



House of Commons
Education Committee

Academies and free schools: Government Response to the Committee's Fourth Report of Session 2014–15

Fourth Special Report of Session
2014–15

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The Education Committee

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The current staff of the Committee are Dr Lynn Gardner (Clerk), Lloyd Owen (Second Clerk), Martin Smith (Committee Specialist), Beryl-Joan Bonsu (Social Media Support Assistant), Ameet Chudasama (Senior Committee Assistant), Simon Armitage (Committee Assistant) and Hannah Pearce (Media Officer). Dr Claudia Sumner was also a Committee Specialist during the inquiry.

Contacts

All correspondence should be addressed to the Clerk of the Education Committee, House of Commons, 14 Tothill Street, London SW1H 9NB. The telephone number for general enquiries is 020 7219 1333; the Committee's email address is educom@parliament.uk

Fourth Special Report

The Education Committee reported to the House on *Academies and free schools*¹ in its Fourth Report of Session 2014–15, published on 27 January 2015. The Government Response was received on 17 March 2015 and is published as an Appendix below. The Committee's original conclusions are included in bold and recommendations in bold and italics.

Appendix: Government Response

Education systems across the globe have been shifting power and responsibility to leaders of education. The academies programme gives schools greater autonomy and opportunity to innovate, within a strong framework of accountability. We have expanded and opened the programme to 'good' or 'outstanding' schools to enjoy the benefits of autonomy, and have set about the task of turning around primary schools. There is a huge demand from teachers and governors to run their own schools, and continuing enthusiasm from parents, teachers, and local community groups to create free schools.

The appetite for academy status has been apparent right across the country, and we now have academies in all local authorities, with the exception of the City of London and the Isles of Scilly. Since 2010, over 3,000 schools have chosen to become academies and 255 free schools have opened. 62% of pupils now attend a secondary academy or free school, and over one million more young people attend a 'good' or 'outstanding' school than in 2010.

Whilst the academies programme offers opportunities for schools to embrace autonomy, we are equally seeing the effectiveness of tackling failure by matching a school with a strong sponsor. Since September 2010, 1,172 sponsored academies have opened, transforming hundreds of underperforming schools. Across the country we are seeing how the efforts of academies to raise standards are having a positive impact on other schools in the local area, and we want this to continue.

Recent results show the impact we have had. The first wave of primary sponsored academies that opened by September 2012 has seen the proportion of pupils achieving level 4 or above in reading, writing and maths increase by nine percentage points since opening, double the rate of improvement across all schools. Academies and free schools also perform well against the new tougher Ofsted framework. Academies are more likely to retain an 'outstanding' rating and they are more likely to improve from 'good' to 'outstanding'. The great majority of free schools are performing well. 68% of those free schools inspected were rated 'good' or 'outstanding' by Ofsted under its tougher new inspection framework.

But we are not complacent. Some academies are not performing as they should, and that is one of the reasons why I have appointed eight Regional Schools Commissioners (RSCs) to take targeted local action. They are advised and challenged by Headteacher Boards (elected

¹ [Education Committee, Fourth Report of Session 2014–15, Academies and free schools, HC 258](#)

academy heads and experienced professional leaders), bringing sector expertise and local knowledge into the management of the system. RSCs will intervene to tackle failure.

I welcome the Committee's report into our academy and free schools programmes, and its findings that they may be making a positive difference. This response sets out our commitment to continue the development of these programmes and to fully acknowledge the Committee's recommendations.

Nicky Morgan MP

Recommendations and Department for Education response

Evidence of effect of academy status on standards and closing the gap

The evidence indicates that there is a complex relationship between attainment, autonomy, collaboration and accountability. PISA research does not support a straightforward relationship between attainment and the academy model of autonomous schools but it suggests that, together with other factors (including notably strong accountability), autonomy can work in the interests of raising attainment. There is less evidence of the impact of autonomy on closing the gap. The OECD is also clear that decision-making must also be delegated to the appropriate level if school-leaders and teachers are to be able to apply their professional skills to gain the best results. (Paragraph 61)

Current evidence does not allow us to draw firm conclusions on whether academies are a positive force for change. According to the research that we have seen, it is too early to judge whether academies raise standards overall or for disadvantaged children. This is partly a matter of timing. We should be cautious about reading across from evidence about pre-2010 academies to other academies established since then. What can be said is that, however measured, the overall state of schools has improved during the course of the academisation programme. The competitive effect upon the maintained sector of the academy model may have incentivised local authorities to develop speedier and more effective intervention in their underperforming schools. (Paragraph 63)

Our approach to expanding the academies programme and establishing free schools is based on precisely the evidence cited by the Committee: the importance of devolving decision-making to school leaders, and coupling that with clear accountability. We are absolutely clear about the impact that academies and free schools have had on children's achievement in these schools. Recent results show the impact the academies and free schools programmes have had. The first wave of primary sponsored academies that opened by September 2012 has seen the proportion of pupils achieving level 4 or above in reading, writing and maths increase by nine percentage points since opening. This is double the rate of improvement seen across all schools.

Academies and free schools also perform well against the new tougher Ofsted framework. They are more likely to retain an 'outstanding' rating, and they are more likely to improve from 'good' to 'outstanding'. The great majority of free schools are performing well. 68% of those free schools inspected were rated 'good' or 'outstanding' by Ofsted under its tougher new inspection framework.

Some chains, such as Harris, have proved very effective at raising attainment, while others achieve worse outcomes than comparable mainstream schools. What is clear is that the picture is highly variable across the country and in the case of sponsored academies, across chains. More information is needed on individual groupings. (Paragraph 64)

We recommend that the progress and results of each Multi Academy Trust (of more than three academies) be published on a chain by chain basis as well as by individual academy. (Paragraph 65)

We recommend that the DfE analyse and monitor the performance and other data relating to academy chains, and publish the results broken down by school and trust, in the interests of transparency and accountability. (Paragraph 155)

We agree with the Committee that it is important to provide more information about the performance of academy chains. We have agreed with Her Majesty's Chief Inspector how Ofsted will undertake inspections of academies in multi-academy trusts (MATs). As well as identifying any concerns, this approach will provide useful information about which MATs are the most effective and why.

In addition, we are exploring how we can publish more data about the performance of chains. Published performance tables data² already provides information on all schools so that users can examine the performance of academies in a chain, but we want to make this even easier by enabling users to search for information by sponsor.

We have also been working with academy chains and local authorities (LAs) to develop a more sophisticated and robust methodology which will make new comparative data on performance at chain and LA level available. We therefore commit to publishing both a consultation document on this proposed methodology and the accompanying performance data at KS4 for medium and large chains and LAs before the end of the Parliament. This consultation will invite comments as to the strengths and weaknesses of the proposed methodology.

The majority of academy freedoms are available to all schools. One of the few that is not available—but equally one of the most widely used and important—is the freedom to vary the curriculum (whilst still being required to offer a broad and balanced curriculum to all pupils). (Paragraph 66)

We recommend that curriculum freedoms be made available to all schools. (Paragraph 67)

The reformed national curriculum sets out only the essential knowledge that children should acquire, leaving teachers to decide how to teach this most effectively. In addition, our reformed GCSEs and A levels set the same high standards as the new national curriculum, and will provide a common benchmark of performance for all schools.

2 www.gov.uk/school-performance-tables

Academies have demonstrated innovation through their curriculum freedoms³. All schools can become academies, and can make the most of the wide range of benefits that autonomy brings, providing they are a strong school or have a strong sponsor who will help them to make a success of it.

The limited use of their freedoms by academies suggests that more needs to be done to encourage them to innovate and explore the opportunities open to them. We note the inclusion of ‘use of academy freedoms’ in the Ofsted inspection framework, but consider that a box-ticking exercise could be misdirected. (Paragraph 68)

We recommend that Ofsted look for evidence of effective innovation rather than name-checking use of specific freedoms. (Paragraph 69)

Ofsted’s remit is to report on the quality and effectiveness of the education being provided for all pupils in a school, and inspectors may report examples of effective innovation contributing to outcomes and attainment of pupils. This innovation, however, is only relevant if it is making a difference to standards.

The agreed approach for Ofsted of batching together academies in a MAT that are due to be inspected provides a useful opportunity for MATs to demonstrate where they are adopting innovative approaches to supporting their academies and contributing to improvement.

The department has conducted and published research⁴ into how academies are innovating, which has shown that the majority are voluntarily using their freedoms to innovate and improve. 79% of academies had changed or planned to change their curriculum; 90% had procured or planned to procure services previously provided by the LA; and 84% were now linking pay to performance. Two-thirds of those surveyed believed these changes had improved attainment. The department’s ‘What good looks like’ research in 2014 also showed that chains are innovating to deliver efficiencies for their academies.

The Education Endowment Foundation (EEF) also has a remit to examine best practice of innovation in schools and academies and identifies and shares information on where effective practice lies.

Oversight and monitoring

The evidence to our inquiry supports the need for a middle tier between Whitehall and individual schools. The Regional Schools Commissioners are intended to fill that gap, but their role is still evolving. There are differing views, including amongst postholders themselves, as to how the functions of RSCs will develop. We recommend that the Government clarify what that role is and how it will develop in the near future. (Paragraph 98)

The RSC regions are too large as currently devised. We do not believe that an increase in staff numbers, as envisaged by the Secretary of State, would allow the RSC offices to

3 www.gov.uk/government/uploads/system/uploads/attachment_data/file/401455/RR366_-_research_report_academy_autonomy.pdf

4 www.gov.uk/government/uploads/system/uploads/attachment_data/file/401455/RR366_-_research_report_academy_autonomy.pdf

be sufficiently in touch with local information, given the number of schools potentially involved. The number of Regional Schools Commissioners will need to increase from the current eight if they are to perform an effective oversight role for the academies in each region, and even more so if they are to be extended to cover maintained schools as well. (Paragraph 99)

We recommend that the Government review and increase the number of schools commissioners. (Paragraph 100)

Local authorities cannot embrace their new role in education without a clear and unambiguous codification of their role and responsibilities. These should include the championing of the interests of local children, families and employers in ensuring high quality, accessible local provision, rather than championing the schools themselves. (Paragraph 101)

As local authorities adjust to their new role, the Department should also adjust and ensure that local authorities can play a constructive role in challenging all schools, including academies, to be effective. If local authorities perceive themselves to be marginalised and ignored, they will not fulfil their role in holding schools to account. (Paragraph 102)

We recommend that the DfE, as a matter of urgency, clarify the respective roles of local authorities and RSCs in relation to academies. (Paragraph 103)

We welcome the Committee's views on Regional Schools Commissioners (RSCs). Early indications are that the RSCs and their Headteacher Boards are performing extremely well. We expect the role of RSCs to develop in response to the evolution of the academies and free schools programmes.

RSCs exercise the Secretary of State's responsibilities for the educational performance of academies, including free schools, university technical colleges and studio schools. They have improved our oversight and intervention in academies by providing local intelligence and increased sector expertise to make speedy, informed and decisive interventions.

The department has set out the respective roles and responsibilities of RSCs, LAs and the Education Funding Agency (EFA) in the revised Accountability System Statement⁵ and the Schools Causing Concern guidance⁶, both published on 20 January. RSCs are responsible for tackling academy and free school underperformance, approving new academy conversions, managing the sponsor market in their region, and approving changes to open academies where approval is needed by ministers (for example changes to MAT structures). In relation to free schools, they advise on free school approvals, which projects will go through to the pre-opening stage, and which will move to a funding agreement with the Secretary of State.

LAs are encouraged to report any concerns about the educational performance of an academy in their area to the relevant RSC.

5 www.gov.uk/government/uploads/system/uploads/attachment_data/file/396815/Accountability_Statement_.pdf

6 www.gov.uk/government/publications/schools-causing-concern--2

The voice of parents can be marginalised in some academies. We recommend that the DfE work with academies and local authorities to ensure parents know how they can make representations and that these are meaningfully heard. (Paragraph 104)

We also recommend that the Education Funding Agency and the Regional Schools Commissioners establish protocols so that parental complaints are dealt with effectively and information from the process is shared between the authorities. (Paragraph 105)

The department has clearly established and publicised channels for parental complaints⁷ in academies. If parents have issues concerning academies, it is important that these are carefully considered by the academy. We will continue to work with academies to ensure that they are clear on this expectation that they listen to parental concerns and investigate them properly, in line with their statutory obligations.

If a parent is dissatisfied with the way an academy has handled their complaint, they can redirect it to the EFA to assess it using their complaints handling process. The EFA investigates whether the academy has a rigorous procedure for managing complaints and whether it handled it appropriately.

RSCs do not have a formal role in investigations into complaints. If an RSC receives an academy complaint or becomes aware of an issue, they will ensure it is passed to the EFA for a response.

Many witnesses have complained about the lack of transparency at the EFA. We recommend that the DfE and EFA further enhance the transparency and accountability of the monitoring process to ensure that academies comply with the terms of their funding agreement. (Paragraph 106)

Public confidence in the academy process is undermined by having the EFA as both regulator and funder. We recommend that its regulatory and funding roles be split and that the DfE carry out a review about how that can best be achieved. (Paragraph 107)

The EFA's responsibility for both regulatory and funding roles is in line with a government-wide approach to managing public money, as set out by HM Treasury⁸, which requires Accounting Officers to ensure regularity, propriety and value for money. The EFA is responsible for the allocation of over £56 billion of public money for the education of children and young people. It is appropriate for it to hold the regulatory role for this funding as the guidance states that it, through the office of its accounting officer, has a responsibility to oversee governance of the public funds it has been allocated and to use its resources efficiently, economically and effectively, avoiding waste and extravagance.

The Accountability System Statement⁹ also sets out the department's responsibilities to Parliament for the proper stewardship of resources and confirms the role of an additional accounting officer for the EFA to manage the public funds allocated to the agency. For academies there is a clear chain of accountability from each academy trust, which has its own accounting officer, through the EFA to the Department for Education Permanent

7 www.gov.uk/complain-about-school

8 www.gov.uk/government/uploads/system/uploads/attachment_data/file/212123/Managing_Public_Money_AA_v2_-_chapters_annex_web.pdf

9 www.gov.uk/government/uploads/system/uploads/attachment_data/file/396815/Accountability_Statement_.pdf

Secretary as the accounting officer for the department. In addition, the EFA is required to adhere to a Framework Agreement for Executive Agencies, which ‘provides for the Accounting Officer of the Department as sponsor to exercise meaningful oversight of the EFA’.

The EFA’s monitoring process is effective because it involves significant independent scrutiny. This involves securing assurance by external auditors; running an internal assurance programme to review audited academy trust accounts, auditor management letters, accounts returns, budget forecast returns, and financial management and governance returns; and investigating and intervening where it is apparent that there is a risk to public funds. These arrangements are underpinned through extensive discussions and joint working with academy representatives and with their auditors to develop and publish regular advice and guidance.

Academy trusts are required to:

- prepare an annual report and financial statements each year;
- have these accounts audited by an independent auditor;
- file these accounts with the Companies Registrar, as required under the Companies Act 2006; and
- arrange an independent review of regularity and include a report on regularity as part of the accounts.

We agree with the Committee that it is important that the accountability system is transparent, and on 20 January we set out the respective roles and responsibilities of the department, RSCs, LAs and the EFA in the revised Accountability System Statement¹⁰. This sets out that:

“The Secretary of State, via the EFA, holds Academy Trusts (ATs) to account in respect of compliance with the terms of their Funding Agreement, including ensuring financial propriety and value for money. Funding Agreements stipulate that ATs must abide by the requirements of the Academies Financial Handbook (AFH), published by the EFA. This Handbook contains information on the duties and obligations of ATs arising from the Funding Agreement and sets out the financial management and audit requirements for academies. In addition, the model Funding Agreement states clearly that the AT must apply ‘financial and other controls which conform to the requirements both of propriety and of good financial management’.

Collaboration and partnership in a school-led system

Collaboration is essential in a self-improving school system in order to provide challenge, support and economies of scale. Harnessing the effectiveness of partnerships to raise school performance is particularly important where schools are autonomous. More needs to be done to encourage collaboration and ensure that it happens. We recommend that Ofsted include evidence of collaboration in its inspection criteria and that a school must

10 www.gov.uk/government/uploads/system/uploads/attachment_data/file/396815/Accountability_Statement_.pdf

demonstrate effective partnership with another school in order to be judged 'outstanding'. (Paragraph 120)

Evidence to the inquiry suggests that collaboration is much more likely to occur and be effective if it is brokered by a third party, such as a trust or local authority. Effective brokering of collaboration between schools must be planned and considered, to ensure that the partnership is advantageous to both parties, rather than cumbersome, and real rather than cosmetic. (Paragraph 121)

We have heard evidence that local authorities can be effective at brokering school partnerships. We recommend that the Government set out how it will incentivise the spread of this best practice, including through Ofsted. The codification we have recommended of the responsibilities of local authorities with regard to academies should include their role in ensuring effective collaboration between all schools. (Paragraph 122)

We recommend that the DfE strengthen its monitoring of the collaboration of converter academies with other schools. We also recommend that the Secretary of State seek to renegotiate all existing funding agreements to introduce a requirement for collaboration for school improvement purposes and that all future agreements include this requirement (Paragraph 123).

We agree with the Committee about the positive impact collaboration has on school improvement. Academies are increasingly choosing to collaborate, and almost three-quarters of academies that opened since September 2013 have joined a chain¹¹. 58% of all academies and free schools are now in a formal chain.

We actively encourage 'good' and 'outstanding' academies to become sponsors of failing schools to drive improvement. Academies are embracing this opportunity and we now have 400 sponsors that are converter academies. We will continue to encourage more converters to take this step. In many cases we are now brokering sponsored academy solutions for failing schools that bring them into established MAT arrangements.

Academies are increasingly choosing to collaborate, and we will continue to encourage and support them to do this through policy development, funding and other incentives. It would, however, be disproportionate to renegotiate all existing funding agreements to make this a requirement. It would also be wrong to create a system of school inspection that penalises heads who have chosen to focus their efforts on improving their school. Her Majesty's Chief Inspector's stated view on this is that "there are some schools which have got to "outstanding", the headteacher has struggled to get it there, but it hasn't got the capacity to support other schools. It would be unfair not to give it that "outstanding" rating if it deserved it."

The department's Schools Causing Concern guidance¹², which sets out the roles and responsibilities for the department and LAs for tackling underperformance, also encourages LAs to facilitate fora where all local schools, including academies, can compare data, hold each other to account, and discuss school-to-school support.

11 MAT of two or more, or sponsor with two or more academies.

12 www.gov.uk/government/publications/schools-causing-concern-2

The department's 'What good looks like' research also highlights characteristics of effective collaboration. We will promote these characteristics with LAs and sponsors to demonstrate the benefits of collaboration.

Sponsorship and regulation of academy chains

The DfE has begun looking at what makes chains effective but more needs to be done and the results of this work need to be better disseminated. We recommend that the DfE build on its existing analysis of the characteristics of academy chains by examining best practice and the operation of effective chains, in order to inform the active promotion of best practice across all Multi Academy Trusts. (Paragraph 154)

We welcome the Committee's interest in the research on effective chains. We are extending our analysis of what a good sponsor looks like, building on work completed in 2014. Our updated project covers more chains than last year (over 150 chains). We will be making the full findings available later in the spring to RSCs and through our newsletter to sponsors.

Greater transparency is also needed regarding the process and criteria by which sponsors are authorised and matched with schools. This information should be clearly set out and be in the public domain. The process of authorisation and approval has improved but could still be sharpened. Greater transparency over DfE decision-making will help in encouraging new sponsors to come forward and to understand what will be required of them. We recommend that the Government outline the process and criteria by which sponsors are authorised and matched with schools. (Paragraph 156)

RSCs decide whether to approve proposed new academy sponsors, as part of their wider responsibility for managing their regional sponsor markets. Information on the sponsor application process¹³ is online at www.gov.uk. This states that to be successful, a sponsor needs to show:

- evidence of achieving lasting educational improvement;
- strong planning, including, where necessary, realistic regional growth plans;
- evidence of financial expertise; and
- clear governance structures and lines of accountability.

Strong external challenge and support of an academy sponsor is the best way to improve underperforming schools. That is why we encourage the governing bodies of all underperforming schools to move towards sponsored academy status. Brokerage discussions are sensitive to the circumstances of the school, but in all cases we will seek to discuss with the governing body the challenges in the school, the benefits of becoming a sponsored academy, and agree the process for moving forward. We take account of all views including any alternative solutions or alternative academy sponsor options. RSCs are responsible for recommending to ministers which sponsor should take on an underperforming school. We also take account of evidence from Ofsted, the situation at the school and the school's performance history before taking a decision.

¹³ www.gov.uk/sponsor-an-academy

Conflicts of interests in trusts are a real issue, as shown by the cases which have come to light so far, and they are magnified in the public eye by the latent potential for the misuse, apparent or actual, of public money. It is essential that academy trustees act as trustees and on the Nolan principles of conduct in public life. We acknowledge that the DfE has responded and strengthened the system but we believe that the Department should go further. We recommend that the DfE take further steps to strengthen the regulations for governance in academy trusts and that the EFA revise its guidance on at cost transactions to make expectations of academies clearer. (Paragraph 157)

The department has set out in the Governors Handbook¹⁴ clear expectations of governors, and their responsibilities in regulations and guidance, including the need for appropriate training. Oversight of the quality of governance in maintained schools is an LA role, and advice is provided in the revised Schools Causing Concern guidance¹⁵. The Ofsted inspection regime maintains a strong focus on the quality of governance for all schools. It is the appropriate means of assessing the capability and capacity of governors to a frequency proportionate to the overall performance of the school.

Oversight of academies' governance is the responsibility of the EFA, which scrutinises academy trusts' annual governance statements which form part of their published audited annual accounts. The EFA has strengthened its monitoring of governance changes in academies, and the department has taken clear new powers to bar those involved in academy governance found to be unsuitable. The roles and responsibilities of governors and trustees are clearly set out in the AFH, and if there is a breach, the EFA will consider whether intervention is necessary. The trust must also be able to demonstrate the accounting officer is a fit and suitable person for the role as set out in the AFH.

The EFA has a thorough approach to 'at-cost' transactions. The disclosure of related party transactions is standard accounting practice for charitable companies, and is designed to promote transparency and avoid conflicts of interest. Academies therefore place much more information into the public domain about such transactions than LA-maintained schools, who do not publish individual annual accounts.

In November 2014, the EFA published a report on related party transactions, following its review of academies' annual accounts, and provided within it examples of acceptable and unacceptable transactions to drive best practice. It also provided guidance to academy external auditors that emphasises the scrutiny of related party transactions as part of their assessment. Where academies breach the related party transactions rules the EFA has stressed that it may issue a financial notice to improve, and may stop them from entering into such transactions for the duration of the notice without approval.

The EFA's scrutiny showed that the vast majority of related party transactions are established for sound business reasons, and are properly managed and disclosed. The EFA requires related party transactions to be "at cost" only, with no profit allowed. This means that individuals and organisations with significant influence over an academy trust, including the trust's members, trustees and sponsors cannot use their position for personal

14 www.gov.uk/government/uploads/system/uploads/attachment_data/file/395789/Governors_Handbook.pdf

15 www.gov.uk/government/publications/schools-causing-concern--2

gain. For 2014 to 2015, to reduce bureaucracy, the EFA has introduced a ‘de minimis’ limit of £2,500 for this policy, but transactions above that limit must still be at cost.

The EFA has prepared a sample ‘pro forma’¹⁶ to help academies and their auditors confirm that related party transactions are ‘at cost’.

Our evidence suggests that the oversight of chains needs to be improved in several areas. We recommend that the accountability and monitoring system for chains, and the criteria used to ‘pause’ their expansion, be made more transparent and open. The DfE should publish the process and criteria that will be used in reviewing and renewing academy funding agreements. (Paragraph 158)

Our strong accountability regime allows us to tackle underperformance in academies and free schools swiftly. If academies are underperforming, the RSC will discuss measures for improvement. When an academy, sponsor or chain does not take appropriate action, the RSC, acting on behalf of the Secretary of State, can intervene by bringing in additional expertise; challenging the trust to make changes to the leadership team; or issuing pre-warning notices and warning notices. RSCs may also look to change trust, bringing in another sponsor. In the most serious cases the Secretary of State may decide to close an academy.

We agree with the Committee that it is important that the process for monitoring the growth of sponsors is transparent, and the department will write to all sponsors to confirm this information. As part of this accountability regime, RSCs monitor the progress and growth of all academy sponsors, and discuss with them their capacity, including plans for growth. RSCs agree what would be an appropriate limit on growth, reflecting their capacity, and this becomes a guideline for working together to find solutions for failing schools.

A ‘pause’ is imposed if there are:

- serious financial concerns and the EFA has issued a financial notice to improve;
- serious concerns about the leadership or governance of the sponsor, including where there are due diligence issues with sponsors or trust senior management; and/or
- serious unresolved concerns with educational impact, which could include a combination of the department or RSC having issued pre-warning notices, the department or RSC considering academy closure, and/or where, following support from the department, the sponsor has failed to act rapidly.

In instances where a sponsor is officially directed to ‘pause’, a letter will be sent setting out the exact reasons. RSCs contact them to agree a case-specific action plan which addresses these issues. The ‘pause’ becomes effective from the moment the letter has been issued, and the RSC expects ‘paused’ sponsors to notify all open academies of their situation. The implications of being on the ‘paused sponsor’ list are:

- No brokerage of sponsored academies and converters.

16 www.gov.uk/government/publications/review-of-related-party-transactions-in-academies

- The pausing and re-brokerage of all pipeline projects.
- The sponsor must work with the department to agree an action plan which addresses the issues with the sponsor's academies.

'Paused' sponsors are assessed against a plan agreed with the RSC, and continued presence on the list is monitored by the department.

Lessons should be learned from the US experience of charter schools with regard to oversight arrangements. We recommend that the Government reconsider the appropriate length of funding agreements, with a view to reducing it to five years, and publish its assessment. (Paragraph 159)

The department takes a detailed interest in international comparisons when formulating and implementing policy, including, but not limited to, the United States and Charter Schools using their freedoms to raise standards. The US and other experiences demonstrate that the speed of our intervention is most important to ensure the effective management of the academy system. The revised funding agreement allows us to intervene swiftly where we identify educational underperformance, safeguarding, finance or governance issues. In cases of failure we will find a new sponsor or where appropriate close the school. Rather than waiting for an agreement to end, whether that is five years or seven years, we are able to take swift action.

We recommend that the DfE create a mechanism for schools to be able to leave academy chains where the relationship is no longer appropriate. (Paragraph 160)

Where an academy needs to leave a chain in order to improve its performance, the department will consider intervening. Where schools are not underperforming, the department will generally facilitate a move where there is mutual consent. We are very aware that we need to be mindful of the impact that one academy leaving a MAT can have on the other academies in the MAT. It is for these reasons that schools cannot unilaterally elect to leave a MAT. We are considering further how we might support schools that wish to leave a MAT where it is in its and the MAT's best interest.

We also recommend that the DfE develop a failure regime for chains, as in the Netherlands, and publish a protocol for dealing with the failure of a large chain as well as how individual schools will be treated when a chain indicates that it can no longer run them. (Paragraph 161)

We agree with the Committee's recommendation to investigate the experience of the Netherlands, and seek to build the learning from their experience into the academies and free schools programmes. The department already has a failure regime in place, but the experience of the Netherlands may help us to develop this further.

We closely monitor the performance of sponsor-led trusts using performance data, Ofsted ratings and financial data, and have introduced a system for pausing sponsors where we have serious concerns. RSCs and their Headteacher Boards have improved oversight of and intervention in academies using local intelligence, performance information, and financial data to make speedy and decisive interventions. The department is also continuing to increase its understanding of what makes a good sponsor, sharing this across the sector.

The current system of focused inspections of groups of academies in a chain has also shown itself capable of providing information about sponsors or other MATs that has supported firm action on sponsors where needed. This oversight enables us to more quickly identify if a chain is at risk of failure.

If an academy chain is underperforming we will contact them to discuss measures for improvement. When a sponsor or chain does not take appropriate action, the RSC can intervene, and may move academies from the trust to another sponsor.

We have listened carefully to the arguments put forward by the DfE against inspections of chains by Ofsted but we remain unconvinced. We believe that an Ofsted inspection judgement for each academy chain would improve Multi Academy Trusts in the same way as it has schools and local authorities. We also believe that, given the failure of some high profile academy chains, the grading of academy chains and corresponding report information would help Regional Schools Commissioners monitor chain performance, and would give parents important information about the academy chain that stands behind their school. (Paragraph 162)

We recommend that Her Majesty's Chief Inspector of Schools be given the powers he has called for in respect of inspecting academy chains. (Paragraph 163)

We believe that the most appropriate way to ensure that MATs are properly held to account for their performance is to build on Ofsted's approach to focused inspections of MATs, and to clarify any areas of uncertainty. We have written to Her Majesty's Chief Inspector to set out this approach¹⁷.

We recommend that all academies and chains publish in their annual accounts the salary and other remunerations of senior leaders within bands. (Paragraph 164)

We agree with the Committee's recommendation, and this is already the case. Charity Commission rules for preparing accounts mean that academies have to disclose in their accounts the number of employees whose pay exceeds £60,000, in £10,000 bandings. Where academy staff are also trustees, their pay and other benefits must be disclosed regardless of value. As a minimum, this will generally include the principal in a single academy trust, and the chief executive in an academy chain. The EFA sets out these requirements in the Academies Accounts Direction¹⁸. If trusts do not comply, this will generally lead to a qualification by the auditors.

Effective structures for primary schools

We have sought but not found convincing evidence of the impact of academy status on attainment in primary schools. We recommend that the DfE commission, as a matter of urgency, research into the relationship between academy status and outcomes at KS1 and KS2 so that sponsors and RSCs can be clear which models and characteristics are most strongly correlated with improved performance. (Paragraph 173)

17 www.gov.uk/government/uploads/system/uploads/attachment_data/file/397810/Nicky_Morgan_letter_to_Ofsted.pdf

18 www.gov.uk/government/publications/academies-accounts-direction

We have set about the task of maximising the potential of primary schools, and recent KS2 results show the impact we have had at primary level. The first wave of primary sponsored academies that opened in September 2012 has seen the proportion of pupils achieving level 4 or above in reading, writing and maths increase by nine percentage points since opening. That is double the rate of improvement across all schools (four percentage points). We also know that primary converter academies also do better against the new tougher Ofsted inspection framework. Department analysis (2014)¹⁹ shows that primary converters are more likely to retain their ‘outstanding’ rating, and are more likely to improve from ‘good’ to ‘outstanding’ than LA-maintained schools.

We agree with the Committee that it is important to continue to analyse how well academy status works in the primary phase. To carry out such analysis requires a large enough number of primary academies to have been open long enough to have a reasonable time series of results which can be analysed. We are only now reaching such a position, and will be undertaking this analysis in 2015.

We also believe that the development and use of evidence should be increasingly driven and owned by the research community, sector bodies and practitioners. In support of this principle we have published a suite of priority and question papers²⁰ covering our key areas of work. Amongst our research priorities we have asked ‘What motivates primary schools to become academies?’ and ‘What are the key elements for them to achieve and sustain long term improvement and viability?’

The primary sector benefits most from collaborative structures, whether these are facilitated by academy status or otherwise. We reiterate the recommendation in our report on school partnerships and collaboration that the additional funding available to schools through the Primary Chains Grant be extended to primary schools forming maintained federations, as well as Multi Academy Trusts. Such funding is particularly important to encourage collaboration between small schools in rural areas. (Paragraph 174)

We agree with the Committee that it is important for primary schools to collaborate. The Primary Chain Grant was introduced to support schools choosing to form a MAT because of the benefits that collective academy status and shared autonomy can bring. This includes economies of scale, particularly in back-office functions; sharing and developing excellent staff to help meet teacher recruitment needs; and sharing development of middle leaders, which can boost leadership capacity across the MAT.

68% of primary academies and free schools are now in a chain. We will continue to seek ways to encourage and support primaries to collaborate with other schools, through policy development, funding, and other incentives.

19 www.gov.uk/government/uploads/system/uploads/attachment_data/file/269332/DFE-RR322_-_Converter_Academies_Ofsted.pdf

20 www.gov.uk/government/uploads/system/uploads/attachment_data/file/287560/Academies_research_priorities_and_questions.pdf

Creation of Free Schools

Free schools are a flagship policy of the Government, designed to allow experimentation, but it appears that the policy has been altered so that these schools are also intended to meet basic need for places. The DfE needs to be clear and transparent about how the competition for free school funding is decided and the relative weight it gives to each of innovation, basic need, deprivation and parental demand, and to publish the number and type of applications it receives, from whom and the criteria it uses to make decisions on applications. We also recommend that the Government examine carefully any applications for free schools in areas where there are surplus places and a large proportion of existing schools which are good or outstanding. (Paragraph 188)

Our established guidance²¹ states clearly that the free schools programme is responsive to the need for pupil places; the need for an alternative to low-quality local provision; and local demand for new provision (including innovative and distinctive models). Applicants must demonstrate both demand from parents and a need for the school in terms of the sufficiency and/or quality of existing school places. Applications that demonstrate that there is a significant shortage of places in an area will be scored more highly.

The department published a research report²² in September 2014 which found that free schools are bringing new ideas and approaches to our school system: two-thirds offer an alternative to the national curriculum in some or all subjects; around half have an extended school day; and a similar proportion operate different term dates and lengths to other schools in the area. The majority of headteachers interviewed said they believe that using such opportunities to innovate is important for them in delivering the vision they have for their school. Around 50% of open free schools serve the 30% most deprived wards.

Free schools are unlikely to be more than a small part of the strategic plan to create more school places where they are most needed. This does not remove the imperative to ensure that the body with overall responsibility for place planning in an area is aware of plans to establish new schools which will affect their calculations. We recommend that the DfE ensure that local authorities are informed of any proposal to open a free school in their area. (Paragraph 189)

This is already part of our assessment process. We communicate with LAs at three specific points during the process of opening a free school. First, LAs are told about any free school applications that are listed for interview and we reflect upon any comments they have when making recommendations on which applications to approve into pre-opening. Second, when a project is approved into the pre-opening stage we inform the relevant LA. And third, during pre-opening, LAs are consulted on the impact that the proposed school will have on other educational establishments in the area, ahead of entering into a funding agreement.

The DfE publishes impact assessments on how it is predicted that free schools will affect schools in their area but similar information is not published to assess what has happened after the school has been established. We recommend that the DfE collect and publish

21 www.gov.uk/government/publications/free-schools-in-2014-how-to-apply-mainstream-and-16-to-19-free-schools

22 Are free schools using innovative approaches? www.gov.uk/government/publications/innovative-thinking-within-free-schools

statistical information on the intake of free schools, and monitor the effect of newly created schools on the intake and attainment of neighbouring schools. (Paragraph 190)

We agree with Ofsted that it is too early to draw conclusions on the quality of education provided by free schools or their broader system impact. (Paragraph 191)

Details about the intakes of free schools and all other schools, including those located nearby to free schools, are published in the annual school census. Attainment data are found within the department performance tables. We already assess the likely impact of free schools on existing provision. During the assessment process, we consider the quality and popularity of existing schools, and before the Secretary of State enters into a funding agreement with a free school trust, the department must assess the likely impact of opening the free school on other local schools. As part of this LAs are consulted on the impact that the proposed school will have on other educational establishments in the area.

We know from international evidence that school autonomy (in tandem with accountability) can improve performance, and just a few years after the first free schools were established 68% of those inspected have been graded as either 'good' or 'outstanding' by Ofsted. The department's research report²³ from September 2014 found that free schools are not working in isolation: they are collaborating with and supporting other local schools, helping to fulfil the government's vision of a self-improving, school-led system. Eight out of ten free schools already formally collaborate with other schools, or plan to do so. This collaboration takes many forms from allowing use of the school's facilities by others to allowing specialist subject teachers to teach in other local schools.

Three-quarters of the headteachers who took part in the research project believe their school has contributed to a rise in the quality of local education generally because of the way they are working with other schools and competing in places, thereby challenging others to improve. Free schools are still relatively new, and this report is an early contribution to understanding how they are working. We plan further work on how specific approaches benefit pupils, and to support the sharing of best practice to encourage further school-led improvements in the education system.

Future schools landscape and implementation of education policy

There have been major shifts in the structure of schools in England over the last four years but it is salutary to remember that, despite all the attention paid to academies and free schools, of the 21,500 state-funded schools in England, 17,300 are maintained schools and 4,200 are academies as at August 2014. It is not the case that the system will inevitably achieve full academisation, although for secondary schools that is already the dominant model and the direction of travel is strongly indicated. We call on the Government to spell out its vision for the future of schools in England, including the structures and underpinning principles that it envisages will be in place in five to ten years' time. (Paragraph 204)

Building on our successes since 2010, we expect to see the continuing expansion and success of the academies and free schools programmes into the next Parliament and

23 Are free schools using innovative approaches? www.gov.uk/government/publications/innovative-thinking-within-free-schools

beyond. We are confident that many more schools will take the opportunities and freedoms that academy status provides. Our underpinning principles will continue to be autonomy for school leaders to run their schools free from bureaucratic control, accompanied by sharp and effective accountability. We will set out more detailed plans early in the new Parliament.

The oversight and intervention systems for English state schools differ according to whether they have academy or maintained status. Both major political parties have suggested that all state schools may be brought under a single regime in the future. Any future government should consider whether the existing dual system is beneficial in encouraging the development of more effective and earlier challenge to and remedies for underperformance. (Paragraph 205)

We have a range of mechanisms for intervening in underperforming schools. The Education and Inspections Act 2006 and the statutory Schools Causing Concern guidance²⁴ set out the legislative requirements for intervening in maintained schools that are “causing concern”. The intervention framework for academies is set out in the funding agreement for each academy. Both regimes are based on the same triggers – an ‘inadequate’ Ofsted judgement; unacceptably low standards of pupil performance; a serious breakdown in the way the school is managed or governed; or a threat to the safety of pupils or staff at the school. It is for LAs to take action in relation to maintained schools, and for the department and the EFA in relation to academies. It will be for a future government to consider any further changes.

For the new architecture to work most effectively not only must individual academy performance be publicly transparent but academy chains themselves must be as fully scrutinised as local authorities. The DfE, in particular, needs to be far more open about the implementation of the academies programme and how it assesses and monitors schools and chains. This includes funding and regulation by the EFA. Rather than seeing every request for information as an attack on the policy, the DfE has much to gain from transparency and clarity over its processes. (Paragraph 206)

We agree with the Committee that it is important that the system for assessing and monitoring schools and chains is transparent. As set out earlier in this response, we have now set out the respective roles and responsibilities of the department, RSCs, LAs and the EFA in the revised Accountability System Statement²⁵. In addition, the department publishes all pre-warning notices and warning notices for academies online²⁶. The EFA also publishes all financial notices to improve online²⁷.

We have also set out in this response that we are committed to publishing a consultation document on a proposed methodology which will make new comparative data on performance at chain and LA level available. We see the value of transparency, and it is in this spirit that we are seeking views on how we might approach this new measure.

24 www.gov.uk/government/publications/schools-causing-concern--2

25 www.gov.uk/government/uploads/system/uploads/attachment_data/file/396815/Accountability_Statement_.pdf

26 www.gov.uk/government/collections/letters-to-academies-about-poor-performance

27 www.gov.uk/government/collections/academies-financial-notice-to-improve

The process of conversion to academy status has been exceptionally fast by international standards. We recommend that the DfE review the lessons of the wholesale conversion of the secondary sector to inform any future expansion. (Paragraph 207)

The department continually reviews the progress and performance of the academy and free schools programmes and we take swift action where it is required. We have always developed our approach in light of lessons learned through every stage of the programme and we will continue to do so. The introduction of RSCs in 2014 is a clear example of us responding to an emerging need to bring local intelligence and oversight to the programmes.