



# Academies regulation and commissioning review: terms of reference

## Background and context

The Schools White Paper, '[Opportunity for all](#)', set an ambition that all children will benefit from being taught in a family of schools, with their school in a strong multi-academy trust, or with plans to join or form one by 2030. Collaboration in strong trusts is critical to achieve the ambitions set out in the White Paper to improve attainment at Key Stage 2 and Key Stage 4, as well as improving outcomes for young people more widely.

The White Paper recognised that the current legal and regulatory system for trusts, based around individual contracts, has become increasingly unsuitable as the number of academies, and academy trusts, has increased, and is set to increase further. If we are to achieve our ambitions, we must ensure the system is better capable of improvement by changing the way we steward it – both in terms of commissioning and in terms of regulation. The [Schools Bill](#) introduced in May 2022 has set a significant shift in the system in train, but there is more to do to ensure we collectively build towards the school system envisaged by the White Paper.

The Schools White Paper committed to a review of the regulatory framework of academies, to shape an approach that is fully fit for the trust-led system we expect to deliver by 2030.

## Aim and outcome of the review

The overarching aim of the review is to build a coherent framework fit for a fully trust-led system, which supports all schools to be part of strong trusts and delivers the ambitions set out in the Schools White Paper. To achieve this, we have heard the review needs to consider the system as a whole, going beyond our regulatory and accountability frameworks to also consider the role of strategic or area-based commissioning.

This review will deliver a set of practical recommendations that will help build a resilient school system, which prioritises educational improvement and is governed by a clear statutory framework that commands public trust. To do this, the review will look at the array of different incentives in the system that could support trusts and schools to improve continuously. We also anticipate the review will identify some important issues in relation to implementation, although this is not its primary focus.

To do this, we are broadly defining regulation and commissioning as follows.

**Regulation:** defining acceptable standards or requirements, measuring performance or compliance against those requirements and judging where and what intervention is required.

**Commissioning:** how to develop a trust landscape which ensures every school is in the right trust, including: the establishment of new trusts, trust expansion and the merger or closure of schools and trusts.

Both of these are critical to preventing harms, such as financial failure that impacts children, and promoting goods, such as positive staffing practices that benefit children and staff. Regulation addresses harms as they arise and preventatively, by promoting positive behaviours to safeguard against emerging risks. Commissioning aims to create local and national trust landscapes in which trusts are best able to drive school improvement.

The initial phase of the review will consider the core values and minimum standards by which the school system will operate, including both existing standards and potential new standards, such as that proposed by the Schools White Paper in relation to collaboration.

The review will then focus on the regulatory and commissioning strategy that ensures those minimum standards are met, and exceeded. This phase of the review will consider the role of inspection as a regulatory tool. Trust inspection, and the potential impact of this on school-level inspection, will be considered in this phase. The review will consider how inspection can inform regulatory and commissioning decisions, as well as the incentives it can create.

The review will consider what is needed immediately, as well as in the medium-term and long-term, as we move towards a system in which all schools have joined, or are in the process of joining, a strong trust. This will include consideration of the role of government and the resource required. The review will explore the following areas:

- How we define, measure and judge trust strength, building on the principles in the Schools White Paper, including:
  - Our minimum standards of trusts
  - Developing and iterating our strong trust definition, to support trusts to become stronger
  - What metrics should be used to support each part of this definition now and in the future
  - How any judgements made can be nuanced and risk-based, reflecting a balanced picture of performance
  - What this means for effective measurement and data collection
  
- How and when a regulator would intervene and direct, including:
  - The overall regulatory strategy, including the harms the regulator will focus on and the kinds of activities it will prioritise
  - The risk appetite for intervention
  - Alignment between minimum standards and trust strength
  - How the regulatory framework will inform local decisions

- What should be the role for trust-level inspection and how this links to school-level inspection
- How the department incentivises system improvement, including through commissioning, by considering:
  - What the department's overall approach to commissioning should be
  - The incentives for trusts to improve and become stronger trusts
  - How judgements are made about which trust is best placed to improve a particular school
  - How decisions about trust growth, establishment and significant changes to schools should be made
  - Whether, when and how would it be appropriate to move a school to a different trust
- How can we most effectively deliver regulation and commissioning, including:
  - How should regulatory and commissioning functions be distributed in the system
  - What skills will regulators and commissioners need
  - Where are there opportunities to reduce the burden of regulation
  - How do we ensure processes are viewed as legitimate by being appropriately transparent and responsive to trusts, parents and local communities
  - What routes of challenge and appeal should be available
  - How any new legislation will be applied

We intend to engage the sector throughout the review, in order to inform our approach and recommendations. This will include close collaboration with an external advisory group alongside broader engagement with other key stakeholders, experts and partners. We welcome thoughts from the sector at [Regulatory.Review@education.gov.uk](mailto:Regulatory.Review@education.gov.uk).

The review's recommendations will be informed by the capacity required to deliver them, both for the system and the department. Specific policies to build trust capacity, as well as wider consideration of the role of the Local Authority will be out of scope, but we will consider and manage interdependencies carefully.

The review will set out some initial interim recommendations in September 2022 and a final report in December 2022. Both of these reports will be informed by engagement with the sector. The review will also inform future regulations, following the third session of parliament.

### **Roles and responsibilities**

The review will be internally chaired by the Minister for the School System, supported by an external advisory group. This group will be made up of expert individuals, drawn from academia, regulators and the education sector, who will work alongside the department to

develop the content and delivery approach of the review's proposals. The group will meet for the first time in July, and we will shortly confirm the full list of members on GOV.UK.

The external advisory group and chair will provide challenge during the review and engage officials closely. The department's ministers will take responsibility for leading meeting discussions, with officials taking actions forward as appropriate, including drafting the review's reports. The group will meet up to twice a month, with additional sessions being arranged if necessary. The department is responsible for publishing the reports that the review will produce, which will be signed off by ministers.

In addition to this external advisory group, the department will establish a number of working groups to ensure there is ongoing collaboration with all interested parties to develop and test proposals.

The DfE reserves the right to appoint additional or replacement group members. All meetings will be confidential, and information will be shared openly in meetings, in the spirit of co-design.