

Special academy and free school: supplemental funding agreement

March 2018

Opening Date: 1 September 2018

St Luke's Academy

Department
for Education



CONTENTS

SUMMARY

4

Information about the Academy:

4

1. ESTABLISHING THE ACADEMY

7

Definitions and interpretation

7

The Academy

8

Academy opening date

8

2. RUNNING OF THE ACADEMY

9

Length of school day and year

9

Teachers and staff

9

Places and Pupils

10

Charging

11

Admissions

11

Exclusions

14

Curriculum

14

3. GRANT FUNDING

15

Calculation of GAG

15

Other relevant funding

16

4. LAND

16

Version 2: existing leasehold site

16

5. TERMINATION

21

Termination by either party

21

Termination Warning Notice

21

Termination by the Secretary of State after inspection

22

24	Termination by the Secretary of State
24	Funding and admission during notice period
24	Notice of intention to terminate by Academy Trust
27	Effect of termination
28	6. OTHER CONTRACTUAL ARRANGEMENTS
28	Annexes
28	The Master Agreement
28	General

SUMMARY

Information about the Academy:

Name of Academy Trust	The White Horse Federation
Company number	08075785
Date of Master Funding Agreement	31 July 2018
Name of academy	St Luke's Academy
Opening date	1 September 2018
Type of academy (indicate whether academy or free school)	Special Academy
Name of predecessor school (where applicable)	St Luke's School
Planned number of places	77
Age range	11 - 16
Number of sixth form places	0
Number of residential places	0
Land arrangements (Version 1-8 or other)	Version 2
Address and title number of Land	St Luke's School, Cricklade Road, Swindon, SN2 7AS Title Number: WT292179

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

Clause No.	Descriptor	Applied	Not used
1.J	Only applies to free schools and new provision academies		✓
2.D	Only applies to free schools admitting pupils without a statement of SEN or EHC plan		✓
2.G	Only applies where there was a predecessor independent school or non-maintained special school		✓
2.S to 2.EE	Only applies to free schools or new provision academies that admit pupils without a statement of SEN or EHC plan		✓
2.FF	Does not apply to free schools (unless there was a predecessor independent school or non-maintained special school), or new provision academies	✓	
2.GG	Only applies to free schools or new provision academies that admit pupils without a statement of SEN or EHC plan		✓
3.B – 3.G	Only applies to free schools or new provision academies that admit pupils without a statement of SEN or EHC plan		✓
3.H	Clause does not apply to academy converters or new provision academies		✓
3.J	Only applies to full sponsored and intermediate sponsored academies with approved Academy Action Plans	✓	
3.K	Does not apply to free schools (unless there was a predecessor independent school or non-maintained special school), or new provision academies	✓	
5.G.1	Clause applies only to boarding academies/boarding free schools		✓
5.I	Clause only applies to sponsored academies	✓	

Descriptor	Clause No.	Applied	Not used

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

(e.g. clauses relating to PFI):

Please identify any other variations from the model that apply to this academy

Clause No.	Descriptor	Applied	Not used
5.K	Clause applies to free schools and may be applied to new provision academies		✓
5.L	Clause applies to free schools and may be applied to new provision academies		✓
5.M	Clause applies to free schools and may be applied to new provision academies		✓
5.N	Clause applies to free schools and may be applied to new provision academies		✓
5.O	Clause applies to free schools and may be applied to new provision academies		✓
5.P	Clause applies to free schools and may be applied to new provision academies		✓

1. ESTABLISHING THE ACADEMY

- 1.A This Agreement made between the Secretary of State for Education and The White Horse Federation is supplemental to the master funding agreement made between the same parties and dated 31 July 2018 (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 the St Luke's Academy which is specially organised to make special educational provision for pupils with SEN.

"**Coasting**" has the meaning given by regulations under subsection (3) of section 60B of the Education and Inspections Act 2006 in relation to a school to which that section applies.

"**EHC plan**" means an Education, Health and Care plan made under section 37(2) of the Children and Families Act 2014.

"**Pupils with a statement of SEN or EHC plan**" means those pupils, with a statement of SEN or EHC plan, admitted under clauses 2.C and 2.H to 2.R.

"**Pupils without a statement of SEN or EHC plan**" means those pupils, with SEN but without a statement of SEN or EHC plan, admitted under clauses 2.D and 2.S to 2.EE.

"**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.

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

“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 a Special Academy 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 must ensure special educational provision is made at the Academy for one or more categories of SEN. These categories may include, but are not limited to SEMH.

1.I The Academy Trust may not refuse to admit a child whose statement of SEN or EHC plan names the Academy on the sole basis that some, or all, of the child’s SEN do not feature in the categories referred to in clause 1.H of this agreement.

1.J Not used

Academy opening date

1.K The Academy Trust will open the Academy on 1 September 2018.

2. RUNNING OF THE ACADEMY

Length of school day and year

2.A.1 Further to clause 2.1 of the Master Agreement, the Academy Trust is responsible for setting the dates when the school terms and holidays are to begin and end, and the times of schools sessions.

Teachers and staff

2.A Subject to clause 2.A.1b and 2.B of this Agreement the Academy Trust must not employ anyone under a contract of employment or for services to plan and prepare lessons and courses for pupils, teach pupils, and assess and report on pupils' development, progress and attainment ("specified work"), who is not either:

- a) a qualified teacher within the meaning of regulations made under section 132 of the Education Act 2002; or
- b) otherwise eligible to do specified work under the Education (Specified Work)(England) Regulations 2012 (SI 2012/762), which for the purpose of this clause must be construed as if the Academy were a maintained school.

2.A.1b The Academy Trust must designate a staff member at the Academy as responsible for promoting the educational achievement of registered pupils at the Academy who are being looked after by an LA, or are no longer looked after by an LA because of an adoption, special guardianship or child arrangements order, or because they have been adopted from 'state care' outside England and Wales, and in doing so must comply with the law, regulations and guidance that apply to maintained schools. The Academy Trust must ensure the designated person undertakes appropriate training and has regard to any guidance issued by the Secretary of State.

2.B Clause 2.A will not apply to anyone who:

- a) transferred to the employment of the Academy Trust by virtue of the Transfer of Undertakings (Protection of Employment) Regulations 2006;
- b) immediately prior to the transfer, was employed to do specified work; and
- c) immediately before transferring, was not:
 - i. a qualified teacher within the meaning of regulations made under section 132 of the Education Act 2002 and fully registered with the appropriate body, or
 - ii. eligible to do specified work under the Education (Specified Work)(England) Regulations 2012 (SE 2012/762)

("transferred staff member"). The Academy Trust must ensure that any transferred staff member that carries out specified work and does not meet the requirements of clause 2.A(a) or 2.A(b), meets those requirements as soon as possible.

Places and Pupils

2.C The planned number of places at the Academy is 77 places in the age range 11 - 16.

2.D Not used

2.E The Academy Trust must ensure that the Academy meets the needs of individual pupils.

2.F The Academy Trust must seek approval from the Secretary of State where they consider there is a need to increase the planned number of places stated in clause 2.C. The requirements of this Agreement may then be amended by agreement between the Secretary of State and the Academy Trust.

Charging

2.G Not used

Admissions

2.H Except as set out in clauses 2.J – 2.Q 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 the Academy Trust considers that an 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.

2.I Except where clauses 2.D and 2.T apply and any relevant provisions of the Children and Families Act 2014 apply, the Academy Trust may not admit a child to the school unless a statement of SEN or EHC plan naming the Academy or the predecessor school, is maintained for that child.

(Clauses 2.J-2.Q only apply where the pupil has a statement of special educational needs (SEN) rather than an EHC plan and where they therefore continue to be subject to the relevant provisions of the Education Act 1996. EHC plans are replacing statements of SEN but although all statements of SEN should have been converted to an EHC plan by 1 April 2018 this clause is retained to protect pupils who still have a statement of special education need after this date. The detail on the drafting of a statement below is retained to protect pupils in exceptional circumstances.)

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

2.J The Academy Trust must admit all children with a Statement of SEN naming the Academy.

- 2.K The Academy Trust must have regard to the Special Educational Needs Code of Practice 2001 when dealing with Statements of SEN.
- 2.L Where the LA sends the Academy Trust a draft statement with a proposal that the Academy is named in the final statement, the Academy Trust must respond within 15 working days unless the time period falls within a school holiday that is longer than two weeks in which case the Academy Trust should respond within 15 working days of the end of the school holiday.
- 2.M In its response the Academy Trust must either:
- a. consent to being named in the final statement; or
 - b. explain why it believes that admitting the child would be incompatible with the provision of efficient education for other children and the efficient use of resources, including why no reasonable steps could secure compatibility. In doing so the Academy Trust must have regard to the relevant legislation and Code of Practice. 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. The final decision as to whether to name the Academy falls to the LA.
- 2.N If the Academy Trust considers that the LA should not have named the Academy in the Statement of SEN, 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 Academy Trust must admit the pupil if such a determination is pending. 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.
- 2.O If a parent of a child for whom the LA maintains a statement appeals to the First-tier Tribunal (Special Educational Needs and Disability) or the Upper Tribunal Administrative Appeals Chamber, 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.

2.P 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.

2.Q Clauses 2.J-2.Q only apply insofar as the relevant provisions of the Children and Families Act 2014 relating to SEN and disability do not apply to Academies and Free Schools.

2.R Not used

2.S Not used

2.T Not used

2.U Not used

2.V Not used

2.W Not used

2.X Not used

2.Y Not used

2.Z Not used

2.AA Not used

2.BB Not used

2.CC Not used

2.DD Not used

2.EE Not used

2.FF Pupils on roll in a Predecessor School which was a maintained, a non-maintained special or independent school will transfer automatically to the

Academy on opening. All children already offered a place at that Predecessor School must be admitted to the Academy.

Exclusions

2.GG Not used

Curriculum

- 2.HH Subject to clauses 2.II and 2.JJ the Academy Trust, must provide for the teaching of religious education and for a daily act of collective worship at the Academy.
- 2.II Subject to clause 2.JJ 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.
- 2.JJ The Academy must comply with the requirements of regulation 5A of the Education (Special Educational Needs) (England) (Consolidation) Regulations 2001 as if it were a maintained special school. The Academy Trust must comply with regulation 5A of the Education (Special Educational Needs) (England) (Consolidation) Regulations 2001 as if the Academy were a community or foundation special school, and as if references to “Religious Education” and to “Religious Worship” in that regulation were references to religious education and religious worship provided by the Academy in accordance with clause 2.II.
- 2.KK The Academy Trust agrees that, where the Academy is listed in the register of Independent Schools as having a religious ethos, paragraph 5(b) of Schedule 11 of the Equality Act 2010 shall not apply to the Academy.
- 2.LL 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