

Appendix 3 - Commissioning of New School Places

There are, essentially, two routes for the council to establish new schools in its area as follows:

1) Free School Presumption Process

Changes to the law in recent years have emphasised the role of the council as the commissioner of school places rather than the provider. The option for the council to open a new community school will be the last alternative after the following have been exhausted. Where the council identifies the need for a new school, it must seek proposals to establish the school and appoint the provider via the 'free school presumption' process (NB. free schools and academies are legally the same type of school).

Under the 'free school presumption' process the council is responsible for providing the site for the new school. It is the expectation that the site will be made available to the appointed provider free or on a peppercorn basis. The council will also be responsible for meeting the capital build costs and the pre/post-opening revenue costs.

The council seeks proposals (expressions of interest) from approved free school or academy providers, following a procedure set out by the DfE. As part of this process the council will first set its specification for the new school through consultation with the community. This specification is a key document to enable the proposer to understand the council's requirements for the new school. The specification will set some key matters in addition to the basic details, such as phase of education, size of the school and planned opening date. It will include the need for a strong education vision, engagement with the local community, providing inclusive education and support for all children and operating as the local school for the community. The Tower Hamlets specification will also include a commitment to work with the Tower Hamlets Education Partnership, which has been set up by schools to meet the challenge of ensuring that all children and young people in Tower Hamlets achieve the best possible outcomes through effective partnership working. One of its core values is to promote a system of equality and inclusion, supporting the needs of the most vulnerable children and families. It is important that any new school proposer is supportive of the aims and ethos of the Tower Hamlets Education Partnership.

The council will then evaluate the bids from the providers in consultation with the Regional Director (DfE) and submit its recommendation to the Secretary of State. The decision on the appointment of a provider is taken by the Secretary of State, delegated to the Regional Director, who will then enter into a funding agreement with the appointed provider. Only those academies or free schools they have obtained approved provider status from the DfE are able to bid to operate new schools.

When deciding on the appointment of the school provider the Secretary of State will consider the council's recommendation on the choice of a proposer. However, in some cases the Secretary of State may consider additional information held by the DfE about:

- the capacity, capability or the academic track record of a proposer;
- the quality and the diversity of the existing local provision; and
- the ability of the proposed sponsor to redress social disadvantage, as well as to improve educational standards in an area.

The Secretary of State reserves the right to agree a sponsor of his own on the basis that he may have further evidence about an academy sponsor that means none of the options put forward by the council are considered suitable.

If the council decides, prior to proposals being submitted, that circumstances have changed such that it is no longer satisfied that there is any need for a new school (for example, where a housing project has been cancelled or where a proposed central route free school will meet the identified need), then the council can halt the presumption process and withdraw the specification on these grounds.

2) Free School Applications Approved by Central Government

Separate from the free school presumption process is the establishment of a new school through the central government's free schools programme. This is where an academy sponsor applies directly to central government to set up a new free school and the application is approved by the Secretary of State. The government (DfE) will then provide the capital for the land and the construction of the school and will seek to supplement this funding with other contributions. This includes the provision of a site from the council or contributions from local housing developers.

Where the council has identified a need for a new school and is considering ways to provide it, it must work with both the Regional Director and any academy sponsor that has already been approved to open a new school in Tower Hamlets through the central government route. This ensures that there is a common understanding and co-ordinated approach to the action being taken to meet basic need and improve the quality of school places in the borough.

The council will determine the appropriate route for appointing a school provider in consultation with the Regional Director (DfE). It will keep stakeholders and council members informed of its progress through various channels, including the council website, committee reports, and the Members Bulletin.