



**Permanent Secretary**

Sanctuary Buildings 20 Great Smith Street Westminster London SW1P 3BT  
tel: 0207 340 7414 permanent.secretary@education.gov.uk

Meg Hillier  
Chair of the Public Accounts Committee  
House of Commons  
London  
SW1A 0AA

7 November 2018

Dear Meg

**Fifty Second Report of the Session 2017-19: Converting Schools to Academies**

As you will be aware, the Treasury Minute response to the Committee's report was published on 8 October. The report recommended that the Department write to you by the end of October, setting out the progress of our work in meeting some of the recommendations. In line with that recommendation, I have provided an update on our work in meeting those recommendations below.

**Recommendation 1a: The Department should review academy trust failures to identify lessons for its scrutiny arrangements. It should write to us by October 2018 setting out the main reasons for the failures and how it proposes to strengthen its scrutiny of prospective academies and sponsors to ensure that risks are being well managed before and after conversion.**

Trusts are accountable for the education their pupils receive and for using the public funds with which they are entrusted. The role of the Department, including the Education and Skills Funding Agency (ESFA), is to set out a clear framework for academy trusts to operate within; to provide oversight and scrutiny of academy trusts' performance; and ultimately to take swift action where academy trusts fall short of these expectations. In its scrutiny, the Department considers three key functions of the trust: educational performance, financial management and governance. To be able to identify risks, and take decisions about whether action is required, the Department systematically collects a range of information about trusts and shares this

within the Department, including the Regional Schools Commissioners (RSCs) and the ESFA.

The Department's oversight is intentionally proportionate with the most attention focused on the small number of trusts that require intervention. Financially, as at August 2017 94.1% of trusts were in cumulative surplus or zero balance, compared with 94.5% in 2015/16. In both years, 98% of academy trusts' accounts received unqualified opinions on their financial statements by the external auditors, and auditors concluded that there were no regularity exceptions in trust accounts for over 95% of trusts. Educationally, between 2010 and the end of 2017, there have been around 1,700 schools taken out of Local Authority control to become a sponsored academy. Of these sponsored academies with an Ofsted inspection, 65 per cent have seen their grade improve from Inadequate to either Good or Outstanding. In addition, around 1 in 10 sponsored academy predecessor schools were good or outstanding before they converted, compared to almost 7 in 10 after they became an academy – where an inspection has taken place.

### **Strengthened scrutiny and oversight**

The Department scrutinises trusts' adherence to the accountability framework, which in itself has been strengthened. For example, in June we published a new edition of the Academies Financial Handbook that strongly emphasised the central role the chair and trustees play in the effective governance of the trust and the key responsibilities they have. It also laid down stronger expectations about the process for setting executive pay, described new requirements for reporting and approving related party transactions, emphasised timely action on audit findings, and set clearer requirements for how trusts manage their budget.

When considering a trust's educational performance, the Department routinely considers data, at both school and trust level, including: pupils' education outcomes; Ofsted judgements of individual schools and summaries of inspections of schools within a trust; and other relevant data including performance of disadvantaged pupils, exclusions data, pupil number information and projections.

Scrutiny of financial management considers a trust's annual financial statements, which are published on Companies House, and their Annual Accounts Returns. The requirements of trusts in relation to financial reporting have been strengthened over time, for example in this year's Annual Accounts Return we will request the job title of all staff whose full time equivalent pay exceeds £100,000 per year, and whether each role is predominantly focused on curriculum and education leadership or school business management leadership, as well as the overall breakdown in staffing costs between administrative, teaching and leadership roles. Further changes include requiring Trusts to provide a 3-year Budget Forecast Return. This encourages trusts to look at income and expenditure over an extended timeframe and provides a rich source of information for the ESFA to target better early support and improvement activity. The Department has also strengthened requirements around the reporting of related party

transactions. From April 2019, all academy trusts will have to seek approval from the ESFA for payments to related parties of more than £20,000, and all related party transactions, of any value, will need to be declared to ESFA in advance.

When considering a trust's governance, the Department looks at education performance and financial health and other relevant information as appropriate, including:

- Internal trust documents, for example management letters and evidence that any audit issues are being addressed. We are also making increasing use of trusts' internal audit reports.
- Information about the composition and independence of the trust's board.
- Financial Management and Governance Self-assessments for new trusts, with further reviews for some trusts as needed.
- Assessments trusts make of their use of resources.
- The opinion of external auditors on trusts' financial statements.
- Concerns raised by whistle-blowers, in accordance with a robust whistleblowing policy. This enables concern about wrongdoing, malpractice or poor practice to be raised by any individual or group of individuals who can reasonably be expected to have privileged knowledge of the governance or administration of the institution.

The Department continues to improve the way this information and data is shared between operational teams. This is both to strengthen our forecasting – looking at the three key areas of education, finance and governance – and to support a joined up approach to taking action, be that offering targeted support or deciding on intervention. The data and intelligence referenced above are used in this robust, joined-up approach to identify where there may be issues. This can increasingly be done on a predictive basis, for example by looking at the 3-year accounts returns. When issues are identified, and where possible, a single lead across the Department and the ESFA is designated to engage with the trust.

The Department uses this evidence base as a starting-point for discussions with trusts about areas of potential concern, as well as to test evidence of strong performance. These discussions held between officials and the trust CEO and chair (or trustee) enable the Department to validate data-led assessments, raise issues of concern, and scrutinise plans for improvement. This can help, for example: to confirm the suitability of a trust to support new schools, to inform decisions about whether to offer new support, or to decide whether intervention is required. The intelligence gathered from these discussions in turn enhances the Department's understanding of the trust.

The Department will continue to make improvements to its scrutiny of trusts' adherence to the accountability framework and to invest resource in this activity. The Department is pragmatic about the reality that any system of this size and complexity will continue to face some degree of risk. Our objective as we strengthen our oversight, therefore, is to minimise the risks of future trust failure to the greatest possible extent.

As well as identifying trusts that may face difficulties, the Department has an

important role in building the capacity of trust boards and leadership so that they can operate effectively within the framework. This role extends beyond those trusts identified as requiring support, to the whole sector. The support offer includes:

- More direct support to schools through the deployment of School Resource Management Advisers (SRMAs). 72 academy trusts and 3 local authorities received support from an SRMA as part of a pilot and we now are expanding the offer to enable delivery of at least 500 deployments over the next 12 months based on need.
- Publishing a [range of resources](#) that includes a [good practice guidance document](#), and tools that can help trusts to develop their model, for example sample governance structures and model job descriptions;
- Facilitating peer-to-peer mentoring and development support, for example through the [2018 MAT Development programme](#). The Department is also providing funding to help MATs increase their capacity to improve schools through the MAT Development and Improvement Fund.
- Launching a [governance development programme](#) that aims to improve the ability of governing boards to provide strategic leadership and data-driven accountability for educational standards and financial performance by giving chairs the skills to challenge school leaders and hold them to account for their decisions. [Academy Ambassadors](#) continues to recruit and place leaders of business and industry to bring their specific skills to strengthen the governance of trust boards.
- Offering support with resource management, including: negotiating recommended deals, to provide best value on regular purchases, and establishing a pilot for regional schools' buying hubs. This is summarised in the [Supporting Excellent Resource Management](#) strategy document.
- Developing and publishing guidance for governors and trustees, for example: [guidance on understanding and using data](#) and details of the key metrics they should consider to ensure a school is operating efficiently in the [top 10 planning checks for governors](#).
- Providing the [schools financial benchmarking service](#) to allow Trusts to compare quickly and easily spending with other similar Trusts and to access school contact details for sharing best practice.

As the academy system continues to grow, including through this support, so too does the availability of potential sponsors for underperforming schools that require support to drive improvement. The number of approved sponsors has increased by almost 20% over the past two years and there are now over 1100 approved academy sponsors. This means that more trusts across the country are able to support schools in need of improvement, ensuring trusts only take on schools when they are able to support them – as set out in *Multi-Academy Trusts: Good Practice Guidance and Expectations for Growth* (2016).

### **Acting on the data**

The Department is transparent about where it has serious concerns and has

published 23 warning notices on education grounds in the 2017/18 academic year, and 17 financial notices to improve over the past 12 months. In addition, the ESFA publishes formal investigation reports so that lessons learned can be disseminated to the sector. The Department has also published a [list](#) of trusts that have been late in submitting two or more financial returns in the academic year 2017/18 to hold trusts to account in a transparent way. Similarly, the ESFA has taken sustained action to challenge 213 academy trusts on awarding high salaries, asking trusts paying wages of more than £150,000 and trusts paying two or more people more than £100,000 to set out the rationale for doing so, which we carefully assess and test/challenge with the trust where necessary. [Information about these trusts](#) is published.

On 6 November the Department published a new dedicated [webpage](#) about the Headteacher Boards (HTBs) that advise RSCs. On this new webpage the Department will publish dates and agendas of meetings in advance so that interested parties are aware and are able to make representations. We will also publish discursive notes after the meetings, which will give more detail about the discussion at HTB meetings and increase transparency around decisions taken. We have also published blank HTB meeting preparation templates, which set out the types of information and data that feed into RSC decisions. This builds on the publication in 2016 of [Multi-academy trusts: good practice guidance and expectations for growth](#), which set out what RSCs look for in decisions about new and growing MATs.

The Department is also improving transparency of the academy transfer process (sometimes referred to as 'rebrokerage') with plans to publish technical notes for trusts to set out the stages of the process. The technical notes, to be published in December, will clarify expectations around timings and specific actions for trusts potentially taking on academies from other trusts. Consequently, trusts will be more aware of their responsibilities and the pace at which the Department requires them to be completed.

In June 2018, the Secretary of State set out an intention to consider further the transparency and fairness of our assessments of multi-academy trusts. Over the course of the Autumn Term, the Department is convening roundtables with trust chairs and CEOs across the country, as well meeting unions and other representative bodies. This engagement will contribute to further improvements to how MATs are held transparently to account. In taking forward this work the Department will seek to minimise the potential impacts on workload for teachers and school leaders and governors.

**Recommendation 2: The Department should set out a clear plan by October 2018 detailing how it will support schools that want to convert to become academies, including how it will overcome barriers faced by small rural schools. The Department needs a clear set of options including an option for schools that cannot secure a sponsor or find a multi-academy trust to join**

Since 2010, the Department has continued to see growing numbers of schools making the positive choice to become an academy. As of 1 October 2018 there

are 5,514 convertor academies (those that have chosen to become an academy) of which 3,641 are primary schools, 1,574 are secondary schools and 299 are special and Alternative Provision schools. In the month of September 2018, around 140 schools converted compared to around 110 in September 2017.

Many small rural primary schools have become an academy with around 8% of all primary school academies being small rural primary schools as of August 2018. The majority that opt to convert do so as part of a multi-academy trust (MAT) and as such will be open to many of the benefits afforded by the wider collaboration and economies of scale offered by MAT status.

Our plan for supporting schools that want to become academies involves a number of key strands.

### **1. Guidance and support for schools**

The Department is committed to improving continually the guidance and support for schools wanting to become academies, responding to feedback from schools and trusts and using new technology to improve the experience for applicants.

- a. In August 2018, the Department published a new online application form which makes it easier for a group of schools to apply together and join an established MAT, or where the schools and their stakeholders have the relevant skills and capacity to form a new MAT. The intention is also to collect all the necessary information up-front to save the need for further contact. This was informed by user feedback.
- b. The Department is also looking into further improvements to the application process, in the form of a digital online application service for converting schools. This service would integrate information already held, for example in Get Information About Schools (GIAS) and pre-populate the application form with as much information as possible.
- c. The Department has published online guidance, which is continually reviewed and updated accordingly. Since the PAC hearing the Department has updated its welcome pack information, which is sent to new academies on the date of opening. The pack aims to guide the trust through the first few months on matters relating to:
  - i. funding
  - ii. funding agreement compliance
  - iii. finance
  - iv. financial assurance
- d. The Department regularly updates the key dates document so that schools have a clear timeline to work within.
- e. The Department publishes model documents, for example model funding agreements for different types of schools and trusts to reduce the need for bespoke documents being developed each time. In June 2018, following feedback from schools and their solicitors, the Department published a revised model funding agreement for MATs.

### **2. Speeding up conversion**

The Department closely monitors the time it takes for schools to convert and

investigates the reasons for delay. The most common reasons for delay are where there are concerns about:

- the financial viability of the schools, possibly as a result of falling pupil numbers;
- the condition of the school buildings;
- meeting our commitment to preserve the religious character of church and faith schools when they convert to academy status while maintaining our focus on school improvement;
- ownership of the land that a school occupies and gaining agreement to the transfer;
- transferring other contracts that may be perceived to be poor value for money.

The Department reviews each case awaiting conversion on a regular basis and takes action to address issues, for example:

- a. Where there are viability concerns the Department will work with the Local Authority to consider the broader pupil place plans and consider whether pupil numbers are likely to increase in future years. As set out under recommendation 1a, the Department provides help and support for schools to reduce cost pressures and make every pound count. In August 2018, the Department published [‘Supporting excellent school resource management’](#) which sets out how schools can get the maximum impact from school funding. The Department also publishes a range of benchmarking tools, which allow schools to compare their patterns of spending against other similar schools.
- b. Where there are concerns about the condition of the school buildings that could impact on current and future liabilities, the Department will work with the trust to gain a better understanding of the condition issues in partnership with the local authority (which will have been responsible for maintaining the schools in suitable condition prior to conversion). In the summer, the Department updated current guidance around good estate management which informs local authorities that: “Local authorities and voluntary aided bodies are expected to treat fairly those schools considering conversion and to honour any commitments of capital funding that they have made, in respect of building projects at those schools. In all academy conversions, LAs are expected to hand over schools in a safe condition, with no urgent health and safety needs.”
- c. The Department is working closely with the national Church organisations - Church of England Education Office and the Catholic Education Service - to help RSCs and Dioceses put in place strong MAT structures that will support educational improvement in underperforming Church schools. We remain committed to preserving the religious character of church and faith schools when they convert to academy status while maintaining our focus on school improvement.
- d. Where there are contracts that involve third parties, for example PFI contracts, the Department can provide additional funding for legal costs in certain circumstances.

- e. The Department provides general advice on securing the continued use of land when maintained schools convert to academy status and sets the expectation that local authorities, foundation trusts, and schools take timely steps to ensure that any necessary land transfers are completed in time for conversion. The Department is also taking steps to streamline the process for the Secretary of State to consent to transfer such land.

### **3. MAT growth and capacity**

There are very few cases where the barrier to conversion is a lack of strong MATs but the Department knows that it needs to maintain a healthy pipeline of sponsors and MATs and further work has been done to ensure MATs have the capacity to take on schools in areas of greatest need.

- a. The Department will continue to encourage good and outstanding schools to become MATs, and strong MATs to support underperforming schools through sponsorship. As described under recommendation 1a, the Department is pursuing this through making funding, support programmes and resources available, including the MAT Development and Improvement Fund. These funds aim to build capacity in the MAT sector by supporting existing high performing MATs to grow in the areas where they are needed the most. It includes supporting 40 peer-to-peer mentoring opportunities for MATs that are taking on new schools.
- b. The Department has seed-funded the development of a small number of leadership courses for MAT CEOs, which are now up and running. It also provides a higher level of funding for MAT trustee training, as well as funding Academy Ambassadors to match high calibre business people as MAT trustees.
- c. As set out under recommendation 1a, regional teams in the Department have a good understanding of the trusts within their region, which helps them build MAT capacity in a variety of ways.
- d. The Department also publishes resources and information online for MATs. It has recently updated the [MAT resources](#) web page, which provides a range of guidance and resources to trusts covering school improvement, governance and finance to help strengthen the capacity of MATs.

### **4. Rural schools**

The Department is working closely with rural schools and the Church of England (as many rural schools are church schools) to better understand and evidence the particular challenges that small schools face and to develop support strategies, case studies, good practice guidance, and tools for them to use. The Department has also reviewed its guidance to help support local authorities, trusts and dioceses to consider reorganisation and closure where these might be the best options to deliver good school places.

The National Funding Formula (NFF) allocates additional funding to small, remote schools through the sparsity factor. The Department is confident that the sparsity factor provides sufficient support for small and remote schools, and will keep the sparsity factor under review, along with all elements of the



NFF, and continue to consider improvements to these in consultation with stakeholders.

### **5. School improvement support for maintained schools**

If the conversion of any inadequate school is delayed, RSCs will work collaboratively with the LA to help facilitate school improvement support, either through a local trust or through a teaching school so that the school is supported until it is able to convert. Until the point of conversion the LA is responsible for providing appropriate support for the school.

### **6. Consulting MATs**

The Department is also consulting leaders of MATs to gain a better understanding of the reasons it takes some schools longer to convert. MATs are keen to work with the Department on additional solutions, including involving them at an earlier stage, making more use of service level agreements and making better use of our legal duties and powers to secure speedy action from all parties.

**Recommendation 4: The Department should require all academy trusts, as part of their funding agreements, to work with local authorities on school place planning and school admissions, including for vulnerable groups of children. The Department should also outline how this will be monitored.**

The statutory School Admissions Code (the Code) exists to ensure places in all state funded schools, including academies, are allocated in a fair and transparent manner. Academies are bound by their funding agreements with the Secretary of State to comply with the provisions in the Admissions and Appeals Codes and admissions law as if they were maintained schools.

There are a number of provisions in the Code, intended to ensure that vulnerable children are not disadvantaged when applying for a school place. These include requiring schools to admit those children whose statement of special educational needs or an Education, Health and Care plan name the school and give highest priority in their admission arrangements to looked after and previously looked after children. Schools are also able to give priority in their admission arrangements to children who have a social or medical need or are eligible for the pupil premium or service premium.

All schools, including academies, are also required to comply with the local fair access protocol – a process that all local authorities must have in place to ensure that – outside the normal admissions round – unplaced children, especially the most vulnerable, are offered a place at a suitable school as quickly as possible.

The Department has a dedicated local authority engagement team of Pupil Place Planning Advisers (PPP Advisers) whose remit sits alongside the formal complaints procedure. The team works with LAs to support and challenge them on the sufficiency of school places, the quality of places created, the efficiency of spend, and surplus capacity in the area. When issues become known about relations with academy trusts, the PPP

Advisers work with the RSC delivery colleagues to try to help resolve these. This team also meets with LAs on a regular basis to review their plans for creating additional places and to consider alternatives where necessary. When LAs are experiencing difficulties, the Department will offer support and advice, for example, analytical and project management resource has been made available to a local authority.

LAs have always relied on strong relationships with local schools to deliver the places needed – this includes maintained schools, voluntary aided schools and academies. The Department knows from regular dialogue with LAs, that the system relies predominantly on constructive local relationships and effective negotiation (rather than directing schools to take action against their will). There are many examples of LAs working constructively with schools (including in areas where most secondary schools are academies) and where there is a risk that pupils will not have a school place, the Department does not hesitate to intervene.

The whole system is kept under close review and regular checkpoint meetings are held with RSCs and LAs to monitor how these relationships are working and in the majority of cases feedback from LAs and MATs indicate they work together collaboratively and constructively.

I hope this update is useful for the Committee. I am copying this letter to Sir Amyas Morse, Comptroller and Auditor General and Richard Brown, Treasury Officer of Accounts.



Jonathan Slater

**JONATHAN SLATER**  
**PERMANENT SECRETARY**