



**Baroness Barran**

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11 July 2022

**To interested Peers,**

My Lords,

**Re: The Schools Bill: Committee Day 2 & 3**

I committed to write in response to some of the questions raised on Day 2 and Day 3. My responses are detailed in this letter.

**Academy admissions and outcomes for disadvantaged children**

In the debate on Monday 13 June covering amendments 35A, 78, 160 and 162I various Peers, including Lord Adonis, Lord Knight of Weymouth, Baroness Morris of Yardley, Baroness Blower and Lord Nash, spoke about academy trust autonomy and admissions. My noble friend, Baroness Penn, emphasised that the best multi-academy trusts (MATs) and academies have a strong record of admitting pupils from disadvantaged backgrounds and achieving excellent outcomes. She confirmed that I would write to the Committee on this issue (Hansard, column 1397, 13 June 2022).

All mainstream state-funded schools have an admission authority responsible for setting a school's published admission arrangements, including the oversubscription criteria. The admission authority is the local authority for community and voluntary controlled schools, the school's governing body for voluntary aided and foundation schools, and the trust for academies.

The admission authority must set their arrangements in line with the statutory School Admissions Code and wider admissions law. This statutory framework applies directly to maintained schools, and to academies via the terms of their funding agreements. The Code requires arrangements to be fair, clear and objective. All schools must admit any child with an Education, Health and Care Plan which names the school; and must give first priority in oversubscription criteria to looked after and previously looked after children. The Code also requires admission authorities to ensure their arrangements will not disadvantage unfairly, either directly or indirectly, a child from a particular social or racial group, or a child with a disability or special educational needs, and that other policies around school uniform or school trips do not discourage parents from applying for a place for their child.

There are also important checks and balances in the system, including the right for parents to appeal any refusal of a place, and the right for anyone to object to a school's admission arrangements to the Schools Adjudicator where they feel they are unfair or unlawful. The Adjudicator's determinations are binding.

Many sponsored academies typically suffered from low attainment as under-performing local authority schools and often have a high proportion of disadvantaged pupils. Despite this, the best multi-academy trusts can transform outcomes for pupils, particularly the most disadvantaged, and deliver improvement in schools and areas where poor performance had become entrenched.

This is because the strongest trusts can focus and pool their expertise and resources to cater to the needs of all pupils, especially disadvantaged children or those with SEND. They can ensure interventions are in place to improve outcomes, and offer effective support and pastoral care to ensure no pupil is left behind. Dixons Academies Trust, for example, strives to achieve effective school improvement and great outcomes for children, exclusively in areas of high disadvantage. In the trust's schools in Bradford and Leeds, children eligible for pupil premium funding consistently outperform the average for children not eligible nationally, with a disadvantaged Progress 8 score<sup>1</sup> of 0.52 (against 0.13 non-pupil premium) in the last published data, and 35% achieving EBacc at grade 4/C or above (against 29% non-pupil premium).

The government is supporting schools with this via our pupil premium funding. The pupil premium provides schools – including academies – with additional funding to raise the attainment of disadvantaged pupils. The pupil premium is worth £2.6bn this financial year. The government is also providing an additional £1bn for a recovery premium over the next two academic years (22/23 and 23/24). Building on this year's recovery premium worth over £300m, this will help schools to deliver evidence-based approaches to support disadvantaged pupils. All schools are required to report on their use of recovery premium alongside their pupil premium, using the DfE's [strategy statement template](#). From the start of the 2022 to 2023 academic year, any activity that schools fund using pupil premium or recovery premium must align with a new menu of evidence-based approaches.

We are determined that, as we move to a fully trust-led system, school admissions will continue to be fair – and that parents will continue to have confidence this is the case. That is why we have committed in the Schools White Paper that trusts will be expected to act inclusively, providing the most vulnerable and disadvantaged children with the opportunity to attend the best schools. To further strengthen the system, we have committed to work with parents, local authorities, trusts, and schools to reform the admissions framework, including the setting of oversubscription criteria. We will also be

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<sup>1</sup> This score shows how much progress pupils at this school made between the end of key stage 2 and the end of key stage 4, compared to pupils across England who got similar results at the end of key stage 2. This is based on results in up to 8 qualifications. A score above zero means pupils made more progress, on average, than pupils across England who got similar results at the end of key stage 2.

consulting on a statutory framework to govern children's movements so that all placement decisions – including about the use of alternative provision – are always made in the best interest of the child, especially the most vulnerable like children in need. This is reinforced by our strong trust definition, published in the White Paper, that included high quality and inclusive education as one of five characteristics that a strong trust delivers.

### **Forcing SATs into MATs through intervention powers or a condition on funding.**

In the debate on amendment 60A, a number of noble Lords asked for clarification of whether the Schools Bill would enable the Secretary of State to force a standalone academy to join a multi-academy trust. Members of the Committee raised a number of questions about this in the course of the debate on amendments to clause 29. Although clause 29 relates to a power for local authorities to propose that maintained schools become academies, members of the Committee were concerned about the implications of other parts of the Bill for existing academies.

Baroness Penn stated that there are no powers in the Bill that would force an existing academy to join a MAT (Hansard, column 1607, 15 June 2022). That is because the Bill does not fundamentally alter the current position, which is that the Secretary of State can only transfer an academy to a different trust where there are grounds for terminating the academy's funding agreement.

The current model funding agreement applying to standalone academies provides for the Secretary of State to terminate the agreement on a range of grounds. These include grounds relating to educational performance; finance (including non-compliance with a Notice to Improve issued the Academy Trust Handbook); a serious breakdown in governance; and a risk to the safety of staff or pupils. A specific breach of the funding agreement or non-compliance with legislation applying to the academy could also be grounds for termination.

The Bill incorporates these existing termination powers into legislation. It also creates two new specific grounds for termination. The first of these is where an academy has not complied with a compliance direction issued under clause 5 on the ground that trust has failed to comply with a specific legal requirement. The second is where the academy has not complied with a Notice to Improve issued under clause 6 on the grounds either of non-compliance with a specific legal requirement or significant weaknesses in management. The termination powers relating to clauses 5 and 6 can only be exercised after the academy has been given the opportunity to remedy the legal breach or weaknesses; and as I have previously made clear to the Committee, the compliance notice procedure is intended to create a remedy which avoids resorting to termination (Hansard, Column 1420, 13 June 2022).

I recognise that some Peers have wider concerns about the potential unintended consequences of the provisions in clauses 1 to 4 of the Bill and their interaction with the termination provisions. In particular, it is possible that a future government could set a standard which an academy then failed to

meet. To that extent, the clause is capable of expanding the circumstances in which the Secretary of State could intervene. I undertook at the beginning of the third day of Committee to listen and reflect to noble Lords' concerns (Hansard, column 1600, 15 June 2022). I can assure you that as part of that reflection we will consider whether anything needs to be done to ensure that the Bill would not allow the Secretary of State to require a standalone academy to join a MAT except in the very limited circumstances I have described above.

In addition, Lord Deben questioned whether a condition could be placed on funding to encourage a SAT to join a MAT (Hansard, column 1610, 15 June 2022). The Schools Bill includes a provision for the Secretary of State to determine mainstream schools' funding allocations through the national funding formula. This would mean all mainstream academies would be funded on the basis of their pupil and school characteristics, as opposed to their governance structure. This means that conditions around governance will not be placed on revenue funding.

### **NFF allocations and assessment of DFE staffing needs**

Lord Shipley asked if an assessment has been made of the staffing needs in the DfE to deliver the direct national funding formula (NFF) (Hansard, column 1636, 15 June 2022).

Since 2017, the DfE has calculated notional allocations for all schools in England (both academies and maintained schools) each summer, in order to derive local authorities' allocations through the NFF; and each year the ESFA subsequently delivers funding allocations based on those calculations to local authorities (for maintained schools) and directly to what is now almost 10,000 academies.

These calculations and payments are made through systems that take information from various sources including, most importantly, the school census, along with specific information collected direct from some LAs and academies. The direct NFF will make use of the same data sources. To do so, we have invested in systems that are scalable so that we can continue to deliver accurate and timely funding to all schools even as the composition of the school base changes and the number of academies grows. The scalability of our systems means that our current resourcing level is estimated to be sufficient to successfully deliver the direct NFF. It is also important to note that, with the introduction of the direct NFF, certain activities required in the current system will no longer be needed: in particular, the removal of the need for 150 local schools formulae will not only reduce administrative burdens on local authorities, but will also remove the need for the ESFA to check whether local formulae are compliant with national rules.

As I assured the House on Monday, (Hansard, column 1639, 15 June 2022), the national funding allocations for mainstream schools in England, including both schools maintained by a local authority and academies, can be found online [here](#). These funding allocations are in respect of 5 to 16 year olds only; a

separate formula is used to calculate funding in respect of 16 to 19 year olds.

**Guidance for staff on consulting senior mental health leads**

Lord Addington asked whether the government provides any general guidance to staff on how to consult senior mental health leads (Hansard, column 1668, 15 June 2022). I unreservedly concur with the point raised by the noble Lord that teaching staff are not mental health professionals, and one trained member of teaching staff or leadership (a senior mental health lead) in a school or college cannot promote and support the mental health and wellbeing of all children and young people in that setting alone. Schools and colleges have a crucial contribution to make, alongside the NHS, local authorities and wider voluntary, community and social enterprise sector. It is the role of a senior mental health lead to implement and sustain an effective [whole school or college approach](#) to mental health and wellbeing that has the full support of the leadership and education staff within their setting, and enables partnership with other services and professionals in the community. The [learning outcomes](#) for senior mental health lead training outline the range of knowledge and skills that may be developed by education staff who undertake DfE quality assured training courses, including the development of wider school staff to promote and support children and young people's mental health and wellbeing, and understand the process to respond to mental health concerns.

Further resources and support for education staff are available in the [guidance for promoting and supporting mental health and wellbeing in schools and colleges](#).

I will place a copy of this letter in the House library.

Yours sincerely,



**BARONESS BARRAN**

**PARLIAMENTARY UNDER-SECRETARY OF STATE**