

THE COMPANIES ACT 2006  
& COMPANIES (REGISTRATION) REGULATIONS 2008 (SI 2008/3014)

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SCHEDULE 2

A COMPANY LIMITED BY GUARANTEE

Regulation 2(b)

MEMORANDUM OF ASSOCIATION OF

ContinU Plus Academy Trust

Each subscriber to this memorandum of association wishes to form a company under the Companies Act 2006 and agrees to become a member of the company.

*Name of each subscriber      Authentication by each subscriber*

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Name:

Signature:

Robert Chadwick

Mary Elizabeth Quinn

Julie Reilly

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Dated

**Requirements for the Admission of pupils at Continu Plus Academy**  
**("the Academy")**

**General**

1. This Annex may be amended in writing at any time by agreement between the Secretary of State and the Continu Plus Academy Trust ("the Company").
2. The Company will act in accordance with equalities law.
3. Except where paragraphs 4 or 5 applies, the Company 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 paragraph 6 below.
4. Notwithstanding any provision in this Annex, the Secretary of State may:
  - a. direct the Company to admit a named pupil to the Continu Plus Academy ("the Academy") on application from a local authority. This will include complying with a School Attendance Order<sup>7</sup>. Before doing so the Secretary of State will consult the Company.
  - b. direct the Company to admit a named pupil to the Academy if the Company has failed to act in accordance with this Annex or has otherwise failed to comply with applicable equalities legislation.
  - c. direct the Company to amend its admission arrangements where the Company fails to comply with relevant legislation or where the Secretary of State is concerned that because of its admissions arrangements the Academy is no longer meeting the requirements

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<sup>7</sup> 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 alternative provision 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.

at 1C of the Academies Act 2010.

5. Pupils on roll in any predecessor provider will transfer automatically to the Academy on opening. All children already offered a place at any predecessor provider will be admitted. 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; and
  - b. Adopt admission oversubscription criteria<sup>8</sup> that give highest priority to looked after children.

### **Admission arrangements**

6. The Company 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.<sup>9</sup>
  - 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.<sup>10</sup>
  - c. referred by a maintained school under powers set out in section 29(A) of the Education Act 2002<sup>11</sup>.
  - d. referred by an Academy which, under general powers in the Articles of the Academy Trust may send pupils off-site to an

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<sup>8</sup> Over subscription criteria means how the Academy Trust will distinguish/prioritise between pupils where it has more referrals than places currently available.

<sup>9</sup> Section 19 of the Education Act 1996, and regulations made under that section, require a local authority to make arrangements (from the sixth day of exclusion where a pupil has been permanently excluded) for the provision of suitable, full time (unless there are medical reasons as to why this would not be appropriate) education at school or otherwise for a child of compulsory school age who, for a range of reasons, would otherwise be without such education.

<sup>10</sup> Section 100 of the Education and Inspections Act 2006 requires maintained schools and Academies to arrange full-time education for pupils on a fixed period exclusion of more than five days from the sixth day of the exclusion.

<sup>11</sup> Section 29A of the Education Act 2002 provides that governing bodies of maintained schools may direct a pupil off-site for the purpose of receiving educational provision which is intended to improve the behaviour of the pupil.

alternative provision Academy as part of early intervention measures to address behaviour. However, as with a maintained school there is an expectation in law that a pupil will be educated at the school where he is registered, so placements would generally be relatively short and subject to review<sup>12</sup>.

7. The Company 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 Company will consult on its admission arrangements.
8. Any changes to admission arrangements proposed by the Company should be discussed with Commissioners and must be agreed with the Secretary of State.

#### **Pupil registration and information sharing**

9. The pupil numbers of an alternative provision Academy will fluctuate throughout the academic year.
10. The Company must ensure that pupils are appropriately registered<sup>13</sup>. In the case of a fixed period exclusion or an off site direction, the excluded pupil should remain on the register of the excluding school as they are expected to return when the exclusion period is completed and should also be registered with the Academy (dual registered). In the case of a permanent exclusion, the excluded pupil should be removed from the excluding school's register and be registered with the Academy.
11. As far as reasonably practicable, in agreeing contractual arrangements

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<sup>12</sup> It is possible that some off-site directions may become longer term placements in cases where the referring school and local authority agree that the provision in an alternative provision Academy is meeting the pupil's needs, and that a mainstream school place cannot meet that pupil's needs. These pupils could fall within the terms of section 19 of the Education Act.

<sup>13</sup> The requirements of section 434 of the Education Act 1996 (registration of pupils) and regulations made under that section apply to schools (which includes alternative provision Academies)



with Commissioners the Company shall request appropriate information on the needs and prior attainment of pupils who will attend the Academy.

12. The Company will provide regular feedback to a Commissioner (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**

13. The Company must make clear when determining the Academy's admission arrangements, that objections should be submitted to the EFA or any successor to it.
14. A determination of an objection, by the EFA or any successor to it on behalf of the Secretary of State, or by the Secretary of State, will be binding upon the Academy.

## ANNEX C

**Arrangements for pupils with Special Educational Needs ('SEN') and disabilities at the Continu Plus alternative provision Academy****Duties in relation to pupils with SEN**

1. The Governing Body of the Academy Trust must comply with all of the duties imposed upon the governing bodies of maintained schools in:
  - Part 4 of the Education Act 1996 as amended from time to time<sup>14</sup>;
  - The Education (Special Educational Needs) (Information) Regulations 1999 as amended from time to time;
  - The Education (Special Educational Needs Co-ordinators) (England) (Amendment) Regulations 2008 as amended from time to time<sup>15</sup>.
  
2. Notwithstanding any provision in this Agreement, the Secretary of State may (whether following a complaint made to him or otherwise) direct the Academy Trust to comply with an obligation described in this Annex where the Academy Trust has failed to comply with any such obligation.
  
3. Where a child who has SEN is being educated in the alternative provision Academy, those concerned with making special educational provision for the child must secure that the child engages in the activities of the school together with children who do not have SEN, so far as is reasonably practicable and is compatible with:
  - (a) the child receiving the special educational provision which his learning difficulty calls for,
  - (b) the provision of efficient education for the children with whom he will be educated, and
  - (c) the efficient use of resources.

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<sup>14</sup> Currently these duties are in sections 313 (Duty to have regard to the Special Educational Needs Code of Practice 2001); 317 (Duties in relation to pupils with special educational needs), 317A (Duty to advise parents that special educational provision is being made); and 324(5)(b) (Duty to admit the child where a school is named in the statement).

<sup>15</sup> These Regulations are amended by The Education (Special Educational Needs Co-ordinators) (England) (Amendment) Regulations 2009 (SI 2009 No 1387).

4. In addition to complying with the duties imposed upon the governing bodies of maintained schools set out in The Education (Special Educational Needs) (Information) Regulations 1999 (as amended from time to time), the Academy Trust must ensure that the alternative provision Academy's website includes details of the arrangements for the admission of disabled pupils; the steps taken to prevent disabled pupils from being treated less favourably than other pupils; and the facilities provided to assist access to the alternative provision Academy by disabled pupils (disabled pupils meaning pupils who are disabled for the purposes of the Equality Act 2010<sup>16</sup>).

### **Admissions**

5. The Academy Trust must ensure that pupils with SEN are admitted on an equal basis with others in accordance with its admissions arrangements.
6. Where a local authority ("LA") proposes to name the alternative provision Academy in a statement of SEN made in accordance with section 324 of the Education Act 1996, it must give the Academy Trust written notice that it so proposes. Within 15 days of receipt of the LA's notice that it proposes to name the alternative provision Academy in a statement, 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 where no reasonable steps may be made to secure compatibility. In deciding whether a child's inclusion would be incompatible with the efficient education of other children, the Academy Trust must have regard to the relevant guidance issued by the Secretary of State to maintained schools.
7. If the Academy Trust determines that admitting the child would be incompatible with the provision of efficient education, it must, within 15 days of receipt of the LA's notice, notify the LA in writing that it does not

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<sup>16</sup> For the meaning of 'disabled', see section 6 of the Equality Act 2010.

agree that the alternative provision Academy should be named in the pupil's statement. Such notice must set out all the facts and matters the alternative provision Academy relies upon in support of its contention that: (a) admitting the child would be incompatible with efficiently educating other children; and (b) the Academy Trust cannot take reasonable steps to secure this compatibility.

8. After service by the Academy Trust on the LA of any notice (further to paragraph 7 above) stating that it does not agree with the LA's proposal that the alternative provision Academy be named, the Academy Trust must seek to establish from the LA, as soon as is reasonably practicable, whether or not the LA agrees with the Academy Trust. If the LA notifies the alternative provision Academy that it does not agree with the Academy Trust's response, and names the alternative provision Academy in the child's statement, the Academy Trust must admit the child to the school on the date specified in the statement or on the date specified by the LA.
9. Where the Academy Trust considers that the alternative provision Academy should not have been named in a child's statement, they may ask the Secretary of State to determine that the LA has acted unreasonably in naming the alternative provision Academy and to make an order directing the LA to reconsider.
10. The Secretary of State's determination shall, subject only to any right of appeal which any parent or guardian of the child may have to the First-tier Tribunal (Special Educational Needs and Disability), be final.
11. If a parent or guardian of a child in respect of whom a statement is maintained by the local authority appeals to the First-tier Tribunal (Special Educational Needs and Disability) either against the naming of the alternative provision Academy in the child's SEN statement or asking the Tribunal to name the alternative provision Academy, then the decision of the Tribunal on any such appeal shall be binding and shall, if different from that of the Secretary of State under paragraph 9 above, be substituted for



the Secretary of State's decision.

12. Where the alternative provision Academy, the Secretary of State or the First-tier Tribunal (Special Educational Needs and Disability) have determined that it should be named in a child's statement, the Academy Trust shall admit the child to the alternative provision Academy.



