

FREEDOM OF INFORMATION REDACTION SHEET

THE HARVEY GRAMMAR SCHOOL

SUPPLEMENTAL FUNDING AGREEMENT

<p>Exemptions in full</p> <p>n/a</p>	
<p>Partial exemptions</p> <p>Personal Information has been redacted from this document under Section 40 of the Freedom of Information (FOI) Act.</p> <p>Section 40 of the FOI Act concerns personal data within the meaning of the Data Protection Act 1998.</p>	
<p>Factors for disclosure</p>	<p>Factors for Withholding</p>
<ul style="list-style-type: none">▪ further to the understanding of and increase participation in the public debate of issues concerning Academies.▪ to ensure transparency in the accountability of public funds	<ul style="list-style-type: none">▪ To comply with obligations under the Data Protection Act
<p><u>Reasons why public interest favours withholding information</u></p> <p>Whilst releasing the majority of The Harvey Grammar School and Supplemental Funding Agreement will further the public understanding of Academies. The whole of The Harvey Grammar School and Supplemental Funding Agreement cannot be revealed. If the personal information redacted was to be revealed under the FOI Act, Personal Data and Commercial interests would be prejudiced.</p>	

SCHEDULE 1
MODEL SUPPLEMENTAL AGREEMENT

THIS AGREEMENT made 1 August 2012

BETWEEN

(1) **THE SECRETARY OF STATE FOR EDUCATION**; and

(2) **THE HARVEY ACADEMY**

IS SUPPLEMENTAL TO THE MASTER FUNDING AGREEMENT made between the same parties and dated 1 August 2012 (the "**Master Agreement**").

1 DEFINITIONS AND INTERPRETATION

1.1 Except as expressly provided in this Agreement words and expressions defined in the Master Agreement shall have the same meanings in this Agreement as were ascribed to them in the Master Agreement.

1.2 The following words and expressions shall have the following meanings:

"the Academy" means the Harvey Grammar School established at Cheriton Road, Folkestone, Kent CT19 5JY.

"Chief Inspector" means Her Majesty's Chief Inspector of Education, Children's Services and Skills or his successor.

"the Land" means the publicly funded land (including for the avoidance of doubt all buildings, structures landscaping and other erections) situated at and known as the Harvey Grammar School of the land that is to be transferred to the Academy.

1.3 Reference in this Agreement to clauses and Annexes shall, unless otherwise stated, be to clauses and annexes of this Agreement.

2 THE ACADEMY

2.1 The Company will establish and maintain, and carry on or provide for the carrying on of the Academy in accordance with the Master Agreement and this Agreement.

- 2.2 The curriculum provided by the Academy to pupils up to the age of 16 shall be broad and balanced,
- 2.3 The requirements for the admission of pupils to the Academy are set out at Annex 1. The procedure for the removal of the Academy's selective admission arrangements is set out at Annex 2.

ACADEMY OPENING DATE

- 2.4 The Academy shall open as a school on 01 August 2012 replacing The Harvey Grammar School which shall cease to be maintained by the Local Authority on that date, which date shall be the conversion date within the meaning of the Academies Act 2010.
- 2.5 The planned capacity of the Academy is 980 in the age range 11 to 18, including a sixth form of 230 places .

CAPITAL GRANT

- 3.1 Pursuant to clause 38 of the Master Funding Agreement, the Secretary of State may, in his absolute discretion provide Capital Expenditure funding in accordance with any arrangements he considers appropriate.

GAG AND EAG

- 4.1 The Secretary of State agrees to pay GAG and EAG to the Company in relation to the Academy in accordance with the Master Agreement.

COMPLAINTS

4A.1 If a complaint is made about matters arising in whole or in part prior to the opening of any Academy , as referred to in clause 2.4 of the relevant supplemental agreement, and all or part of that complaint was being or had been investigated by the Local Government Ombudsman under Part III or the Local Government Act 1974 ('Part III') or that complaint in whole or in part could have been investigated under Part III had the school the Academy replaced remained a maintained school, the Company:

- a) will abide by the provisions of Part III as though the Academy were a maintained school;
- b) agrees that the Secretary of State shall have the power to investigate the matter complained of as if it had taken place after conversion;
- c) agrees to act in accordance with any recommendation from the Secretary of

State as though that recommendation had been made under Part III and the Academy were a maintained school.

4A.2) If the Secretary of State could have given an order and/or a direction under section 496 and/or section 497 of the Education Act 1996 to the governing body of the school the Academy replaced (as referred to in clause 2.4 of the relevant supplemental agreement) and that order and/or direction related to matters occurring within the 12 months immediately prior to conversion, the Company agrees:

- a) the Secretary of State may give orders and/or directions to the Company as though the Academy were a maintained school and sections 496 and 497 applied to the governing body of that maintained school;
- b) to act in accordance with any such order and/or direction from the Secretary of State.

5 **TERMINATION**

5.1 Either party may give not less than seven Academy Financial Years' written notice to terminate this Agreement, such notice to expire on 31 August 2019 or any subsequent anniversary of that date.

5.2 If the Secretary of State is of the opinion that the Academy no longer has the characteristics set out in clause 12 of the Master Agreement or that the conditions and requirements set out in clauses 13–34B of the Master Agreement are not being met, or that the Company is otherwise in material breach of the provisions of this Agreement or the Master Agreement, the Secretary of State may give notice of his provisional intention to terminate this Agreement.

5.3 Any such notice shall be in writing and shall:

5.3.1. state the grounds on which the Secretary of State considers the Academy no longer has the characteristics set out in clause 12 of the Master Agreement or is not meeting the conditions and requirements of clauses 13-34B of the Master Agreement or the Company is otherwise in material breach of the provisions of this Agreement or the Master Agreement;

5.3.2. specify the measures needed to remedy the situation or breach;

- 5.3.3. specify a reasonable date by which these measures are to be implemented; and
 - 5.3.4. state the form in which the Company is to provide its response and a reasonable date by which it must be provided.
- 5.4 If no response is received by the date specified in accordance with clause 5.3.4, the Secretary of State may give the Company 12 months, or such lesser period as he considers appropriate in the circumstances, written notice to terminate this Agreement.
- 5.5 If a response is received by the date specified in accordance with clause 5.3.4, the Secretary of State shall consider it, and any representations made by the Company, and shall, within three months of its receipt, indicate that:
 - 5.5.1. he is content with the response and/or that the measures which he specified are being implemented; or
 - 5.5.2. he is content, subject to any further measures he reasonably specifies being implemented by a specified date or any evidence he requires that implementation of such measures have been successfully completed; or
 - 5.5.3. he is not satisfied, that he does not believe that he can be reasonably satisfied, and that he will proceed to terminate the Agreement.
- 5.6 In the circumstances of clause 5.5.3 the Secretary of State shall notify the Company why he believes that he cannot be reasonably satisfied and, if so requested by the Company within thirty days from such notification, he shall meet a deputation including representatives from directors of the Company and the Local Governing Body of the Academy to discuss his concerns. If following such meeting he has good reasons for remaining satisfied that the Academy does not and will not have the characteristics set out in clause 12 of the Master Agreement or does not and will not meet the conditions and requirements set out in clauses 13-34B of the Master Agreement or the Company is in material breach of the provisions of this Agreement or the Master Agreement and such breach will not be remedied to his reasonable satisfaction, he shall give the Company twelve months written notice to terminate this Agreement.

- 5.7 If the Secretary of State has cause to serve a notice on the Company under section 165 of the Education Act 2002 and a determination (from which all rights of appeal have been exhausted) has been made that the Academy shall be struck off the Register of Independent Schools, the period of twelve months' notice referred to in clause 5.6 may be shortened to a period deemed appropriate by the Secretary of State.
- 5.8 The Secretary of State shall, at a date preceding the start of each Academy Financial Year, provide to the Company an indication of the level of funding to be provided by the Secretary of State to the Company by way of GAG and EAG in the next following Academy Financial Year (the “**Indicative Funding**”). If the Company is of the opinion that, after receipt of the Indicative Funding for the next following Academy Financial Year (the “**Critical Year**”) and of the taking into account all other resources available and likely to be available to the Academy, including such funds as are set out in clause 73 of the Master Agreement and such other funds as are and likely to be available to the Academy from other academies operated by the Company (“**All Other Resources**”), it is likely that the cost of running the Academy during the Critical Year would cause the Company, on the basis of the Indicative Funding, to become insolvent (and for this reason only) then the Company may give notice of its intention to terminate this Agreement at the end of the then current Academy Financial Year.
- 5.9 Any notice given by the Company under clause 5.8 shall be in writing and shall be served on the Secretary of State not later than 28 February preceding the Critical Year or, if the Secretary of State shall not have given notice of the Indicative Funding to the Company on or before the date specified in clause 5.8 above, within six weeks after the Secretary of State shall have done so. The notice must specify:
- 5.9.1. the grounds upon which the Company’s opinion is based and include the evidence of those grounds and any professional accounting advice the Company has received and including a detailed statement of steps which the Company proposes to take with a view to ensuring that as soon as reasonably practicable the costs of running the Academy are reduced sufficiently to ensure that such costs are less than the Indicative Funding and All Other Resources and the period of time within which such steps will be taken; and

- 5.9.2. the shortfall in the Critical Year between the Indicative Funding and All Other Resources expected to be available to the Company to run the Academy and the projected expenditure on the Academy; and
- 5.9.3. a detailed budget of income and expenditure for the Academy during the Critical Year (the “**Projected Budget**”).
- 5.10 Both parties undertake to use their best endeavours to agree whether or not the cost of running the Academy during the Critical Year would cause the Company, on the basis of the Indicative Funding and All Other Resources, 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 undertake to use their best endeavours to agree a practical solution to the problem.
- 5.11 If no agreement is reached by 30 April (or such other date as may be agreed between the parties) as to whether the cost of running the Academy during the Critical Year on the basis of the Indicative Funding and All Other Resources would cause the Company to become insolvent, then that question shall be referred to an independent expert (the “**Expert**”) for resolution. The Expert’s determination shall be final and binding on both parties. The Expert shall be requested to specify in his determination the amount of the shortfall in funding (the “**Shortfall**”). The Expert shall 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 shall be appointed by the President for the time being of the Institute of Chartered Accountants in England and Wales. The Expert’s fees shall be borne equally between the parties.
- 5.12 The Expert shall 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 large schools. If the parties fail to agree upon the appointment of the educational specialist then the educational specialist shall be appointed by the Chairman for the time being of the Specialist Schools and Academies Trust. The educational specialist’s fees shall be borne equally between the parties.
- 5.13 If the Expert determines that the cost of running the Academy during the Critical Year would cause the Company, on the basis of the Indicative Funding and All Other Resources, to become insolvent, and the Secretary of

State shall not have agreed to provide sufficient additional funding to cover the Shortfall, then the Company shall be entitled to terminate this Agreement, by notice expiring on 31 August prior to the Critical Year. Any such notice shall be given within 21 days after (a) the Expert's determination shall have been given to the parties or (b), if later, the Secretary of State shall have given written notice of his refusal to provide sufficient additional funding for the Academy to cover the Shortfall.

5.14 If the Company shall have given notice to terminate the Agreement under 5.13, the Secretary of State may by notice in writing to the Company require the Company to appoint up to two persons as directors of the Company in accordance with the Articles.

5.15 The Secretary of State may at any time by notice in writing terminate this Agreement forthwith if the Academy has ceased (except where such cessation occurs temporarily by reason of an event beyond the reasonable control of the Company) to operate as an Academy within the meaning of Section 1 of the Academies Act 2010.

5.16 A "Special Measures Termination Event Occurs" when:

5.16.1.the Chief Inspector gives a notice to the Company in accordance with section 13(3) of the Education Act 2005 (the "Special Measures Notice") stating that in his opinion special measures are required to be taken in relation to the Academy; and

5.16.2.the Chief Inspector carries out a subsequent inspection of the Academy in accordance with the Education Act 2005 and makes a report in accordance with the Education Act 2005 stating that the Academy has made inadequate progress since the date of the Special Measures Notice; and

5.16.3.the Secretary of State shall have requested the Company to deliver within 10 Business Days a written statement (a "Further Action Statement") of the action the Company proposes to take, and the period within which it proposes to take such action, or, if it does not propose to take any action, the reasons for not doing so; and

5.16.4.the Secretary of State, having considered the Further Action Statement, is not satisfied that any action proposed to be taken by the Company is sufficient in all the circumstances, or, if no Further Action Statement shall have been given to the Secretary of State within the requested timeframe or otherwise.

5.17 If a Special Measures Termination Event occurs, the Secretary of State may:
15 February 2012 v2

5.17.1. by notice in writing to the Company terminate this Agreement forthwith; or

5.17.2. subject to clause 102 of the Master Agreement, appoint such Further Directors to the Company as he thinks fit in accordance with the Articles and/or may provide up to 12 months' notice in writing to terminate this Agreement.

5.18 In the event that the Secretary of State appoints Further Directors in accordance with clause 5.17.2, the Company must, upon the request of the Secretary of State, procure the resignation of the Directors appointed in accordance with Article 50 of the Articles of Association.

6 EFFECT OF TERMINATION

6.1 In the event of termination of this Agreement however occurring, the school shall cease to be an Academy within the meaning of Section 1 of the Academies Act 2010.

6.2 Subject to clause 6.3, if the Secretary of State terminates this Agreement for reasons other than that a Special Measure Termination Event occurs, the Academy no longer has the characteristics set out in clause 12 of the Master Agreement, or is no longer meeting the conditions and requirements set out in clauses 13-34B of the Master Agreement or that the Company is otherwise in material breach of the provisions of this Agreement or the Master Agreement, the Secretary of State shall indemnify the Company.

6.3 The amount of any such indemnity shall be determined by the Secretary of State having regard to any representations made to him by the Company, and shall be paid at such times and in such manner as the Secretary of State may reasonably think fit.

6.4 The categories of expenditure incurred by the Company in consequence of the termination of the Agreement in respect of which the Secretary of State shall indemnify the Company include (but not by way of limitation), staff compensation and redundancy payments, compensation payments in respect of broken contracts, expenses of disposing of assets or adapting them for other purposes, legal and other professional fees, and dissolution expenses.

6.5 Subject to clause 6.6, on the termination of this Agreement however occurring, the Company shall in respect of any of its capital assets at the date of termination:

(a) promptly transfer a proportion of the assets to a person nominated by the Secretary of State, if the Secretary of State considers that all or some of those assets need to be used for educational purposes by that nominee. The proportion of the assets to be transferred shall be the same as the proportion of the capital contribution made by the Secretary of State to the original value of those assets, whether that contribution was made on the establishment of the Academy or later; or

(b) if the Secretary of State confirms that a transfer under clause 6.5(a) is not required, promptly repay to the Secretary of State a sum equivalent to the percentage of the value of the assets at the date of termination, or, by agreement with the Secretary of State, at the date of subsequent disposal of those assets. Such percentage to be the same as the percentage of the capital contribution made by the Secretary of State to the original value of those assets, whether that contribution was made on the establishment of the Academy or later.

6.6 The Secretary of State may waive in whole or in part the repayment due under clause 6.5(b) if:

a) The Company obtains his permission to invest the proceeds of sale for its charitable objects; or

b) The Secretary of State directs all or part of the repayment to be paid to the L A.

6.7 The sale or disposal by other means of publicly funded land held for the purposes of an Academy is now governed by Part 3 of Schedule 1 to the Academies Act 2010.

LAND

Restrictions on Land transfer

6A Recognising that they are or will be receiving publicly funded land at nil consideration (which for the purposes of this transaction shall include leases granted at a peppercorn rent) the Company:

a) shall, within 28 days from the transfer to it of the Land, apply to the Land Registry for a restriction in the proprietorship register (under section 43(1)(a) of the Land Registration Act 2002 in Form RX1 as prescribed by Rule 91 and Schedule 4 of the Land Registration Rules 2003) in the following terms:

No disposition of the registered estate by the proprietor of the registered estate is to be registered without a written consent signed by the Secretary of State for Education, of Sanctuary Buildings, Great Smith Street, London SW1P 3BT

- b) shall take any further steps required to ensure that the restriction referred to in clause 6A(a) is entered on the proprietorship register,
- c) shall provide the Secretary of State with confirmation of the entry of the restriction referred to in clause 6A(a) as soon as practicable after it receives notification from the Land Registry,
- d) in the event that it has not registered the restriction referred to in clause 6A(a), hereby consents to the entering of the restriction referred to in 6A(a) in the register by the Secretary of State (under s. 43(1)(b) of the Land Registration Act 2002),
- e) shall not, without the consent of the Secretary of State, apply to dis-apply, modify or remove (by cancellation or otherwise) a restriction entered in accordance with clause 6A(a) or 6A(d) above, whether by itself, a holding company, a subsidiary company, or a receiver, administrator or liquidator acting in the name of the Company.

7 **ANNEX**

- 7.1 The Annex to this Agreement forms part of and is incorporated into this Agreement.

8 **THE MASTER AGREEMENT**

- 8.1 Except as expressly provided in this Agreement the Master Agreement shall continue in full force and effect.

9 **ENGLISH LAW**

- 9.1 This Agreement shall be governed by and interpreted in accordance with English law.

This Agreement was executed as a Deed on 1 August 2012

Executed on behalf of by:

Jerrin

Director

In the presence of: *P. Garrard*

Witness: *PA GARRARD*

Address

Occupation

The Corporate Seal of the Secretary of State for Education, hereunto affixed is authenticated by:

A. S. Wall

Duly Authorised



ANNEXES TO THIS SUPPLEMENTAL AGREEMENT

Requirements for the Admission for pupils at the
Academy Annex 1

The procedure for the removal of the Academy's selective admission arrangements at
the Academy Annex 2

Annex 1

REQUIREMENTS FOR THE ADMISSION OF PUPILS TO THE HARVEY GRAMMAR SCHOOL

GENERAL

1. This annex may be amended in writing at any time by agreement between the Secretary of State and the Company.
2. Except as provided in paragraphs 2A to 2B below the Company will act in accordance with, and will ensure that an Independent Appeal Panel is trained to act in accordance with, all relevant provisions of the School Admissions Code, and the School Admission Appeals Code published by the Department for Education (“the Codes”) as they apply at any given time to maintained schools and with equalities law and the law on admissions as they apply to maintained schools. For this purpose, reference in the Codes or legislation to “admission authorities” shall be deemed to be references to the Directors of the Company.
 - 2A The Company is permitted to determine admission arrangements (subject to consultation in accordance with the School Admissions Code) that give priority for admission (but not above looked after children and previously looked after children¹) to other children attracting the pupil premium, including the service premium (‘the pupil premium admission criterion’). Where a Company exercises this freedom it will provide information in its admission arrangements of eligibility for the premiums.
 - 2B For the purposes of applying the pupil premium admission criterion only, sections 1.9(f) and 2.4(a) of the School Admissions Code do not apply insofar as they prevent admission authorities from giving priority to children according to the financial or occupational status of parents or using supplementary forms that ask for:
 - any personal details about their financial status; or
 - whether parents are serving in the armed forces (of any nation), stationed in England, and exercising parental care and responsibility for the child in question.
3. Notwithstanding the generality of paragraph 2 of this Annex, the Company will participate in the co-ordinated admission arrangements operated by the Local Authority (LA) and the local Fair Access Protocol.
4. Notwithstanding any provision in this Annex, the Secretary of State may:
 - (a) direct the Company to admit a named pupil to the Harvey Grammar School on application from an LA. This will include complying with a

¹ As defined in the School Admissions Code.

School Attendance Order². Before doing so the Secretary of State will consult the Company;

- (b) direct the Company to admit a named pupil to the Harvey Grammar School if the Company has failed to act in accordance with this Annex or has otherwise failed to comply with applicable admissions and equalities legislation or the provisions of the Codes;
- (c) direct the Company to amend its admission arrangements where they fail to comply with the School Admissions Code or the School Admission Appeals Code.

4A. The Harvey Grammar School is a former maintained grammar school designated as such under section 104 of the School Standards and Framework Act 1998 and the Education (Grammar School Designation) Order 1998. As such it is permitted to continue to select its intake by reference to ability.

Annex 2 to the relevant supplemental funding agreement will set out the procedures for removing selective arrangements.

5. The Company shall ensure that parents and 'relevant children'³ will have the right of appeal to an Independent Appeal Panel if they are dissatisfied with an admission decision of the Company. The Independent Appeal Panel will be independent of the Company. The arrangements for appeals will comply with the School Admission Appeals Code published by the Department for Education as it applies to Foundation and Voluntary Aided schools. The determination of the appeal panel is binding on all parties.

Relevant Area

6. Subject to paragraph 7, the meaning of "Relevant Area" for the purposes of consultation requirements in relation to admission arrangements is that determined by the local authority for maintained schools in the area in accordance with the Education (Relevant Areas for Consultation on Admission Arrangements) Regulations 1999.

7. If the Company does not consider the relevant area determined by the local authority for the maintained schools in the area to be appropriate, it must apply to the Secretary of State by 1 August for a determination of the appropriate relevant area for the Academy, setting out the reasons for this view. The Secretary of State will consult the Company and the LA in which

² Local authorities are able to issue school attendance orders if a child is not attending school. These are legally binding upon parents. Such an order might, for instance, be appropriate where a child has a place at an Academy but his/her parents are refusing to send him/her to school. The order will require a parent to ensure his/her child attends a specified school.

³ relevant children' means:

- a) in the case of appeals for entry to a sixth form, the child, and;
- b) in any other case, children who are above compulsory school age, or will be above compulsory school age by the time they start to receive education at the school.

the Academy is situated in reaching a decision.

Requirement to admit pupils

8. Pupils on roll in any predecessor maintained or independent school will transfer automatically to the Academy on opening. All children already offered a place at any predecessor school will be admitted.

9. The Company will:

- a. subject to its right of appeal to the Secretary of State in relation to a named pupil, admit all pupils with a statement of special educational needs naming the Academy;
- b. determine admission oversubscription criteria for the Academy that give highest priority to looked after children and previously looked after children, in accordance with the relevant provisions of the School Admissions Code.

Oversubscription criteria, admission number, consultation, determination and objections.

10. The Academy admission arrangements will include oversubscription criteria, and an admission number for each relevant age group⁴. The Company will consult on the Academy's admission arrangements and determine them in line with the requirements within the School Admissions Code.

11. The Office of the School's Adjudicator (OSA) will consider objections to the Academy's admission arrangements⁵. The Company should therefore make it clear, when determining the Academy's admission arrangements, that objections should be submitted to the OSA.

12. A determination of an objection by the OSA will be binding upon the Academy and the Company will make appropriate changes as quickly as possible.

⁴ 'Relevant age group' means 'normal point of admission to the school, for example, year R, Year7 and Year 12.

⁵ The OSA has no jurisdiction to consider objections against the agreed variation from the Codes set out in paragraphs 2A and 2B.

Annex 2

Removal of selection at wholly selective Academies.

1. This annex applies to any Academy which was designated as a grammar school under the Education (Grammar School Designation) Order 1998 – or subsequent designation orders made under section 104 of the School Standards and Framework Act 1998- prior to their entering into Academy arrangements with the Secretary of State under section 1 of the Academies Act 2010.

Proposals by the Company to remove selection

2. Where the Company for a wholly selective Academy wishes to remove the Academy's selective admission arrangements they will follow the process set out below.

3. The Company will ballot all parents of registered pupils at the school on the question 'are you in favour of the Academy removing selection by ability and introducing admission arrangements which admit children of all abilities?'

4. If a simple majority of parents vote to remove selection, the Academy will determine admission arrangements that do not provide for selection by ability.

5. The ballot must allow parents a minimum of five weeks within which to vote. The ballot must be initiated prior to 25 January and the ballot result must be declared by 1 March in the determination year¹.

6. If a ballot is in favour of the removal of selection, non selective admission arrangements must be determined by 15 April in the determination year.

7. If a ballot does not vote in favour of the removal of selection the Company must retain the Academy's selective admission arrangements.

Parental Ballots to remove selection.

8. There are three ways of removing selection at wholly selective Academies via a parental ballot.

9. The arrangements are changed as result of a **whole area ballot**², ("area ballot"), the Academy in question is subject to a **stand alone ballot**³ or

¹ A 'determination year' is the Academy Financial Year beginning two years before the Academy Financial Year which the admissions arrangements will be for e.g. consultation to end in March 2011 and determination to be in April 2011 for admissions in September 2012

² A "whole area ballot" has the same meaning as an "area ballot" (as defined by regulation 11(2) of the Ballot Regulations: a ballot which relates to all grammar schools within a relevant area.)

³ A "stand alone ballot" is a ballot which relates to a stand alone grammar school as defined in

where the school is subject to a **group ballot**⁴.

10. The **moratorium period** set out in regulation 16 of the Ballots Regulations will apply. That is, where the result of a ballot is that the grammar schools in a selective area, or the Academy in a stand-alone ballot to which the ballot relates should retain selective admission arrangements, no further ballot shall be held or petition raised within the period of 5 years from the ballot result date. This moratorium does not apply to the procedures in paragraphs 2-7 of this annex.

11. The Harvey Grammar School is subject to a stand alone ballot.

Academies subject to stand-alone ballots.

12. Where an Academy is not within one of the areas set out in regulation 2(1) and schedule 1 to the Education (Grammar School Ballots) Regulations 1998) it may be subject to a stand alone ballot as set out in this annex. The Academy Trust will conduct the ballots process or may appoint a contractor to conduct the process on its behalf.

13. For a ballot to be held a valid petition must be received by the Academy, the Secretary of State and the Young People's Learning Agency (YPLA) acting on behalf of the Secretary of State (from hereon the 'Secretary of State').

Petitions for a ballot -general

14. The following paragraphs govern the procedure for ballots to remove selection from Academies which were formerly designated as maintained grammar schools:

15. Parents will first need to petition for the removal of selection. If a petition is valid then the Academy will be required to conduct a ballot. If a ballot is successful the Academy will be required to remove selection in accordance with paragraph 59.

Restriction on publication of material etc relating to ballots

16. The same restrictions as apply to the governing body of a maintained school under section 107 of the School Standards and Framework Act 1998 shall be applied to the Academy Trust/proprietor of the Academy in relation to a ballot under this Annex.

Meaning of "eligible parent"

17. A parent is eligible to sign a petition and vote in a ballot if that person is a registered parent of a child who is a pupil at a feeder school for the Academy in respect of which the ballot is being held or the petition raised.

regulation 11(1)(c) of the Ballots Regulations.

⁴ A 'group ballot' is a ballot which relates to a prescribed group of schools as set out in Schedule 2 to the Education (Grammar School Ballots) Regulations 1998

18. A parent of the following description is not an eligible parent
- a. a parent who is not an individual (such as a corporate parent);
 - b. a parent who is resident outside the United Kingdom;
 - c. if their child is over compulsory school age on the date in question;
 - d. if, on the date in question their child is over the transfer age group for the Academy in question.
19. A parent's residence shall be determined by reference to the address contained in the list of parents returned to the Academy by the relevant feeder schools.
20. "Transfer age group" means the highest relevant age group for that Academy, disregarding any relevant age group in which the majority of the pupils admitted to the school are over compulsory school age.

Meaning of "feeder school"

21. The feeder schools for an Academy are each school from which at least 5 pupils have transferred to the Academy or its predecessor grammar school during the period consisting of the school year in question and the two preceding school years.
22. Any pupils who were over the age of the transfer age group for the Academy or its predecessor grammar school when they transferred to the Academy or its predecessor grammar school shall be disregarded.

Petitions for a Ballot

Petitions for a ballot—general

23. No ballot shall be held unless a request for a ballot is made by means of a petition relating to the Academy is sent to the Academy and YPLA.
24. If there is doubt over whether a ballot is necessary, the YPLA will notify the Academy.
25. The Academy and if there is a dispute, the Secretary of State or YPLA, will determine whether a petition is a valid petition. A petition is valid if it complies with paragraphs 23 – 38.
26. A petition must be received by the Company during a petition period. "Petition period" means the period from 1st September in one year to 31st July in the next year.
27. A petition must be signed by a number of relevant eligible parents which, when taken together with the number of relevant eligible parents who have signed any previous petition relating to the Academy (or its predecessor

maintained grammar school) has been received by the Academy (or designated body as set out in regulation 3 of the Education (Grammar School Ballots) Regulations 1998 during the same petition period, is at least 20% of the eligible parent population, or is equal to a previous petition threshold where this has been set within the last five years.

28. Where an Academy has previously been required to determine the eligible parent population and set a petition threshold, this threshold shall remain in place for any petition received in the following five years.

29. If a parent signs a petition on a date before the beginning of the petition period in which the petition is received, the parent's signature shall be disregarded for the purposes of paragraph 27.

30. The question of whether an eligible parent is a "relevant" eligible parent shall be determined in accordance with paragraphs 39-40.

31. If the same parent signs a petition more than once or signs more than one petition relating to the same Academy any petition period, any signature in excess of one shall be disregarded; and

32. Where a parent signs a petition but the information referred to in paragraph 36 is not included, or not included in a legible form, that parent's signature shall be disregarded.

33. The Academy will request a list of the names and addresses of relevant eligible parents from its feeder schools. It will also request a list of eligible parents which may be made public to the petition organisers. Eligible parents must be asked for consent for their details to be used for the purpose of the ballot, and given the opportunity by the relevant feeder schools to remove their names from the public list if they do not want their details passed to petition organisers. The Academy will supply a copy of the public list of parents to any petition organiser who requests it.

Form of petition

34. A petition shall on each sheet state the Academy to which it relates.

35. A petition shall, on each sheet, contain the following words:--

"We the undersigned, being eligible parents, seek a ballot on whether the listed Academy which selects by academic ability should continue to do so."

36. In relation to each parent who signs a petition the following information shall be given—

- a. the first name and surname and address of the parent;
- b. the name of a child of that parent who is a pupil at a school which is a feeder school for the Academy to which the petition

relates who, at the date on which the petition is signed, is of compulsory school age; and

- c. the name of the school which the child named in the petition is attending; and
- d. the date on which the parent signs the petition.

37. The petition shall give the name and address of the person ("petition organiser") to whom notification should be given as to whether the petition is valid.

38. Where the Academy has given the notification required by paragraph 37 that a valid petition has been received, any subsequent petition relating to the same Academy shall not be valid unless

- a. the subsequent ballot is in favour of retaining selective admission arrangements; and
- b. no person signs it before the end of the moratorium period for the Academy.

Meaning of "relevant eligible parent" and "parent population"

39. A parent is a relevant eligible parent if the feeder school confirms he is an 'eligible parent' or if the Company is satisfied by other means that a parent is an 'eligible parent'.

40. Parent population means the total of eligible parents.

Notification of result of petition

41. Where the petition is a valid petition the Academy shall notify the persons referred to in paragraph 42 of this fact and that a ballot will be held.

42. The persons to be notified are—

- a. the YPLA;
- b. the local authority in which the Academy is situated;
- c. the Secretary of State;
- d. the petition organiser(s);
- e. the governing body or proprietor of each feeder school for the Academy.

43. Where the petition is not a valid petition the Academy shall notify the petition organiser and ask him to inform other petitioners.

Ballots

Eligibility to vote in a ballot

44. The persons eligible to vote in a ballot are the persons who are "relevant eligible parents".

Question on which ballot is to be held

45. Each ballot paper shall include the following wording--

"Are you in favour of The Harvey Grammar School introducing admission arrangements which admit children of all abilities?

Place a cross (X) in the box of your choice.

YES NO "

Ballots--supplementary

46. The Academy will ensure that ballot papers are sent to all parents who are eligible to vote for whom they have been provided with details by the relevant feeder schools. Academies will take all reasonable steps to ensure eligible parents are identified and given the opportunity to vote.

47. Each ballot shall be a secret postal ballot.

48. Each ballot paper shall include the name of the Academy to which it relates.

49. Each parent who falls within paragraph 44 shall have one vote (irrespective of the number of children which a parent may have and the number of schools they attend).

50. The Academy shall secure that the date by which ballot papers must be returned to them shall be—

- a. no later than 10 weeks from the date on which the Academy notified the persons in paragraph 42 that the petition is valid; and
- b. at least 5 weeks from the date on which ballot papers were sent to parents (or if ballot papers were sent on more than one date, the last such date).

51. Where the Academy has determined the result of a ballot it will forthwith notify the persons mentioned in paragraph 42 of that fact, and, where the ballot is in favour of retaining selective admission arrangements, the date on which the moratorium period will expire.

Declaring a ballot void

52. Subject to paragraph 53 below the YPLA or Secretary of State may declare a ballot void if it appears that—

- a. any requirement of this annex has been contravened;
- b. the Academy Trust has failed to comply with the provisions of section 107(2) of the School Standards and Framework Act 1998 as applied to it by this Annex;
- c. persons other than those falling within paragraph 44 have purported to vote in the ballot;
- d. persons who fall within paragraph 44 have been prevented from voting or hindered from doing so freely in accordance with their own opinion by any other person; or
- e. material has been provided, or meetings have been held, in a manner which does not comply with the principles for the production of such material or the standards for the holding of such meetings or debates contained in the Ballot Information Code specified in Schedule 4 of the Education (Grammar School Ballots) Regulations 1998; and
- f. that voting in a ballot is likely to have been influenced to a significant extent as a result of any of those matters.

53. Paragraph 52 shall not apply unless before the date which is two weeks after the ballot result date any person or body referred to in paragraph 54 have requested the Secretary of State in writing to declare a ballot void; specifying the reason for such a request and the grounds on which the person or body considers the ballot should be declared void.

54. The persons or bodies mentioned in paragraph 53 are—

- a. the local education authority within which the Academy is located;
- b. the Academy itself or the governing body or proprietor of any feeder school for the Academy;
- c. any 20 or more parents who were eligible to vote in the ballot.

55. Where a request is received under paragraph 53, the Secretary of State shall notify the Academy and the local authority.

56. Where a request is received under paragraph 53 but the Secretary of State determines not to declare a ballot void he shall notify the persons or

body who made the request, the Academy to which the ballot relates, and the local authority.

57. Where the Secretary of State declares a ballot void he shall notify the persons mentioned in paragraph 42 of that fact.

58. Where the Secretary of State declares a ballot void, a fresh ballot shall be held and the date by which ballot papers must be returned is no later than 10 weeks from the date of the notification under paragraph 57 above.

Implementation of decision that an Academy should cease to have selective admission arrangements

59. In the case of a successful ballot, the Company will secure that their admission arrangements are revised so that the Academy no longer has selective admission arrangements.

- a. where the ballot result date is on or before 31st December in any school year – or where the Secretary of State has chosen not to declare a ballot void -, it will determine non selective admission arrangements by the date in paragraph 6 of this annex; and
- b. where the ballot result date is after 31st December in any school year, it will determine non selective admission arrangements in the following determination year, by the 15 April.

Information to be given by the Academy

60. If—

- a. 10 or more persons jointly notify the Academy in writing that they are considering raising a petition; and
- b. the notification nominates one of those persons as the person to receive information from the Academy,

the Academy shall, as soon as practicable, give that person the following information

- c. the names of the feeder schools for the Academy; and
- d. the transfer age group for the Academy in question;
- e. the number of parents who would need to sign the petition for it to comply with paragraph 27;
- f. the words to be contained in a petition in accordance with paragraph 35.
- g. where requested, the details of eligible parents who have consented to those details being made available to petition organisers.