now closed. Details about how to apply in May 2014 (wave 7) will be published shortly by the DfE.
- 4.2 Before applying to open a free school, applicants are advised to read the Free Schools application guide for mainstream, 16 to 19, alternative provision and special free schools, which explains the law and information on how to apply. Applicants are also required to complete suitability and declarations forms. There are stringent checks made across a large number of declarations. **See Appendix A.**
- 4.3 Free school proposers are required to consider the relevant **criteria** guidance for the type of school being proposed; this guidance explains to applicants what information must be provided to the Department for Education.
- 4.4 In terms of 16 to 19 age range applications the Department for Education require different information from applicants for mainstream schools and 16 to 19 schools. Applications for 16-19 age range free

schools must follow the Department for Education guidance that relates to 16 to 19 applicants only.

4.5 Initial assessment involves addressing a number of key criteria. These criteria are important and applicants should ensure that information is provided for each criterion. Applications that do not address the criteria will not be considered further.

4.6 Initial assessment criteria include:

4.6.1 **Group capacity and capability.**

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

4.6.2 **Need for the school.**

Applicants will need to show that the school is needed in the local community and will have enough pupils to be financially viable.

Evidence must be provided that parents would choose the free school as the first choice for their child (or that students would choose the school for themselves for 16 to 19).

Applications must also build the case for your school by showing whether:

a. there is a “basic need” (a shortage of school places in the relevant phase in the area in which the applicant plans to locate the school);

and/or

b. the existing education provision in the relevant phase is underperforming.

4.7 The Department for Education will use **local authority planning area data to assess whether there is basic need in the area**. The department for education publishes school capacity data and local authority forecasts for pupil numbers. The local authority is required to provide applicants with detailed information.

4.8 The Department for Education will assess the need for the proposed free school to be established by looking at all three of these key factors in combination. If there is a surplus of good quality school places in the area, the Department for Education will expect the applicant to evidence even more parental demand than if the data show a basic need or particularly poor-performing existing provision.

4.9 Basic need does not apply for post-16 pupils. If the application is from a 16 to 19 applicant a case must be presented for the proposed free

school by providing a description of 16 to 19 provision in the area that the proposed school would draw from and why the proposed free school will offer different provision and of higher quality.

4.10 The Department for Education will also look at demographic data to see if it supports the case for the proposed school, specifically:

4.10.1 The number of students eligible for post-16 education in the area in which the applicant plans to locate the proposed school;

and

4.10.2 The number of students currently in post-16 provision in the area in which the applicant plans to locate the proposed school.

4.10.3 The Department for Education will use local authority level information on the local 16 and 17-year-old population and the numbers of pupils that are currently in full-time/part-time education or work-based learning.

5. ASSESSMENT OF APPLICATIONS

5.1 Each application will be assessed against published criteria.

5.2 Before opening a free school, an academy trust must enter into a funding agreement with the Secretary of State. The funding agreement provides the framework within which the free school will operate.

5.3 The breakdown of framework clauses will provide a summary of the clauses contained in the model funding agreement and an explanation of their purpose.

5.4 Articles of association will set down the company's constitution and provide a framework for its governance arrangements. Detailed guidance is available from the Department for Education on the articles and explains changes that can be made, or should be considered, by proposers.

6. ADMISSION ARRANGEMENTS

6.1 Clear and fair admission arrangements are critical in ensuring financial and educational viability.

6.2 The Department for Education advises that inappropriate admission arrangements will hinder recruitment, damage the reputation of the free school in the community, and can, in worst cases, make parents feel that their children are not valued.

7. RELATIONSHIP WITH LOCAL AUTHORITY AND OTHER SCHOOLS

- 7.1 Free schools are usually new state-funded schools set up in areas where there is a local demand; however, applications from fee-paying independent schools wanting to enter the state sector are also considered. Existing maintained schools cannot become free schools but they may convert to academies.

8. RISK MANAGEMENT

RISK	IMPACT	COMMENTS
Time	Moderate	The timetable for the process is clearly defined
Viability	High	The viability of a Post 16 (16-19) free school in Rutland is reliant on the potential admissions it can secure.
Finance	Low	Free Schools receive capital and revenue directly from the Department for Education.
Profile	High	All changes in learning provision within the County attract a significant level of interest
Equality and Diversity	Medium	The criteria for admission and the purpose of the free school will determine the equality of access and nature of the diversity of provision. Additionally, a free school is able to set its own curriculum and attendant policies.

Background Papers

Free school applications: suitability and declarations (DfE 2013)

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A Large Print or Braille Version of this Report is available upon request – Contact 01572 722577.

APPENDIX A Elements of Application for Free School (Required Declarations)

Each of these elements must be addressed in the application.

- a) Pre-application registration form
- b) Initial assessment
- c) Applicant details
- d) Outline of the school
- e) Vision
- f) A credible proposal to deliver a high-quality free school and a clear rationale for establishing it in this area
- g) Education plan
- h) An ambitious and deliverable curriculum plan which is consistent with the vision and pupil intake
- i) Measuring pupil performance effectively and setting challenging targets
- j) A staffing structure that will deliver the planned curriculum within the expected income levels
- k) The needs of all children are fully provided for within the curriculum (only complete this section if you are proposing a free school with a religious ethos, religious character and those with a distinctive educational philosophy or world view)
- l) Evidence of need
- m) Provide valid evidence that there is a need for this school in the area
- n) Successful engagement with the local community
- o) Capacity and capability
- p) The necessary experience and credentials to deliver the school to opening
- q) A governance structure, roles and responsibilities that will ensure accountability and effective decision making in this academy trust and drive improvement in the new free school
- r) Skills gaps identified for once the school is open and a plan is in place to fill them. Any governors identified already have the experience, track record and commitment to drive improvement in a free school, and manage the trust effectively
- s) A credible plan for recruiting a high quality principal during pre-opening
- t) Educational track record (existing providers and any new applicants seeking to open more than one free school)
- u) Capacity to expand (existing providers and any new applicants seeking to open more than one free school)
- v) Budget planning and affordability
- w) Accurate financial plans that are consistent with the rest of the application and based on realistic assumptions about income and expenditure
- x) The school will be viable within the expected levels of funding available both while it builds up and when it is at full capacity
- y) The school will be financially resilient to reductions in income