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The Gove reforms a decade on

What worked, what didn't, what next?

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About this report

The last decade has seen a massive expansion in the number of academies. This has dramatically transformed the roles of central and local government as well as leading to the development of well over a thousand multi-academy trusts running schools. This report sets out the challenges these changes have caused – focusing on complexity, quality and equality – and looks at possible solutions that would lead to a properly regulated and coherent schools system.

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Summary

In 2010 Michael Gove, as secretary of state for education, unleashed the most significant change to the structure of the education system in decades by allowing all schools to convert to academy status. This gave them additional autonomy and took them out of local authorities. In doing so he was building on reforms started by another Conservative education secretary, Kenneth Baker, in 1988, which allowed some schools to 'opt out' of their local authority, and which had been transformed into the academies programme by Tony Blair and his 'schools guru', Andrew Adonis. The Gove reforms supercharged this 25-year process of weakening local authority control of schools.

There have been positive impacts – there are now many multi-academy trusts (MATs) that run multiple schools and achieve outstanding results with previously under-performing schools. Their ability to use efficiencies of scale to provide greater support to schools, co-ordinate back-office functions and provide professional development to staff can be transformational. But at a system level the effects have been patchy. This report identifies three major problems:

- **Complexity:** academies now make up almost 50% of all schools resulting in an inefficient 'dual system' where local authorities still have to support a diminishing number of schools with declining resources. This causes significant duplication, with MATs and local authorities responsible for the same functions. In addition the regulatory system for academies is incoherent, with financial regulation split from performance management, and with no single person or office in the system able to properly hold MATs accountable for poor educational performance.

- **Low quality:** far too many MATs do not add enough value to the schools within them. Yet it is not possible to hold them properly to account for this as there are no set expectations on what MATs must do in terms of school improvement and engagement with the wider system and no legal mechanism to act on concerns. There is also limited capacity in the system to develop and grow high-performing MATs.

- **Inequality:** responsibilities for fair treatment of young people – especially those with additional vulnerabilities like special educational needs and disabilities (SEND), or who are in care or at risk of exclusion – still mostly sit with local authorities. But it is increasingly difficult for authorities to fulfil these duties as they do not have the requisite powers – for example, they have no say over place numbers or admission in academies. Their limited powers in relation to SEND pupils and placing excluded pupils are of little use if academies choose to be uncooperative, while they have no powers to co-ordinate services. This misalignment can be harmful to the most vulnerable pupils in the system.

All of these problems stem from the way the academies programme has evolved in an unplanned way, leaving big gaps and misalignments. There is now an opportunity for the new education secretary, Nadhim Zahawi, to set out a coherent process for moving to a fully academised system. One way or another this is likely to happen over time, even if just by drift. Almost no one wishes to go back to the old system, which anyway is no longer viable due to reduced local authority capacity. A move to full academisation – if done in a sensible, planned way, with the consent and support of schools and other stakeholders – can remove many of the obstacles to the successful operation of the system.

This report recommends a three-phase programme of reform to ensure this happens. The first phase would see the development of an aligned, coherent, legal and regulatory structure for MATs and local authorities. The second phase would involve moving, once the right structures are in place, to an all-MAT system with a focus on building capacity. The final phase would build in more bottom-up accountability to ensure the system didn't become stale and static.

The recommendations given in brief below set out how the Department for Education (DfE) can address the key problems outlined above in each of the proposed phases.

Recommendations in brief

Phase 1: Creating a system with aligned powers and responsibilities

Reducing complexity
- Create a proper statutory basis for academies, MATs and academy regulation.

- Establish a single arm's length regulator for academy trusts, merging the academies responsibilities of regional schools commissioners and the Education and Skills Funding Agency.

Improving quality
- Give the new regulator powers to intervene to close or merge MATs for both financial/compliance failures and failure to provide adequate educational support.

- Publish a high-level framework setting expectations for MATs against which they can be assessed by the regulator. All assessments should be transparent.

Reducing inequality
- Give local authorities the power to ask the regulator to direct academies to increase or reduce their published admissions number (PAN), if they can make a case that they will not otherwise be able to meet their sufficiency duty effectively.

- Give MATs a duty to set out their forward plans for expansion and to discuss these with local authorities.

- Give local authorities control over all schools admissions policy to ensure fairness.

- Give local authorities right of access to MAT data, including attendance records.

- Consider if further powers for local authorities are necessary in light of the ongoing DfE review of SEND provision.

- Create an additional package of legal powers for local authorities to be triggered when all their schools are academies, including the right to hold public hearings of MATs and a limited right to insist academies co-operate with integration of local children's services.

Phase 2: Moving to a high-capacity all-MAT system

Reducing complexity
- Set a strong expectation that all schools will join a MAT. Use incentives and clear messaging to encourage the shift to a single system rather than forcing schools to comply.

Improving quality
- Inject significantly more capacity-building funding into high-performing small MATs and provide funding to new strategic and high-potential MATs. This should include organisations spun out of local authorities, many of which already exist to provide support services.

- Empower the new regulator to create regional MATs to take on schools that cannot find another MAT to work with. It may be necessary to create several of these with different functions (for example, to cover small rural schools).

Phase 3: Increasing bottom-up accountability

Improving quality
- Create a mechanism whereby an individual school can make a request to the regulator to move to a different MAT, if they can make a strong case that they would benefit educationally.

- This would require legislation to give a group of representatives associated with each school a legal status independent of the MAT so that a body existed that could make the request.

Taken as a whole these reforms would leave the schools system in England with a system built around MATs but where there was both top-down expectations on the support MATs would provide and bottom-up pressure from schools to carry out their responsibility to best serve pupils. Freed from the task of maintaining a residual number of schools on tight budgets, local authorities would be better able to fulfil their functions and focus their efforts on supporting the most vulnerable. MATs have helped improve the lives and education of many young people; the task for the education department now is to make the model work consistently for all.

The story so far

The first academy was opened by Plato in 367BC. His aim was to undermine the sophists, whose belief in training politicians in rhetoric led, in Plato's view, to a crisis of reason in the Athenian democracy. Several millennia later another set of politicians adopted the academy brand for their education system reforms, but those debating them haven't always been as concerned as Plato was about rhetoric overpowering reason.

The story of the modern academies movement starts in 1988 when, as education secretary, Kenneth Baker pushed through the Education Reform Act. This began a 30-year trend, across Conservative and Labour governments, of reducing the role of local authorities in running schools by handing some of their responsibilities down to school level, while centralising others. After 2010 this process accelerated at an unexpected and, it would prove, unmanageable pace, leading to the problems explored in the next chapter.

The 1988 Act started this process by seriously diluting the power of local authorities, who had largely controlled education since their formation in 1902, by introducing "local management of schools", grant-maintained schools and City Technology Colleges.

Local management of schools was revolutionary in that 90% of schools' budgets were suddenly delegated to headteachers. This gave English schools vastly more autonomy than those in most other developed countries, and effectively shifted local authorities to being regulators, rather than the bodies 'running' schools. The grant-maintained schools programme went even further, allowing schools to 'opt out' of their local authority altogether and receive a grant direct from central government. Similarly, City Technology Colleges were new secondary schools funded directly by central government and established in partnership with businesses; 15 were set up between 1988 and 1993.*

Through the 1990s the main focus was on expanding the grant-maintained system. However this was slowed by the process by which schools joined the programme, which involved a ballot of parents often leading to bursts of local controversy. By the time the Conservatives lost the 1997 election there were just 1,196 mostly secondary grant-maintained schools – around 5% of all schools at the time.

Labour abolished grant-maintained schools, though Tony Blair has since said he regretted doing so. At the time he was far less keen than most of his party to return the schools to full local authority control and so created 'foundation status', a compromise where the schools were formally maintained by their local authority but where the governing body had more control than elsewhere.

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* CTCs took up a huge amount of central government time given only 15 were opened. Margaret Thatcher personally attempted to block the BRIT performing arts CTC on the grounds that there were already enough artists and they were all left wing.

Within a few years Blair's frustration with the pace of public sector reform led him, and his most trusted adviser on schools, Andrew Adonis, to return to the idea of schools being independent of their local authority, with academies. Initially these were more closely modelled on City Technology Colleges, designed to be high-profile beacons in disadvantaged communities, funded directly by central government, and run in partnership with businesses. Indeed academies were defined in legislation in 2000 and again in 2002 via amendments to the definition of City Technology Colleges. Sir Cyril Taylor, an adviser who had helped Baker set up the colleges, was drafted in to support the policy.[1]

In 2006/07 this model of academies became embroiled in the 'cash-for-honours' scandal, with allegations of wealthy businesspeople who 'sponsored' academies being rewarded with knighthoods.[2] At the same time it became apparent that many of the best academies had been set up by existing City Technology Colleges or educational charities, rather than businesses, and that this was a more scalable approach. This led to a shift in emphasis under Gordon Brown's premiership, with more educational sponsors, including faith institutions and universities. Ed Balls, Brown's education secretary, nevertheless remained cautious about expansion, and many Labour MPs were deeply unhappy about a programme that looked like – and was – a diminution of their power base within local authorities.

By the time Labour left office there were only 203 academies, all secondaries or 'all-through' schools (that teach pupils from age 5 to 16 or 18). There were initial signs that the policy had been successful. This was in part due to individual success stories like Mossbourne Academy in Hackney and Ark's King Solomon Academy in Westminster,* which quickly became schools visited by politicians of all sides. At the time the media coverage of comprehensives was generally less positive than now and these dramatic 'turnaround' schools captured attention. But there were also more scientific reasons to be positive about academies. The first proper study of academy performance, by Steve Machin and James Vernoit, found significant positive impact on pupil attainment, controlling for other variables like parental wealth.[3]

The Conservatives had seized on academies as a political opportunity some years earlier when Blair was struggling to pass the 2006 Education Act. As leader, David Cameron ensured it passed with Conservative votes, enabling him to claim the 'heir to Blair' mantle in contrast to a supposedly more statist Brown. And it was a good fit with previous Conservative education policy, being modelled on grant-maintained schools and City Technology Colleges.

In the run-up to the 2010 election Cameron's Conservatives promised a significant expansion of the academies programmes through three mechanisms. First, more underperforming schools would be given to a sponsor, an expansion of the Labour programme. Second, good and outstanding schools, as defined by Ofsted, would be

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* Declaration of interest: the author is currently an adviser to Ark Schools.

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allowed to 'opt-out', as grant-maintained schools were in the '90s. Finally, sponsors would be able to set up new 'free schools' from scratch, where they could show demand from parents via a petition.[*]

After the Conservatives' victory in the 2010 general election, the new education secretary, Michael Gove, pushed ahead with these plans, with initial support from his Liberal Democrat coalition partners. The Academies Act 2010 , which was on the books less than three months after the election, allowed for 'good' and 'outstanding' schools to convert to academy status without local authority approval.[4] The Education Act 2011 tidied various aspects, like acquisition of land from local authorities, to speed the process.[5]

The expansion of academies, and specifically multi-academy trusts (MATs – where one trust runs multiple schools), was set in the 2010 *Importance of Teaching* white paper, in the context of a wider agenda to build a "self-improving system".[6] The idea was that the most effective schools would help weaker ones get better through a mix of "hard" interventions like becoming part of a MAT, and a softer array of support policies like the national leaders of education programme, begun by Labour, where successful heads were matched with struggling schools. These policies were largely based on Labour's London Challenge programme, considered by many to have been a major reason for improvements in London's schools.[**]

It was widely expected, not least within government, that the academies policy would be heavily resisted in the profession and, like grant-maintained schools in the '90s, would initially see relatively small numbers of schools wishing to convert.[***] However, the absence of a parent ballot made it easier for schools to leave the local authority than it had been in the grant-maintained era. And the funding model for academies, which meant they received the money that local authorities held back from maintained schools for central services, made conversion very attractive.

By 2012/13, 50% of secondary schools had converted or been turned into sponsored academies (and 6% of primary schools).[7] With things moving so fast it quickly became apparent that the Department for Education (DfE) was becoming overwhelmed and could not properly oversee that many schools. In December 2013 it announced the introduction of eight regional schools commissioners (RSCs) – formally part of the department and exercising the secretary of state's powers over academies on his behalf.

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[*]   The author was an adviser to the Conservatives from 2009 to 2010 and worked on this policy agenda. He became a senior policy adviser to the secretary of state after the 2010 election, until February 2013, and was closely involved in the development of the 2010 white paper and subsequent policy reforms.
[**] The evaluation of the London Challenge makes a good case that it had some positive impact (Hutchings M et al, *Evaluation of the City Challenge Programme*, Department for Education, June 2012, https://assets. publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/184093/DFE-RR215. pdf) but others, e.g. Professor Simon Burgess, have shown that immigration also played a big role in London's improvement, Burgess S, *Understanding the Success of London's Schools*, CMPO Working Paper No. 14/333, October 2014, http://www.bristol.ac.uk/media-library/sites/cmpo/migrated/documents/wp333.pdf
[***] A senior Downing Street adviser made a bet with the author that fewer than 2,000 schools would be academies by 2015.

The RSCs were formed hurriedly and with limited clarity on their role and how they would interact with other parts of the system, like Ofsted, and with local authorities, which continued to have the responsibility to provide sufficient school places in their area. The 2016 *Education Excellence Everywhere* white paper proposed to work with the sector to develop a sustainable regulatory and legal framework as part of a plan for all schools to be academies by 2020.[8] There was little detail as to what this would look like and, in any case, the white paper was largely scrapped once Theresa May became prime minister later that year and turned her attention (briefly) to opening more grammar schools. Opposition from Conservative councils that wished to continue managing their schools – primaries in particular – was a major reason the idea of full academisation by 2020 was dropped.[9]

The policy vacuum led to a turf war between different parts of the regulatory system as they tried to make sense of an evolving landscape. Ofsted and the national schools commissioner, Sir David Carter, who managed the RSCs, had a semi-public fight over whether the latter should be engaged in direct school improvement. This led to confusion for schools when recommendations from Ofsted Inspectors and RSCs clashed. In 2018, Damian Hinds, in his short stint as education secretary, was compelled to "clarify" the RSC role as being limited to brokering.[10]

Over the past two years the education department has had to focus on managing the fallout of the pandemic. There has been no space for policy development on structural reforms, though the problems created by Covid have emphasised the need for local co-ordination of schools to complement MATs. As an Institute for Government report on the experience of schools and Covid made plain, the degradation of the role of local authorities led to a highly centralised, often ineffective response to the pandemic. Moreover, the centralised approach suffered because "regional school commissioners do not remotely have the resource or firepower that the various forms of health authority have in the NHS".[11]

As of November 2021, 45.4% of schools are academies (79.5% of which are secondaries and 38.3% primaries).[12] Figure 1 shows the number as a percentage of all schools in each year since 2000, the first year figures are available. Most secondary schools had already converted by then but the number of primary academies has almost doubled. Figure 2 shows the percentage of academies in MATs by size in each year since 2002/03. There has been a gradual shift away from standalone single academy trusts and very small MATs to medium-sized MATs, which is a continuing trend.

Growth has been relatively slow in recent years, though schools are continuing to convert and smaller MATs merge into larger ones. For instance, 121 schools became academies in September 2021.[13] The government has indicated that it is still in favour of a fully academised system but has not given a timescale for this and the new education secretary, Nadhim Zahawi, has said he does not want to force schools to switch.[14] A white paper, promised for spring 2022, will be the first time since 2016 the government has set out a clear vision for the future of the system.

Figure 1 **Percentage of schools that are academies (primary and secondary)**
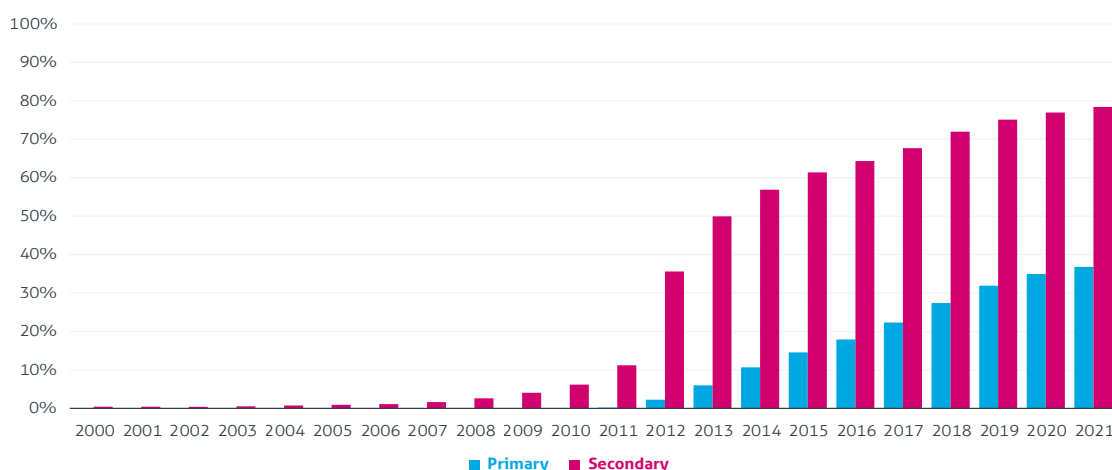
Source: Institute for Government analysis of DfE data, 'Open Academies and Projects in Development', National Archives, https://webarchive.nationalarchives.gov.uk/ukgwa/*/https://www.gov.uk/government/publications/open-academies-and-academy-projects-in-development

Figure 2 **Percentage of academies in trusts, by size of trust**
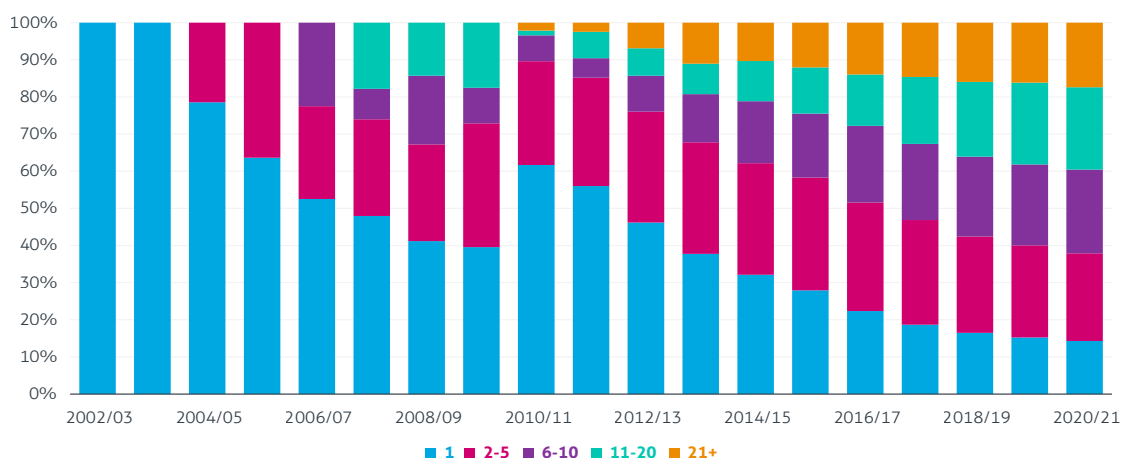
Source: Institute for Government analysis of DfE data, 'Open Academies and Projects in Development', National Archives, https://webarchive.nationalarchives.gov.uk/ukgwa/*/https://www.gov.uk/government/publications/open-academies-and-academy-projects-in-development

A lack of good research makes it difficult to draw conclusions about the impact of the expansion of the academies policy on pupil attainment. There is little statistical difference between the performance of academies and local authority-maintained schools, though this does not prove anything by itself – not least as most of the previously worst performing schools have been turned into academies, which skews the samples. The only sub-set of academies that seems to be clearly overperforming the rest of the system, on average, are free schools, which have the advantage of starting from scratch and building their own culture.[15]

The most we can say is that neither the greatest hopes of academies proponents, nor the worst fears of their opponents have come true. Some MATs have figured out a way to scale improvements across a group of previously underperforming schools. These trusts have shown the potential to use economies of scale, professionalised models of career development, centralised curriculum and assessment models and so on. But these high-performing MATs are a minority. There is still the perennial problem of 'knowledge transfer' in education, where good practice does not scale across the system. That was true in the days when every state school was local authority-maintained and is still true now.

On the other hand, there is almost no one in the system, not even the most radical teacher unions, pushing for a complete reversion back to the previous set-up. One of the biggest fears – that academisation would be a precursor to privatisation of the system – has not happened. Academies are so tightly financially regulated that they are classified as part of central government by the Office for National Statistics despite being run by non-profit trusts. And there have been no indications that for-profit organisations will be permitted to run schools. Moreover, concerns about a two-tier system that benefited the rich have not materialised. While there are equity concerns about the impact of structural reform on the most vulnerable children, covered in the next chapter, the gap between richer and poorer students had been (marginally) closing up to 2018.[16]

While there is little demand to reverse the policy, there is less consensus about what should happen next. No one thinks the status quo is working. The current system is too complex and poorly regulated, with serious misalignments between powers and responsibilities. It is marked by a lack of clarity over who is responsible for school improvement, and for supporting vulnerable children. To address these problems a clear vision from central government will be required.

Problems with the current structure of the schools system

As set out in the previous chapter, no one is happy with the status quo in the schools system in England, yet there is a lack of agreement on how to change it. The Department for Education (DfE) has not provided any indication of what this change might be, or even made much of an effort to set out what it thinks the problems with the current model are. There has been a commitment to academisation but with little clarity as to the ends it is supposed to be achieving, or explanation of how it links to the wider goal of school improvement.

To develop solutions DfE must first be clear about the problems. This chapter sets out three areas that have emerged as long-standing problems, drawing on recent research as well as interviews and a roundtable conducted for this report. First, it looks at the complexity of the current system and the confusion it causes for academies and beyond. Second, it turns to problems of quality and the mechanisms by which MATs can generate school improvement. Lastly, it'll look at equality concerns and whether the fragmentation of the system is creating risks for the most vulnerable young people.

Complexity

The school system in England was never designed but has haphazardly evolved, leading to confusion and complexity. Academies were originally envisioned as a small project to create high-profile beacon schools in disadvantaged areas, but over time have drifted to become the governance model for almost half of all schools. The creation of the first MATs was almost an afterthought in 2006/07 to allow some of the more successful sponsors to run several schools under a single agreement. After 2010 it became the dominant model for academies – with 86% now in one – with little attention given to the wider implications. Regional schools commissioners (RSCs) were developed to help manage the system but with minimal consultation with the sector and a lack of clarity around their role. This has resulted in an incoherent model of governance and regulation that makes it hard for schools, trusts, governors, teachers and parents to navigate the system.

The most common concern around complexity is the 'dual system'. As it stands just over half the schools in England are regulated as maintained schools and just under half as academies. Over time the mechanisms for managing the two groups have coalesced somewhat. For instance, the distribution of funding to both is now managed through local authority 'school forums' under the same formula. Nevertheless, having two parallel systems is confusing for parents and teachers. Two schools down the road from each other will have different rules around admissions, special educational needs provision, the use of the national curriculum, required teacher qualifications and many other things depending on which side of the dual system they are on.

Running a dual system is also expensive. Local authorities, whose budgets have been severely cut back in recent years, still need to run a support structure for an ever decreasing pool of maintained schools, using up scarce resources.

All of the interviewees for this paper felt that an all-academy system of some kind was an inevitability, even if the timescale remains unclear, as returning to a system of local authority-managed schools was undesirable – as was perpetuating a dual system with its inherent confusion over roles and responsibilities. But few felt it was the priority. The bigger issue was the messy regulatory set-up for academies. Moving to an all-academy system without fixing that could easily create more confusion than it resolves, and further draw attention away from oversight of actual education performance in favour of complex and onerous financial and other reporting.

Much of the current complexity is caused by the fact that academies have to engage with four organisations performing some oversight or regulation:

- **Ofsted** inspects individual academies and schools within MATs – though is not a regulator for schools as it cannot take any action against poorly performing schools. It sometimes does batch inspections of multiple schools within a single MAT, followed by summary evaluations of MATs – with their consent and co-operation – but they do not 'inspect' MATs.[17]

- The **Education and Skills Funding Agency (ESFA)** is the financial regulator for academies. It produces the *Academy Trust Handbook* with which academies must comply as part of their funding agreement with DfE.[18] Any changes to academy arrangements that will require further funding, such as expansion in pupil numbers, need to be signed off by the ESFA. If an academy trust falls into debt or engages in transactions that fall foul of the handbook it can be issued with a 'financial notice to improve'.[19] If the terms in that notice are not met it can receive a termination order. The ESFA also deals with complaints from parents relating to exclusions and admissions. The rationale is that the process requirements for such matters are set out in funding agreements/handbooks and the ESFA makes assessments as to whether these have been properly followed.

- **Regional schools commissioners (RSCs)** oversee the brokering process, whereby maintained schools or academies are placed into a MAT. If an academy receives a grade 4 'special measures' inspection grade from Ofsted the commissioners can 're-broker' it to another trust. Likewise if a trust receives a financial termination order it is the commissioners who re-broker their schools. RSCs are expected to have a sense of overall performance and capability of trusts in their regions both so they can choose the best ones to add new schools to, and so they can intervene and re-broker schools where the trust agrees it is struggling, without a formal trigger. This expectation is not formalised anywhere though. Before the pandemic RSCs reviewed more than 1,000 trusts using a standardised format, but this was not published and has no formal legal or regulatory status.[20]

- **Local authorities** still have some residual powers over academies. For instance, academies must co-operate in the creation of a local offer for children with special educational needs (SEND).[21] And they must participate in local authority led 'fair access protocols' for children who require a school place outside of the normal admissions cycle.[22] There are also multiple statutory responsibilities around reporting and engaging with local authorities around safeguarding and child protection.[23]

This split of responsibilities causes several problems. First, there is duplication of compliance for trusts, who have to provide similar information to multiple agencies. Second, the oversight and regulatory models are not compatible. Ofsted and RSCs apply a broadly risk-based approach, paying far more attention to the worst-performing schools and trusts. The ESFA has a compliance-based approach that has led to a proliferation of rules and regulations. The Confederation of School Trusts (CST), a membership body for academy trusts, gives the example of a rule requiring a fixed number of finance committee meetings each year.[24] This goes strongly against the spirit of the initial academy reform programme.

Third, the current split of responsibilities across the bodies above creates an unhelpful separation of related information. For instance, if parents complain about a trust or regularly appeal exclusions or admissions decisions then that would be useful information to RSCs in flagging potential problems, but these appeals go instead to the ESFA. Moreover, it is often the case that a trust struggling financially will also have performance challenges, again measures assessed by different bodies. As the CST explains: "The split in responsibility can hamper the state in taking action on underperformance."[25]

Finally, and perhaps more importantly, this split of responsibilities has left a big oversight hole around MATs' educational performance. Commissioners can take action if individual schools get a 'special measures' grade 4 in their Ofsted inspection, and against trusts if the ESFA has issued a financial notice to improve (provisions that have only been available since the Education and Adoption Act 2016).[26] But they have no legal powers to intervene in MATs on any other grounds.

The CST has said: "The legislation underpinning regulation is weak. The clearest example of this is addressing underperformance at trust level. For example, intervention can happen in relation to finance and governance at trust level, but not for educational standards."[27] As one DfE official put it when interviewed for this report, RSCs are currently reliant on "menace" to get trusts to change behaviour.[28] This is clearly not sustainable in a system where MATs are becoming the dominant providers of schooling. Moreover, it incentivises trusts to focus resources on schools that are most at risk of failing an Ofsted inspection in the short term, rather than trust level systems of improvement and quality control.[29]

Every person interviewed for this report agreed that the current regulatory system was not working and needs to be overhauled. The role of the ESFA is currently being reviewed by the DfE, but it makes no sense to consider it in isolation. MAT regulation needs to be considered in the round.[30]

Not doing this risks perpetuating a system that is unnecessarily complex and confusing, and where powers and responsibilities are fundamentally misaligned. This creates inefficiency for schools, means that different parts of the system are unable to fulfil their duties properly, and means MATs cannot be held properly accountable for educational performance. As we shall see in the next section this is part of the reason why there are too many weak MATs.

Poor quality of MATs

Good school systems have strong mechanisms to drive improvement. England has a strong mechanism for the weakest schools – punitive accountability. Over the past 30 years, since the introduction of Ofsted and performance targets, there has been a big fall in the number of very low-performing schools. While some would argue that accountability in the English system has become something of a blunt and overused tool, it is nevertheless the case that schools with extremely poor behaviour, safeguarding and attainment are now rare.

It is less clear what the mechanisms are for improving schools that are not seriously underperforming. Punitive accountability can create a minimum standard but it does nothing to drive improvement beyond that standard. The government has experimented with different types of peer-to-peer improvement since 2010, but little of this has stuck, leaving MATs as the main hope. Yet there is no formal expectations on MATs around school improvement, nor any mechanism to hold them accountable for their performance. This has led to many low-quality trusts surviving because their individual schools are not bad enough to fail their inspection.

The 2010 white paper set out a vision of a:

> "self-improving system [in which] the primary responsibility for improvement rests with schools, and the wider system should be designed so that our best schools and leaders can take on greater responsibility, leading improvement work across the system."[31]

This approach was based on the apparent success of the London Challenge programme, where heads of outstanding schools had been paired with those that needed support. It was supported by the expansion of Labour's 'peer-to-peer' support programmes, including national leaders of education and 'teaching schools', which were supposed to provide professional development support to schools in their locality, much like 'teaching hospitals'.

By the time the 2016 white paper was released it was clear that this approach worked best in areas, like London, that already had a high proportion of outstanding provision. Parts of the country with a history of low standards and aspirations didn't have enough internal capacity to improve without outside support. This was tacitly acknowledged by a switch in language from a "self-improving system" led entirely by schools to "supported autonomy" that would see "improvement by building capacity and creating the conditions that will allow schools in all areas to use their freedom effectively".[32]

This involved an expansion of the 2010 policies – like the teaching schools – to give them national coverage, a big expansion in professional development programmes for teachers and school leaders, and an intensive focus on particularly problematic parts of the country dubbed 'achieving excellence areas'.

In practice this approach was never seriously tried. Many of the white paper's recommendations were dropped following the EU referendum, though some of these school improvement policies were implemented. There has been a big expansion of funded professional development courses, though it is too early to assess their impact. Achieving excellence areas came into being as 'opportunity areas', which were a major focus when Justine Greening was education secretary (2016–18). The impact of these has not been evaluated and participants often found the timelines and confusion around different funding pots difficult to navigate.[33]

Over the past few years the DfE has done little on school improvement, beyond professional development. Newly funded national professional qualifications (NPQs) and an early careers framework (ECF) are being delivered by a mix of training organisations and teaching school hubs (a rationalisation of the teaching school network launched in 2010, which explicitly moved their focus away from school improvement). There is some very limited support available for MATs with a school that gets a 'requires improvement' grade 3 Ofsted inspection; including a few days of assistance from a national leader of education and a national leader of governance.

In the absence of consistent and systematic support from DfE a gap has opened up that has been partially filled by a range of non-state school improvement organisations that have appeared over the past decade. Some, like PIXL and Challenge Partners, are national charities with large networks of schools and established programmes of support for school leaders. Some are place-based partnerships usually established by local authorities commissioning out school support to a charitable organisation, which then offers free support to maintained schools and paid membership to academies. Good examples include Camden Learning, Tower Hamlets Education, Schools Alliance of Excellence in Surrey, and Learn Sheffield. Many of these were established in 2016 when it looked like all schools would need to join a MAT by 2020, so that these legally independent organisations could ultimately become the MAT for currently maintained schools.

The development of both state and non-state markets in school improvement support is widely seen as positive, but it remains patchy and often too limited to make a difference to schools or trusts that are struggling or stuck – for example, if access to them, either regionally or financially, is restricted. Moreover, there is little evidence as to the effectiveness of any of these organisations. The problem with the "self-improving system" idea, from its initial launch to the somewhat low-key version in place today, is that it is predicated on being able to use capacity that doesn't exist. London and some other cities have enough high-performing schools and MATs to provide support to other schools, as happened during the London Challenge initiative. But in other areas this is simply not the case.

This has made the DfE improvement model increasingly dependent on the growth of successful MATs that can bring weaker schools into their network. In theory this should be a stronger lever than 'peer-to-peer' as it involves a permanent change to governance, rather than relying on individual relationships. But making the MAT model successful requires having enough high-quality trusts with capacity to bring in more schools, and at the moment there are not anywhere near enough. RSCs have the Trust Capacity Fund (T-CAF), of around £20 million a year, to give trusts £50,000–£300,000 for capacity building or taking on new schools. Given there are 1,200 trusts, though, this amount of money can only have a limited impact.[34] There is also minimal transparency around the process for allocating the money.

Even when MATs are doing well and have capacity to grow further, making this happen is not straightforward. Individual schools that have been given a grade 4 Ofsted inspection can be brokered into MATs – as can schools whose trusts have voluntarily given them up or failed financially. Beyond this RSCs have no formal powers to make the mix of MATs in their area more coherent or effective. They cannot make weaker MATs merge with stronger ones or force smaller, more fragile trusts into joining forces. Mergers do happen, usually when a CEO or executive head retires, or a trust board can see a financial crisis coming without action. But they are still relatively sporadic, despite the expected scale benefits of bringing groups with two or three schools together such as greater back-office efficiency, the ability to move teachers between schools more easily and the budget to hire central officers to support with things like curriculum, assessment, SEN and mental health.

Not only are RSCs held back from actively developing their local MATs, they can't even require particular educational standards or practices at MAT level. The *Academy Trust Handbook* defines, in great detail, how they should manage financial and governance processes. The Ofsted framework defines what a good *school* (singular) should be doing. But nothing sets out what a MAT should do in terms of central educational support, quality assurance or system collaboration. This makes it impossible for RSCs to properly and transparently review MATs – even if they had any legal powers to apply sanctions and force mergers, or more money to build capacity.

The RSC in the South West working with local MATs has produced a MAT capability framework that has now been adopted by DfE, and which could be the basis for a more formal process.[35] But at the moment it has no legal status. And the capabilities outlined – such as providing curriculum support – are not ones held by many MATs, especially smaller ones, who see their role as essentially a back office to manage systems, processes and finance. If adopted formally it would drive consolidation and higher capacity organisations. Leaders of smaller MATs interviewed acknowledged that they would not be able to fulfil some of these functions without joining a bigger trust.

If the status quo remains then school improvement is likely to be patchy at best, driven by inconsistent access to peers with expertise and capacity. And a MAT system where change is sclerotic and sparked only by specific circumstances, such as retirement, rather than planned. For the foreseeable future many MATs will provide no or relatively little educational support for their schools and will not provide capacity to the system, because there is no requirement or expectation for them to do so.

Inequality

The rise of academies has not, as some feared, led to an increase in attainment gaps between pupils from high- and low-income families, though at a national level those gaps closed only marginally in the decade before the pandemic, and had stopped doing so before Covid hit.

There are, however, widespread concerns about the impact of system reforms on support for the most vulnerable children in the system – that is, those in care or on child protection plans, with special educational needs, or at risk of exclusion or persistent absence from education. This is because local authorities still have a large number of set responsibilities around supporting these groups, but in many cases no longer have the resources or powers required to meet them effectively.

These groups cover a lot of young people. There are 430,000 pupils on an education, health and care plan; around 400,000 in any given year classified as being 'in need' as they have been in receipt of interventions from social services; 50,000 in alternative provision, plus an unknown further number missing from the system altogether. And there will many others who are at risk of requiring these services.[36]

The 2010 white paper acknowledged the role of local authorities as "champions for parents and families [and] for vulnerable pupils" but did not give them any additional powers to do this in a world in which they no longer maintained all schools.[37] Likewise the 2016 white paper proposed three roles for local authorities in an all-academy system: ensuring every child has a school place; ensuring the needs of vulnerable children are met; and acting as champions for all parents and families. But again it did not propose any new powers to help them fulfil these roles.[38] A follow-up paper that would have made detailed suggestions never saw the light of day due to the changes in government following the EU referendum.

Everyone spoken to for this paper agreed that these should be roles undertaken at local authority level, because support for vulnerable children needs to be locally based and it would be highly inefficient to create some other local or sub-regional body to provide it. Equally, all agreed that local authorities do not currently have the requisite powers, such as control of school admissions or the ability to access academy attendance data, to perform these functions well. For each of the responsibilities set out in the 2016 white paper there is a misalignment that can lead to a less equitable system, and which means worse outcomes for some of the most vulnerable young people in the education system.

Ensuring every child has a school place

Local authorities have a sufficiency duty to ensure every child has a school place. But at present they cannot require an academy to increase (or reduce) its pupil numbers and can only open a new school by creating a competition for a free school, which can be a lengthy and cumbersome process.[39] In local authorities with many academies this can make place planning extremely difficult and lead to worse provision, especially for those young people whose parents are less able to make choices about schooling, either because of a lack of resources or information. One director of children's services explained how at the moment his local authority was seeing falling pupil numbers and with no ability to close or shrink academies could be left with schools drifting into unplanned failure, as parents no longer want to use them but no one is able to shut them down.[40]

Local authorities are also responsible for co-ordinating admissions for parents for both schools maintained by them and academies, but each academy trust is its own admissions authority, and can set different rules as long as they comply with the admissions code. While the code doesn't permit academic selection (apart from for pre-existing grammars or partially selective schools) and doesn't permit any kind of assessment of financial or parental circumstances there are loopholes that can be exploited. For instance, catchment areas can be tweaked to include wealthier areas and exclude lower-income ones; MATs can set their own primaries as feeder schools for secondaries; MATs can also use 'fair banding' to admit pupils based on tests that give them an intake "representative of the national ability range" even if in an area where the population is not nationally representative.[41]

There is no recent data on how many trusts make use of these variations to adapt their intake so it is unclear how big a problem it is in terms of reducing inequity across the system. As of 2012, data shows that 121 secondaries were using fair banding; this has probably increased, but it is not possible to know if that banding was representative of the area.[42] But there are enough high-profile anecdotal examples, particularly around the controversial use of feeder schools, to suggest there is an issue worth resolving.[43] The schools adjudicator, who rules on whether admissions are compliant with the code, has also highlighted an increase in concerns about feeder schools and MAT admissions more broadly.[44]

Ensuring the needs of vulnerable children are met

Local authorities have an existing set of statutory responsibilities for children requiring protection, with special educational needs and disabilities (SEND) and who are not in the mainstream school system, either because of formal exclusion or persistent absences. These groups represent the most vulnerable in the system. They are disproportionately from low-income families, and low attaining.

The shift of many schools to academy status has made these responsibilities harder to fulfil. First, because the relationship with academies is transactional, and not one over which local authorities have full control, which makes it harder to place young people with serious SEND or who have been excluded from another school. Second, because more funding now flows directly to schools, and what's left for local authorities to spend is subject to tighter rules. And third, because it is harder to co-ordinate across services given the need to work with multiple MATs.

There are some statutory requirements academies must follow in support of local authorities. They have to report safeguarding concerns to the local authority. They have to take children with SEND when directed to by the local authority, unless they can show they do not have capacity to support the pupil (which can then be appealed to the ESFA). They have to participate in fair access protocols to ensure all schools take a fair share of pupils allocated mid-year due to immigration or exclusion from other schools.

Nevertheless, there are significant differences between maintained and academy school responsibilities when it comes to supporting these vulnerable young people. For maintained schools, a direction to take a child with SEND or under the fair access protocol is not something that can be formally rejected as the local authority is also responsible for the school. An academy can refuse to take a child. The local authority can, in both cases, then appeal to the secretary of state, via the ESFA, but this is a cumbersome process that is rarely used in practice.

Instead the system relies strongly on relationships between local authorities and academies. In most cases everyone 'plays fair' and academies take their fair share of vulnerable pupils. But if they decide to take an uncooperative or legalistic approach it can be hard for local authorities to utilise capacity in those academies. Moreover, local authorities can do nothing to stop an academy from excluding a pupil in the first place, thus potentially flooding the system with cases (unless they feel the academy did not properly apply their stated process, which can be appealed to the ESFA as well).

Local authorities receive funding for these vulnerable pupils under the high needs block, one of four funding blocks within their annual grant from DfE, all derived using different formulas set out in Figure 3. While they are allowed to use money from the early years and central services blocks to subsidise the high needs block, they can use only 0.5% of the main schools budget. The rest must go to schools, both maintained and academy.[45] At the moment there is intense pressure on this high needs block, largely due to a substantial increase in demand for education, health and care plans (EHCs). There has been an 82% increase in young people requiring an EHC (formerly

'statement') since 2014.* There is also evidence of significant suppressed demand from parents. Appeals against local authorities' decisions to a special tribunal have doubled over the past decade and in the most recent figures 95% of appeals that went all the way to a judgment were successful.[46]

Figure 3 **Size of different funding blocks within the schools grant to local authorities**
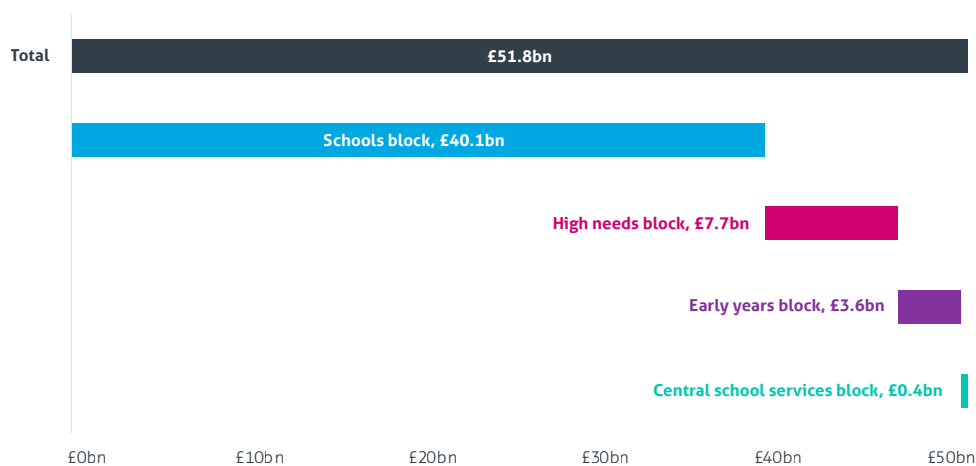
Source: Institute for Government analysis of Education and Skills Funding Agency, Dedicated schools grant (DSG) 2021 to 2022.

It is hard to see how local authorities are supposed to manage these increases in demand without additional money from central government given they cannot subsidise SEND from the schools budget. The pressure on high needs funding also affects young people excluded from mainstream provision as it is also supposed to fund alternative provision, and to provide services to reduce persistent absence.

Finally, there is a broader concern around the ability of local authorities to co-ordinate across different services. Vulnerable young people often interact with different parts of the state including social services, the criminal justice system, the police and schools. Under the last Labour government there was a focus on integrating these services under the banner of 'Every Child Matters'. Local authorities were tasked with running children's trusts to co-ordinate these different services and trying to identify the most vulnerable young people early. These trusts struggled to get established and to overcome "entrenched organisational professional divisions and interests".[47]

Schools found them cumbersome and time consuming so were mostly content when, in 2010, Michael Gove shifted to an approach where they would focus more solely on education. However, as local authority resources have diminished over the past decade, and the demand for SEND, mental health and child protection services have all grown, the question of integration is re-emerging. The rise of MATs over that period has made the question even more complicated, with local authorities having no convening power to force them into discussions if they don't wish to participate beyond their statutory duties.

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* This includes just under 30,000 EHCs given to young people aged 19–25 who were not eligible for statements. Department for Education, 'Education, health and care plans', last updated 20 October 2021, https://explore-education-statistics.service.gov.uk/find-statistics/education-health-and-care-plans

Acting as champions for all parents and families

This potential function for local authorities was the least well defined in the 2016 white paper. Ensuring school places and providing support for vulnerable children both relate to existing statutory duties, but it is less clear what 'championing parents and families' might mean in relation to the school system. One possibility is that the local authority could provide a voice for parents in the regulatory structure that oversees MATs. At the moment, as we have seen, parents and local authorities can complain to the ESFA and those complaints be upheld only if academies have not followed the correct process (except if the complaint is about the academy not abiding by the admissions code, which goes to the schools adjudicator).

There is no formal process for local authorities to feed information about concerns about MATs into the RSCs. Moreover, there is no way that local authorities can ask for information from academies even if local parents complain to them. This does have equity implications as wealthier parents are usually more able to use both 'voice' and 'choice' mechanisms in the interests of their children, while lower-income parents are more reliant on support to enable their concerns to be heard.

Tackling these problems will be vital to successful academisation

The three problems set out in this chapter – complexity, low quality and inequality – have a common theme: a regulatory and legal structure designed for a small group of 'boutique' schools that has been stretched to accommodate half the system. This leads to complexity due to a lack of alignment around roles and responsibilities; to lower quality because there is no clear definition of the purpose of a MAT and no way to regulate it, except for financial failure; and to inequality because local authorities do not have the resources and powers to match their statutory responsibilities. Finding solutions to these problems will first require the education department to recognise them in full. It then will require a new legal and regulatory structure, which will be essential to facilitate a coherent expansion of the MAT system.

Solutions

Most discussion around MAT policy is about whether and when the school system in England will move to an entirely MAT model. There is very little demand to go back to the pre-academy system, and the government has signalled its intention to get all schools into MATs. This is likely to happen eventually, either through policy or drift. And doing so would help create a coherent role for local authorities as champions for the vulnerable.

However, if the regulatory issues are not fixed first, it is unlikely to solve the problems set out above. Indeed it may make them worse by bringing more schools into low-quality MATs with limited accountability, and making it harder for local authorities to fulfil their responsibilities to vulnerable young people.

First, the Department for Education (DfE) needs to fix the structures, and ensure there is clarity and alignment around the different actors in a MAT-based system. Not only would this make an all-MAT system work much better, it would also likely remove many of the current barriers to conversion, including setting a clear role for local authorities.

This chapter will start by setting out recommendations for improving regulation and system coherence as the first part of a sequence of reform – this would tackle all three sets of problems around complexity, quality and inequality. Then it will look at what a second phase to reach an all-MAT system might look like that would continue to reduce complexity while creating capacity to further improve quality. And finally it will set out a third phase where some additional bottom-up accountability is introduced to provide another mechanism for driving quality.

1. Creating a system with aligned powers and responsibilities

The priority for the government should be to fix the regulatory system to ensure oversight structure is coherent and that powers and responsibilities are aligned across the system. This will require legislation as the entire academies system is still working from amended City Technology College legislation passed in 1988.

A single regulator for academy trusts

At the moment there is no definition of the role of an academy trust in primary legislation, and no mention at all of MATs. A system of regulation has evolved, using the funding agreements, which is the primary cause of the complexity discussed in the previous chapter.

A new act should set out the core purpose of academies and MATs alongside a regulatory framework to provide a coherent basis for the system. This should include having a single regulator for academy trusts, with powers of intervention that are not reliant on Ofsted grades to reduce duplication and provide clarity.

This would be a significant change. It would move oversight of academy trusts from being based contractually on funding agreements to being defined in legislation. It might be seen by some trusts as a power grab by the state and an unfair retroactive move to change the terms of their funding agreements. It is already the case, however, that regulation via the *Academy Trust Handbook* and at school level, through Ofsted reports, is so centralised the Office for National Statistics considers academies to be part of central government. This means in practice government already regulates well beyond the spirit of the initial funding agreements, it just does it through a mechanism that wasn't designed for that purpose and isn't appropriate.

Moreover, the absence of a proper legal framework means more and more new regulation has been forced into the handbook, leading to a highly compliance-based model, which is inappropriate for institutions that are supposed to have considerable autonomy.

The starting point for creating a single regulator would be to consolidate the existing responsibilities of RSCs and the ESFA into a single organisation. The ESFA is already under review by DfE and should have its responsibilities for academies removed, with the necessary financially qualified staff moving over to the new regulator. It makes no sense to separate financial and educational regulation as trusts failing in one area will often be failing in both.

The new regulator could be a reorganised version of RSCs, operating, as now, under the auspices of the education secretary. If so it would make sense to change its regional structure to match that used by Ofsted and other government agencies.

An alternative, more radical, model would be to create a new independent regulator. The main benefit of this would be to keep politicians at arm's length from the day-to-day regulation of the system but the downside would be a more comprehensive reorganisation and the risk that the regulator would adopt views and goals that contradicted those held by DfE, causing confusion for trusts. The best option might be to set up the regulator as an arm's length body to give it some operational independence while allowing for the education secretary to set the policy direction and ensuring alignment.

New powers of intervention for the academies regulator

Having a single regulator would reduce complexity, but for it to help improve the quality of academies it also needs to be able to hold trusts accountable for performance in ways that neither the RSCs nor ESFA (nor Ofsted) can do now. To do this the new act would need to create a mechanism for intervention covering financial, governance and educational factors.

Under this model intervention would be based on failure to meet financial requirements – to be given a statutory basis rather than relying on the *Academy Trust Handbook* and a clause in funding agreements – and failure to meet criteria set out in a new academy trust framework that DfE would be legally bound to produce.

Creating such a framework is not without risk. If it was too constraining in permitting only certain types of pedagogy, for instance, then it would undermine the rationale for the whole policy. The South West MAT assurance framework, though, provides a good starting point. For instance, on curriculum it says a good MAT will "have a clearly defined curriculum intent and principles that inform the work of leaders and staff in academies in the MAT" but does not insist on any particular content.[48]

It would be important for DfE to work closely with the trust membership body, the CST, as well as headteachers' trade unions and successful MATs, to draw up a proportionate and balanced criteria along these lines. Any criteria would also need to acknowledge the wide variance in type of trust – a MAT containing a lot of schools that were previously underperforming has a very different job to one made up entirely of schools that are already good. A framework would need to either be high-level enough that a regulator could apply it to all kinds of trusts, or potentially differentiate between expectations for different types of MAT.

Such criteria, however devised, would still significantly increase formal expectations on trusts, and particularly MATs. Ideally it would include a presumption that they were responsible for school improvement and for working as part of a wider system (which the South West framework does not mention). This is critical in encouraging MATs to work as part of a local system as well as across their trust.

Increasing expectations should have a positive effect on the quality of the system as it will ensure MATs that currently do little but back-office functions have to start engaging more broadly. It would also likely increase the number of mergers between trusts, as smaller MATs with limited capacity may feel they could not meet a wider set of expectations. It would be critical that the framework for academy trusts was public and that all assessments made by the regulator were published so that parents, governors, teachers and other stakeholders could get an insight into the organisations running schools.

DfE would also need to consider the most appropriate leadership model for regional regulatory institutions. At the moment the RSCs are nearly all run by career civil servants, who have proven more capable of managing the organisational requirements than former headteachers. However, if a new regulator has oversight authority for the educational support provided by MATs then expertise in school improvement will also be required.

This aspect of their role would also continue to be supported by Ofsted, which would still inspect at the school level. This is important in providing parents with independent assessments about school options as well as providing information for the regulator to use in making judgments about trusts. Some have argued that Ofsted should inspect MATs as well as or instead of schools, but assessing the capacity of a trust is very different from checking the quality of a school. In the Netherlands the inspectorate has moved to a model where school boards are inspected rather than individual schools, but there are concerns there that an assessment of board level quality assurance processes is too weak a mechanism to identify underperformance at

school level.* Moreover, Ofsted does not have a regulatory function for schools, which allows it to inspect without any suggestion it is marking their own homework. It is important to retain this independent check.

Currently an Ofsted grade 4 is the only trigger for re-brokering an individual school due to underperformance. Under the proposed new legislative process the new regulator would have much broader powers to intervene so would not feel as compelled to re-broker in each instance, but would instead use a more holistic set of criteria to decide if the MAT was fulfilling its duties. Rather than having to wait for individual schools to fail they would be able to move all of a MAT's schools if they were not meeting expectations.

Clarifying the role of local authorities

At a high level the 2016 white paper set out an appropriate role for local authorities: ensuring every child has a school place; ensuring the needs of vulnerable children are met; and acting as champions for all parents and families. To make this role achievable, as part of the initial phase of reforms outlined, these functions should be properly defined in law with the necessary powers given to local authorities to fulfil them.

On ensuring school places local authorities need to be given the necessary information and powers to meet their statutory duty for sufficiency. This could be done by giving them the right to set the published admissions number (PAN) for each academy in their area, as they can do for maintained schools. The risk of doing this is that it might make MATs unsustainable as their plans for expansion or phasing out provision could be overridden. There is also a risk some local authorities would reduce provision in good schools out of a misplaced desire to be fair to all schools in their area.

However, local authorities do need additional tools to be able to plan properly. At a minimum, MATs should have a duty to set out their forward plans for expansion and to discuss these with local authorities. It would also make sense to give them the power to ask the regulator to direct academies to increase their PAN if they can make a case that they will not otherwise be able to meet their sufficiency duty.

Adding new provision is more complicated as, if the system is to move to an all-MAT model, it makes little sense to allow local authorities to set up their own provision. But the 'free school presumption' process, which ensures that all new provision is run by an academy trust, could be simplified.[49] For instance, the need for a competition could be removed if the regulator signed off on a local authority decision to ask a named academy trust to set up a new school.

To ensure there is no unfairness in access, local authorities should also be given control over admissions. The vast majority of academy trusts abide by both the spirit and letter of the admissions code. But there is no reason to give any the opportunity not to. There is no plausible educational benefit in a trust having its own admissions

policy. The only possible value would be the handful of trusts who prioritise children on free school meals; it's hard to see any local authority would wish to not allow that if they had control. Of course, any change in responsibility for admissions would need to retain existing exceptions to the code. Where schools have historic admissions arrangements, for example selective or faith schools, this would have to be continued by local authorities.*

Local authorities' powers to support vulnerable children, particularly those with SEND or who have been excluded, also need to be reviewed to ensure that they are adequate. At a minimum they should have a right of access to sufficient academy trust data to enable them to do this function properly, including attendance records. Further powers would need to be considered in the light of the ongoing DfE review of SEND provision, which will cover a broad set of questions about SEND that lie outside of the scope of this report. This includes whether local authorities should have the responsibility for both assessing the needs of pupils and funding their provision, as this creates a clear conflict of interests. DfE's position on these questions in its review would then dictate what powers local authorities needed to have to meet their duties.

Beyond the question of additional powers, the proposed changes in regulation would in any case support local authorities in helping vulnerable young people. Another benefit of having a single regulator is that it would take over, from the ESFA, responsibility for oversight of trusts' SEND and exclusion policies, which would allow complaints raised to be taken into account alongside other factors in considering trust performance. Moreover, putting an expectation for supporting the wider system into the academy trust criteria would also encourage trusts to work co-operatively with local authorities.

Alongside these immediate changes, the government could legislate for an additional set of local authority powers that could be activated at the point all schools in an authority joined academy trusts. For instance, once a local authority no longer had any direct governance role over a school it could be given the power to call trusts to public hearings to answer questions over performance or engagement in their local community. This would allow local authorities to hold trusts to account on behalf of local voters, and the regulator could be tasked with taking into account anything of concern that emerged from a hearing. This additional set of powers could also include the ability to direct trusts to participate in activities related to integrated services, though it would have to be carefully designed to avoid creating a potentially unmanageable additional workload. It makes sense to withhold these powers until all schools are in trusts to avoid any conflict of interests around different treatment of maintained and trust schools.

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* Of course the government could choose to end selective and/or faith based admissions but that is a separate policy question.

2. Moving to an all-academy model
Moving to a single system

Once a legislative framework is in place that creates coherent and aligned regulation for academies, then it is worth considering how best to move to an all-academy system over time. There is no urgency to this. Indeed it would be a mistake to rush the process in a system that already has limited improvement capacity. Certainly trying to move to an all-MAT system without putting a proper regulatory framework in place could make things worse.

There is a reasonable question as to whether it's desirable at all. Even if few people want to return to a pre-2010 (or pre-1988) education system, there is little evidence that trust-run schools are better, on average, than maintained ones. What's the argument for forcing the issue, either directly, or through incentives?

The first answer is that it's more efficient and much less complex. There is a danger in prizing neatness for its own sake but it cannot make sense to have half of England's state schools in one system and half in another. Given the drift towards an all-MAT system anyway, coupled with the lack of interest in reversing this trend, it makes sense to do it properly. The duplication and confusion the dual system causes is reason enough to keep moving forward.

The second answer is that local authorities are currently stuck in a no man's land where they do not have the capacity to properly support schools, nor the powers and resources to take on an alternative role properly. Again a simpler, single system would give them the space to properly deliver a critical function. Even if a future government decided to resource local authorities better there would still be a conflict of interests created by having a direct governance relationship over some schools. To properly serve the interests of young people local authorities need to be able to take their side against schools.

The third answer is that the logic behind the original academies remains strong, even if it has been held back in implementation. If a local authority maintained school continues to fail over many years there is nothing that can be done if the authority is unable or unwilling to improve the school. Moving from a geographic model of control to one where national and regional trusts run schools – and where failing schools can be transferred from one to the other – offers more options.

It may not be necessary to set a formal time period by which point every school must be in a trust. The 2016 white paper set a four-year timetable considered overly ambitious by many, and sparked a backlash from Conservative local authorities that ultimately led to much of the white paper being dropped. If the government were to instead clearly commit to an all-MAT system by putting the right legal framework in place, and getting the system design right, many schools may take the leap. A lack of clarity around purpose and vision from DfE has undoubtedly slowed momentum. For instance, Swindon local authority recently cancelled plans to move to an all-MAT system following comments from the new education secretary, Nadhim Zahawi, that "softened" the approach to academisation, muddying the water.[50]

As discussed above, local authorities could also be incentivised to support this move if they were given a set of additional powers to hold trusts accountable, and integrate them with other services, when they stopped maintaining schools. If in addition to this they had a clear line of communication with the regulator, for instance a formal annual or termly meeting to pass on information, that might also help avoid the need for a hard deadline.

It would at least be worth trying a consensual approach to moving to an all-academy system. A more formal process could be put in place at a later date if it didn't work or there were a residual group of maintained schools holding out against the change. Working with the sector to generate momentum around creating a single, coherent system would be more likely to have a positive impact than forcing schools to change against their will.

Creating additional capacity in the system

Creating a new regulatory framework for academy trusts would create the necessary conditions for a stronger sector but would not, by itself, rapidly add capacity to existing trusts. This is necessary to enable them to take on more maintained schools, or struggling MATs, and so improve the quality of schooling overall.

A new regulator with coherent powers of intervention *would* create the opportunity to develop the market in a more structured and focused way. It would have stronger levers to get smaller MATs to merge, based on a transparent framework. And it would also create a set of clear expectations on trusts, encouraging many MATs to add capacity without further prompting.

But even with the right incentives and accountability measures in place building capacity requires investment in systems and people. Even some of the best trusts are highly dependent on individuals who are excellent at curriculum development, training and behaviour management, and are utilised across multiple schools. Few have properly systematised their practice. There is no real short-cut to this beyond centrally funding capacity building. The existing pot of £20m a year is just not enough given this is now the main mechanism for school improvement in the English system.

Moreover, capacity funding should be used to create new trusts as well as building up existing ones. Many of the organisations that have sprung up to provide support for schools in the absence of central direction would be well suited to running MATs themselves. Local authority seeded organisations like Camden Learning were set up with the explicit purpose of becoming MATs had the 2016 reforms been followed through. They are currently offering valuable support through training programmes and events but could have much greater impact if they ran schools directly. Funding the development of organisations like these would also encourage local authorities and maintained schools to make the jump to academy status – especially primary schools, which tend to prefer local support and oversight.

The regulator would also need to consider how to support schools that no MAT wanted to take on. In some cases this could just be a case of offering a financial incentive by, for instance, paying off the debts of a school that had been mismanaged. But there are groups of schools where the problems are more structural – such as in small primary schools in rural areas. The best option for these is probably for regulators to establish a backstop trust in regions that would support them.

3. Establishing accountability in an all-academy system
Balancing bottom-up and top-down accountability
A coherent, well-regulated, high-capacity single system of schools run by academy trusts is a long way off. But it is worth considering what new challenges such a system would bring so as to prepare for them, and if possible pre-empt them and ensure quality is improved.

Imagine a system in which all schools are run in 500 or so MATs of average size 50. The regulator publishes an annual report on all 500, scoring them against transparent criteria covering school improvement support, financial management, governance, and support for the wider system. With a relatively small number of MATs it should be possible to actively manage the system to spot and manage major risks in advance. But inevitably some would fail occasionally, and there may be reasons to move individual schools due to geography or for educational reasons.

Generally speaking, though, this would be a fairly static system dependent on top-down regulation for improvement. It would, therefore, be at risk from the flaws that all centralised systems have. Depending on how independent regulation was, ministers who wished to impose their vision on the system could do so more easily than now (even if the current system is already highly centralised when it comes to assessment and accountability). Even if ministers stay out of the way but the quality of officials and advisory groups supporting the regulator drops, it could lead to widespread system failure.

The question then is whether it would be possible to introduce an element of bottom-up pressure on the system if and when this relatively static state was reached. One option would be to give a limited legal status back to individual schools. At the moment they have no independent status outside of their MAT and that is probably necessary. The system is too chaotic to add in more moving parts, and the RSCs as currently formed are not equipped to manage arbitration between schools and MATs.

In a more settled system there could be real benefits if designed carefully. For instance, legislation could be introduced to require MATs to give each school a local governing body that included the headteacher, a member of staff, at least one parent and one member of the local community. This core group within the governing body could have special voting rights to leave the MAT if they felt it was in the interests of young people in the school. This vote would then be subject to authorisation by the regulator to prevent vexatious or frivolous attempts to leave. It is important that this

should only happen if there is a strong case young people would benefit from a move, rather than simply because an individual school did not agree with difficult personnel or finance decisions taken by the MAT.

The risk of doing something like this would be that it destabilised the system while making MATs more cautious about undertaking necessary reforms within schools. But the benefit would be a potentially more responsive system that didn't fall prey to bureaucratic overreach due to a centralisation of power within MATs and DfE. A mechanism such as this, combined with local authority hearings, could create the right balance between central control and local accountability.

Conclusion

The reality of the academies programme has not yet lived up to the rhetoric of its proponents. However, there is very little desire to revert to the pre-2010 (or pre-1988) model; in any case, local authorities today lack the capacity to take on the maintenance of the whole system again. Moreover, some MATs have shown what is possible: a structural model that allows economies of scale, strong school improvement support, and a coherent scalable approach to curriculum and professional development. This offers far greater promise than any alternative proposals to structure the system. And it is becoming increasingly hard, and duplicative, for local authorities to provide any meaningful support to their schools as they maintain an ever diminishing proportion of them.

The question, therefore, is how to move to a system in which more MATs are high quality, and where responsibilities that need to be retained at the local authority level can be properly fulfilled. The starting point has to be a legal and regulatory system that provides clarity as to the expectations on MATs and a way to transparently assess whether they are meeting those expectations. With that in place a move to an all-MAT system becomes more attractive, and one that can be supported through the careful building of capacity in existing and potential MATs. Alongside this, it is also important to provide clarity to local authorities about their role, and give them the powers to fulfil it. This would ensure that services that need to be provided at a local level were done well, and without young people falling through the cracks.

The final step might then be to create a bottom-up mechanism of accountability to complement top-down regulation, alongside public hearings held by local authorities. This would ideally create a balance of accountabilities in both directions and avoid the risk that centralisation could force MATs down the wrong path.

There are enough high-quality MATs to believe they can be the bedrock of the English education system, supporting an ever improving and fairer system. But that will require clear direction from the education department to move away from the drift and confusion of the status quo.

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