

**Labour's
Policy
Review**

Review of education structures, functions and the raising of standards for all

Putting students and
parents first

Acknowledgements

I wish to thank all those who have contributed to this review. Tristram Hunt and his front bench team, other parliamentary colleagues, and a range of those with both expertise and interest in the future of the education service and young people in this country.

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Rt. Hon. David Blunkett

Foreword from Rt. Hon. David Blunkett

In the fractured landscape emerging in the education system across England, it is often forgotten that what we're aiming to achieve is high standards for all, not constant restructuring of the service.

What we seek for young people is that they should acquire a body of knowledge, alongside the basic tools to continue learning throughout life.

Fundamentally this includes the ability to read and write, to be able to add up and take on mathematical challenges, together with an understanding of science. A grasp of who we are, where we are, and of course where we came from, is essential to a sense of identity.

Memory tests are important in ensuring that young children can spell, can recall their tables, can develop the capacity to retain information and therefore to be able to recall facts when necessary.

But the education system must offer much more than this. Schools and colleges are not factories to instil facts, and then hope that young people somehow make sense of them and become functioning and creative adults.

We have to provide the opportunity to build those thinking or critical skills, which allow the analytical faculties to develop – to be able to challenge, as well as to make sense of the ever-changing world around us.

Accessing data via an iPhone or computer is necessary in the modern world – but not sufficient. The mind of a child is, after all, more sophisticated than even the most highly-developed computer.

Children need to learn how to reason and how to study, and not just how to display their knowledge of acquired facts. Equally, developing the character of the individual child and their growth into an active and constructive citizen is vital to the future of all of us.

Those inspiring teachers, stirring texts and imaginative programmes of learning, which light a candle and engender a love of learning for life, must also be central to our goals. Indeed, an Institute of Education study in autumn 2013 found that children who read for pleasure perform significantly better at school in Maths as well as English.

Creativity is necessary in a world where innovation and entrepreneurship, both economic and social, will be vital to the survival of our species and to the civilised outcome of an ever more urbanised society. As all good teachers know, the joy of teaching is to see a child develop and flourish, to grow into an independent and self-confident adult.

Historically, education was driven by the economic and commercial needs of an economy that required basic functionality from a wide swath of the populace.

We have moved substantially away from this basic utilitarian view, as we have from the 'trickle down' philosophy that only a small percentage of the population needed to be highly educated.

Today's employees must be flexible and creative, able to adapt to rapidly changing circumstances, to team work and to the use of individual initiative.

Clearly, the emphasis on the particular status of a school, its antecedence and sponsor, is far less important than what takes place in the classroom, the laboratory and on the playing field. That is why in providing solutions to the current fractured system, the emphasis will be entirely on delivering inspirational teaching and aspirational learning.

Looking back on the North of England Education Conference in 2000, my reflections then seem as relevant today as in that early period of education reform:

"The combined forces of globalisation and technological change will mean...that education will determine who has the keys to the treasures the world can furnish...countries that respond astutely should experience extraordinary progress - with major social and economic benefits, including catch-up gains for the poor and marginalised. Countries that fail to respond to the challenge risk stagnating...widening social and economic gaps and sowing the seeds of unrest.

Education is the great liberator; it can unlock what William Blake called those `mind-forged manacles'"

A handwritten signature in black ink that reads "David Blunkett". The signature is written in a cursive, slightly slanted style.

Rt. Hon. David Blunkett MP

Executive Summary

Nothing is more important for young people than enhancing their life chances, liberating their potential and encouraging their contribution to a globally competitive and modern economy. From the moment a child is born to the very limits of lifelong learning, we depend on the nurturing of talent and fostering of the love of learning, in the endeavour to create a society based on opportunity, fairness and self-determination.

That is why in the 40 recommendations laid out in this report, there are two overriding objectives.

The first is a relentless drive to raise standards and offer equal opportunity from the moment a child is born, to all children.

The second is to facilitate this by bringing about coherence, consistency, and a collaborative approach within the education service.

To reinforce and then spread best practice, to ensure probity and the equitable use of public funds, and to ensure transparency and accountability locally, we need devolved structures that do not rely on a top-down approach with the Secretary of State in charge of thousands of funding agreements with individual schools and intervention from the top.

That is why the proposals place strong emphasis on partnership from the bottom-up, with schools controlling schools, and schools partnering with those most appropriate to drive up standards.

This will be paralleled by a decentralisation from the top-down, repatriating powers to those closest to the classroom, at school, area and sub-regional level.

The London Challenge is a prime example, acknowledged by those from a range of political outlooks as a great success. Strange therefore that those who acknowledge that collaboration and partnership is the way forward should have taken steps to fracture and undermine this process.

The current architecture which leads schools to be contractually bound to the Secretary of State and free-floating from the communities they serve is not only undemocratic and lacking in any meaningful accountability, but is also clearly unsustainable.

The Al-Madinah School, Discovery New School and King's Science Academy (and possibly others not yet revealed) are examples of what can happen when proper monitoring and oversight do not exist.

In April 2014, the alleged Operation Trojan Horse in Birmingham demonstrated the difficulties that have arisen from this 'absence of transparency'¹ with centralised control of schools on the one hand, and lack of any real clarity about how autonomy at local level should retain sensible accountability on the other.

¹ 'Birmingham's schools must prepare pupils for a multicultural Britain', Tristram Hunt, *The Guardian*, 19th April 2014

A 73-page contract between the Secretary of State and an academy² not only makes a mockery of any claim to 'localism', but drives a coach and horses through practical and meaningful accountability. Taken together, the top-down approach of the Secretary of State and the operation of the Education Funding Agency would, carried to its logical conclusion with over 20,000 'autonomous' schools, result in an unmanageable Kafkaesque caricature, freeing schools from everything except of course the Secretary of State.

This situation is confounded by the utter lack of sensible audit and financial prudence. In April 2013, the Public Accounts Committee found that the Department for Education had overspent on the Academies programme and Free Schools by a staggering £1 billion. Some of this overspend was a direct consequence of overpayment errors made by the Department. 90% of converter academies had been overpaid, costing a total of £350 million since 2010.

The National Audit Office reported in December 2013, at £1.5 billion, the Free Schools programme will cost at least three times the sum originally allocated. Nearly a third of the free schools approved by the Government plan to set up in areas where there are considerable surplus places and the average cost per school is currently at £6.6m – twice the Department for Education's assumption.

Meanwhile, a crisis in school places is quickly developing, and the National Audit Office has predicted a substantial shortfall by 2015.

As Conservative MP and Chair of the all-party House of Commons Education Select Committee, Graham Stuart, reflected in the House of Commons on 6th January 2014, we "have Ministers trying to run schools from a desk in Whitehall."

Clarity about who is responsible for what and accountable to whom, is lacking. Recommendations are therefore focused on the future not the past, the building on what is working best, to establishing a mechanism for driving improvement across all schools of whatever status, fostering innovation and creativity with a framework of oversight, which provides a light touch in monitoring progress.

That is why the emphasis on a particular status or antecedence of a school, or the particular sponsor, is far less important than what takes place in the classroom, the laboratory or on the playing field.

In providing solutions to the current fractured and 'atomised' system, as Sir Michael Wilshaw recently described English education, the prime emphasis has to be on how to reinforce inspirational teaching and aspirational learning.

Key recommendations reinforce the freedom of schools by providing additional autonomy to all schools, and the creation of Community Trusts to bring together small primary schools where they are not already part of a sponsor or partnership structure.

Alongside this, key functions currently exercised at central level by the Department for Education and its agencies would be devolved to a new post of an independent Director of School Standards.

² Model Funding Agreement, Department for Education website, updated May 2013
<http://education.gov.uk/schools/leadership/typesofschools/freeschools/b00222077/pre-opening/funding-agreement>

This post would be reflective of the statutory independent powers historically exercised by the local Director of Public Health. Appointed locally, accountable locally and free to bring both pressure and support wherever needed.

Local Authorities, retaining key functions, would place emphasis on being the voice or advocate for pupils and parents. Using the scrutiny role, key to ensuring information is readily available in the public arena, they would work with the Director of School Standards to ensure local intelligence was at the forefront.

Brokering partnerships where they do not exist, overseeing the commissioning of new schools and school places, and facilitating cross boundary arrangements to provide support in areas such as special needs, training, careers provision and progression into post-16 – the DSS would intervene “in inverse proportion to success,” as Professor Sir Michael Barber once advocated.

This would ensure coherence, based on City Regions and Local Enterprise Partnership areas, to avoid unnecessary bureaucracy and ensure value for money.

Every pupil, wherever they live and from whatever background, should have a basic entitlement to world class education in first-class facilities. An entitlement to an appropriate and accessible high quality place would be matched by fair admissions, strengthening the code and reinforcing the importance of schools coming together to agree collaborative and workable arrangements. The role of the independent Schools Adjudicator would also be strengthened to ensure fairness and consistency across England.

Entitlement also means access to a coherent curriculum, wherever the child goes to school, reinforcing a sense of identity and the glue that holds society together.

Diocesan and Local Authorities would, as they do now, collaborate, and where concerns were highlighted in relation to probity or the governance of schools, the Office of the Schools Commissioner will have been strengthened to be able to act swiftly in responding to concerns.

To ensure the highest possible quality in the provision of support services to schools, kite-marking will provide quality assurance and transparency in terms of contractual arrangements and the relationship of schools with sponsors.

In addition, all elements of the education service would be inspected, as recommended by the Chief Inspector of Schools Sir Michael Wilshaw. All teachers would either have to have, or would be in the process of gaining, qualifications. Support to and the training of governors and members of trusts would be a key aspect of both improving accountability and strengthening governance arrangements. The provision of up-to-date access to appropriate sources of data, information and comparative performance will be vital in driving up standards and sensible benchmarking between schools.

Accessible and consistent procedures for providing parents with redress will be essential. Not just taking into account the views of parents and, of course, encouraging and inspiring them to want to be involved in their own children’s education (and in many cases their own), but also to offer appropriate means of dealing with grievances at an early stage. Balancing the responsibility of school

leadership for school improvement, discipline and pupil engagement, with the rights of parents, is and will remain a challenge.

Parent Teacher Associations, linked to a local representative body for governors, is one way of ensuring both consistency and mutual support in getting this right.

One area often neglected is 'alternative provision'. This often means youngsters from the age of 14 onwards who do not or, for a variety of reasons, can not fit in to the normal system. Inspection of such provision and Local Authority oversight and monitoring to ensure that youngsters do not become 'NEETs', without post-16 access to education, employment or training, is vital. This area has been too long neglected.

In the end, the quality of school leadership and of teaching is paramount. Re-establishing the National College of School Leadership as an independent driving force for improving training and continuing professional development will be crucial. Linked as it will be to cross-border provision of training through teaching school alliances, the development of peer group support through National Leaders of Education programmes, and a valuing of the professional quality of teachers, must contribute to the overall objectives set out in the blueprint for the future.

Recommendations

LOCAL OVERSIGHT AND SPREADING BEST PRACTICE

- 1. Creation of the position of independent Director of School Standards (DSS):** It is recommended that there should be a bottom-up approach in building partnerships at local level, together with a top-down devolvement of responsibilities to offer greater accountability. To facilitate this, a new executive post should be created: an independent Director of School Standards will work at the local area level to drive high education standards in every part of England.³ The DSS would be responsible for driving up standards in all schools in his or her area, whatever their status. This would be a statutory appointment made from a shortlist of candidates approved by the Office of the Schools Commissioner. The appointment would in most circumstances be made across Local Authority boundaries, with an appointments panel representing key local partners. The presumption would be for Local Authorities to join together to appoint a shared DSS across a local area or sub-region as this collaboration will help to raise standards and efficiencies whilst maintaining the local link. He or she would be appointed on a fixed term five-year renewable contract and would be statutorily independent. The creation of this position would represent a light-touch approach with minimal bureaucracy. It would provide the kind of objective voice that historically was offered by the local Director of Public Health, rather than a return to the former Chief Education Officer position and the structures that underpinned it. It is recognised that the configuration of partnership arrangements, both across Local Authority boundaries and between schools, will vary according to circumstance. London in particular, with historic cross-boundary arrangements, would be expected to reflect geography, social and economic ties.
- 2. Remit of the Director of School Standards:** This post-holder would facilitate intervention to drive up performance – including in coasting and ‘fragile’ schools. He or she would take into account the views of parents and the wider community, and would broker collaboration between schools and across local areas. This approach will build on the success of partnerships such as the London Challenge, and in terms of procurement and support, the Hackney Learning Trust. The aim of the DSS would be to ensure the spread of best practice and drive the raising of school standards wherever poor performance exists. Parents would have the right to request intervention from the DSS where concerns had not been adequately addressed. Clearly, Ofsted inspection reports and performance against floor targets would be key, but discretion would be in the hands of the new DSS. The DSS would also be responsible for the planning of additional places using Local Authority data and intelligence, and he or she would subsequently oversee the process of competition for new schools (as indicated later in Recommendations 19-21). Where newly established sponsors are involved, there should be a two year probation period in which both early inspection and new oversight would be available. It is recognised that the DSS would have a key role in providing such oversight. The new post would have a small back-up secretariat providing only the most essential administrative support, with information, data and, where

³ The relationship with the Director of Children and Young People’s Services to be determined by the further work in considering existing structures outlined in recommendation 33

necessary, intervention drawn from the Department for Education, Ofsted, and the relevant diocesan and Local Authorities. Schools, whatever their status, would be required to provide any data requested and to cooperate fully with the DSS.

- 3. Operational role of the Director of School Standards:** Self-evidently, the post-holder will work in collaboration with, and as a partner of, the Directors of Children and Young People's Services in the relevant Local Authorities. In addition to the local arrangements (sometimes known as borough or citywide learning bodies or forums) with whom the DSS would work closely, there would be a local Education Panel. This would include representation from schools in the area, parents and relevant Local Authority representatives, who would work with the DSS on the development of a long term strategic plan for education, ensure major commissioning decisions are taken in line with that plan and agree the budget proposed by the DSS. In the event of an impasse, the issue it concerned would be referred to the Office of the Schools Commissioner. This would dovetail with the responsibilities of LEPs and City Deals in relation to skills needs and the regeneration for the broader economy. Additionally, regular updates would be provided to the national Office of the Schools Commissioner and close working arrangements would need to be developed with the regional Ofsted team. On an annual basis, the DSS would invite locally elected representatives, including MPs, to a presentation of the annual report where questions could be raised and appropriate debate could take place. It is also envisaged that governors, trustees and parent groups be represented at this forum.
- 4. Public duty for Local Authorities, schools and other providers to work with the DSS in brokering collaboration:** The DSS must be empowered to broker collaboration within the local area they lead. There should be a public duty on Local Authorities to demonstrate (for inspection purposes) appropriate procedures for fostering collaboration between schools. Similarly all schools, whatever their status, and other providers of education would be under a duty to demonstrate collaborative ventures or the drawing down on expertise from other parts of the education system (to be reported upon by Ofsted). The DSS would intervene where unsatisfactory or inadequate collaboration was evident. Partnership working would also be expected to facilitate the sharing of support and procurement processes to cut out unnecessary costs and provide value for money.
- 5. Community schools not currently part of a federation, multi-academy or sponsor framework should be encouraged to join a partnership, including through the creation of our Community Trust model:** This review recommends that, where this does not already exist (or where the school in question cannot demonstrate alternative forms of partnership working), the Local Authority should broker the combining of all community primary schools into broad Community Trust arrangements. Much as arms-length management organisations have been a model adopted in relation to social housing, Community Trusts would be established in partnership with the relevant Local Authority. This proposal is set out in detail in the chapter on 'Best Practice'. This would clearly meet the needs of very small schools and would help protect them from the threat of closure. Nothing in this report would stop those involved continuing to be able to draw on support services operated either singularly or jointly (or in combination with social enterprise/the private sector, as listed in Appendix IV). Where there are small isolated schools, it is envisaged that existing experiments to develop 'virtual' partnership/trust arrangements would be expanded. Already, good examples exist of the use of executive headship and combined management

teams. It is envisaged that the Community Trust model would facilitate greater teacher and Headteacher development, with school leaders able to access training, experience and professional development through shared working. Where schools wish to remain voluntary aided, they would have the facility to be able to partner in whatever way was most appropriate – and to take advantage of the use of modern communication as outlined above. The intention is to ensure that the existing pluralistic approach is maintained, but that genuine partnership is encouraged. Where a large number of secondary schools in a Local Authority area have not chosen to take on academy status, it would be open to them to combine into a Community Trust in order to foster the collaborative approach set out in this paper.

6. **Kite-marking:** If, as in Recommendations 34 and 35, all aspects of the education service are to be adequately inspected, including sponsor chains, it would also be sensible to kite-mark those providing substantial education support services who do not fall under the remit of Ofsted inspection. This would apply to the development of Local Authority joint procurement arrangements and outsourcing ventures (we identify Staffordshire, Devon and Surrey as early examples where experimentation has taken place). Light-touch arrangements would be put in place to avoid the exclusion of new entrants into the market, which in essence would strengthen the existing procurement rules at local level. The kite-mark would be intended to provide a benchmark of high quality, and would not restrict the entry into the commissioning and contracting procedures of small and niche providers. Kite-marking of external bodies is a basic step in ensuring that wherever a school turns for support or to draw on facilities, an acceptable standard would be on offer, and provide an additional safeguard in relation to probity.
7. **Creation of Education Incubation Zones:** This review recommends the creation of time-limited Education Incubation Zones between schools in a locality, for the purpose of school improvement and raising standards. The aim would be to promote forward-looking practice in pedagogy, use of technology and outreach to parents and the school community. They would offer an opportunity to develop modern forms of communication both within the school and in spreading innovation between schools. In simple terms, to develop what the school of the future would look like. Such innovation could be funded through proactively seeking contributions from endowments, such as the Education Endowment Fund, or major foundations, both nationally and internationally. When funding allows, additional resources should be made available through the Department for Education and local government, to foster creativity and to draw down on best practice from across the world. Education Incubation Zones would have a limited life, to avoid the creation of new permanent structures. Permanent partnership arrangements would of course be in a position to adopt and therefore trial entrepreneurial work, but pathfinder programmes allow for experimentation with careful and sustained monitoring.
8. **Schools free to move between partnership, federation, trust or academy chain:** More than half of all secondary schools are now academies, and many belong to chains or trusts. With this in mind, it is sensible for sponsors, with the agreement of the Secretary of State with whom the funding agreement rests and the support of the Office of the Schools Commissioner, to ‘float off’ groups of schools or nurture new sponsors where, either by geography or experience, there is likely to be a greater synergy. A review should be undertaken by the incoming Secretary of State, in collaboration with existing sponsor chains,

to examine how such reconfiguration might be achieved without disruption or unnecessary top-down interference.

9. **Funding Agreements:** As indicated elsewhere, the impracticality of the existing expansion (either to converter academies or sponsor chains) of direct funding agreements with the Secretary of State, requires a more decentralised and appropriate model. As the National Audit Office have noted, the complexity of existing arrangements and the resource required to sustain this model, necessitates urgent review. In any case, given the complexity of individual funding arrangements, in particular the inter-relationship of school funding with that of sponsor chains, any facilitation of schools moving between chains or trusts might be best achieved by shortening such contractual arrangements to no more than five years. An incoming Secretary of State would, in any case, have to re-examine how to create a long-term model to allow for greater accountability with the ability to undertake a thorough review and identify problems at an early stage. In other countries (including the US) where funding agreements exist, they are renewed every 3-5 years.

ENTITLEMENT TO HIGH STANDARDS AND FAIRNESS

10. **Public duty to represent interests of pupils and parents:** It is critical that the role of the Local Authority should be geared to the reformed and modernised agenda set out in this paper. While many Local Authorities do an excellent job of representing the interests of parents and pupils, an increasingly fragmented education landscape in England makes it extremely difficult for parents to navigate the system and, therefore, a new 'duty' to inform and support the interests of pupils and parents should be placed on local government.
11. **Assessment of Pupil Premium:** Ofsted have undertaken a critique of how the Pupil Premium is being used and, from a number of sources, it has become clear that it is not reaching the pupils and supporting the work of the school with them in a way that would make the best use of targeted resources. It is recommended that an incoming Labour government should assess the level and use of the Pupil Premium to ensure value for money, and that it is targeted to enhance the life chances of children facing the biggest challenges, whether from special needs or from the nature of the background and societal impact they have experienced.
12. **Reaffirmation of the need for teachers to be qualified:** This review concurs on the need to ensure that properly qualified teachers oversee the learning process in publicly-funded institutions.
13. **Careers advice:** Whilst there is a requirement on schools to provide independent careers advice, recent changes have all but demolished any coherence in relation to developing programmes for social mobility, careers and life choices. Much evidence has been provided of the disintegration of independent careers advice and the importance of not simply providing information in a vacuum, but tailoring it to the needs of individual young people. It will be necessary for an incoming government to draw on existing evidence to determine how and by whom careers advice and progression into post-16 education should be provided. This would build on existing best practice and on plans laid out in the third report of the Labour Party Policy Review's independent Skills Taskforce, which recommended that Local Enterprise Partnerships (LEPs), were they to be expanded and provided with greater core resources, should play a lead role in brokering workplace learning by helping to build relationships between employers and schools.

- 14. Clarification of the role of Local Government Ombudsman (LGO) and Office of the Schools Adjudicator (OSA):** It is right to revise the role of the Local Government Ombudsman so that it is much clearer which aspect of review and redress falls to the Adjudicator and the new DSS, and which should remain with the LGO (where there are claims of maladministration that are clearly within that remit). This review recommends that all schools would be subject to the Adjudicator in relation to admissions, and where the LGO (taking on claims of maladministration) currently acts only for some schools, it would be sensible to extend this role to all schools whatever their status. As indicated above, the DSS would focus on school standards.
- 15. Strengthening of the School Admissions Code:** Guidance from the Department for Education appears to reinforce fair admissions, *“Academies are required through their funding agreements to participate in the local authority’s co-ordinated admission arrangements.”*⁴ However, whilst the Office of the Schools Adjudicator (OSA) annual report⁵ noted that only 10% of Local Authorities objected to the arrangements of other admission authorities in their area, the OSA has separate evidence of much more widespread non-compliance. This review recommends that the School Admissions Code is strengthened by removing the possibility of individual schools ‘opting-out’ of the locally agreed admissions framework. This would not prevent changes to arrangements locally or agreed experimentation by Admissions Authorities, but would avoid the detrimental impact of rogue action with one school damaging the admissions of other schools in the locality. This recommendation does not interfere with the role of diocesan authorities, academies or schools as their own ‘Admissions Authority’, but reinforces the necessity of agreed and coherent arrangements within the relevant local area. It would also be helpful to clarify post-16 admissions policy and therefore the choices available to young people into sixth forms, sixth form and further education colleges.
- 16. Removing disincentives to monitoring the code:** It will be important to strengthen local monitoring of the Code. In relation to the role of the Adjudicator, reporting mechanisms should be clear so that breaches can be dealt with simply and quickly. A common admissions framework is perfectly compatible with responsibility by schools for determining admissions, and there need not be any conflict of interest when Local Authorities carry out the facilitating role.
- 17. Strengthening of Office of the Schools Adjudicator (OSA) and Fair Access Protocols (FAPs):** It will be necessary to strengthen the OSA and re-instate its power to change admission arrangements directly on upholding an objection (rather than merely issue a ruling). This review also recommends supporting better arrangements for in-year admissions by improving coordination, strengthening Fair Access Protocols (FAPs) and adjusting powers of direction to secure school places for vulnerable pupils. The aim is fairness – so that some schools do not find themselves having to deal with a large influx of children during the course of the academic year, sometimes simply because of temporary spare capacity. Schools already facing the greatest challenges should not have their plans for raising standards severely undermined by a lack of agreed and reciprocal admissions policies.

⁴ Department for Education website

<http://www.education.gov.uk/schools/leadership/typesofschools/academies/open/b00219097/academyfactsheets/academyadmissionsfactsheet>

⁵ 29th November 2013

18. Coherent and consistent appeals framework: The long term aim must be to have an external independent appeals system covering all schools, and simplification of the law relating to selection by aptitude and ability. However, given the current caseload that exists in dealing with appeals, it will take time to move to such a scenario, and in the meantime it will be important to recognise and to build on procedures already established within schools (and within multi-academy trusts), and ensure that they are clear and fully exhausted before access to external processes becomes available.

FIDUCIARY DUTY

19. Local Authorities remain responsible for place-planning: Local Authorities (as agreed by everyone consulted in this review) would remain responsible for identifying the shortfall in places for children in their locality, and for recommending where such additional places should be established. Clearly, Local Authorities have both the knowledge and the broader intelligence (and appropriate data) to identify where there is need, and to make recommendations to the DSS in relation to whether this should be met by expansion of existing provision or new schools. Whenever change is mooted, it goes without saying that there should be meaningful and full consultation with local stakeholders.

20. Process for the commissioning of new schools and places: Using data and intelligence supplied by the relevant Local Authority, the DSS would initiate a process of consultation on the opening of new schools, or where there is the need, for substantial additional expansion of schools. He or she would draw together all relevant heads and other local partners in a light-touch consultation on the nature of the new school/school places required, to identify potential solutions in line with the strategic plan for education in the area. Once notice was given, the DSS would invite proposals from those with an interest in providing a new facility. Where a popular school wished to expand to meet such need, it would be presumed that this option would be supported. The national Office of the Schools Commissioner would set out the framework for running these competitions fairly and transparently and all DSS' would be expected to follow these criteria, within which they would take decisions about new schools. The education panel would have oversight of the process on commissioning decisions ensuring that the DSS follows due process when running school competitions and that decisions on new schools meet the long-term education objectives, set out in the strategic plan for the area.

21. Adjudicator to assess appeals on new school decisions: Where there was a challenge to the process or decision, the Adjudicator would be able to broker agreement or to 'adjudicate'. The DSS would require access to high quality data, and would need to take account of the existing quality and performance by bidders (including financial and governance considerations). The views of parents would be taken into account and a proper process identified for achieving this.

22. Open competition for new institutions: All trusts (including Community Trusts), partnerships, chains, parent groups, diocesan authorities and social entrepreneurs would be able to put forward proposals. If sufficient parents are dissatisfied with the general standard of education and the choice available within a locality, it would not be ruled out that, through the office of the DSS, new sponsors would be invited to make proposals for the regeneration of one or more schools in the area as an alternative to enforced academy status. This aspect needs to be explored further in terms of practical ways of ensuring that

high quality education does not entail wasteful expenditure of duplicate provision, so evidenced with a number of Free School developments.

- 23. Same freedoms for all schools in key areas:** All schools, whatever their status, should be permitted the same freedoms in key areas. Firstly, a light-touch curriculum framework delivered in a flexible and innovative manner. Clearly Ofsted would be required to undertake a judgement during normal inspection procedures in respect of the breadth and depth of the curriculum framework on offer. Going beyond what is required will not be a problem and, in fact, would be welcomed in reflecting local approaches to curriculum development. Secondly, freedom for all schools to adapt the school day and the school week in consultation with parents. Thirdly, subject to consultation, freedom to buy in appropriate services, in a manner that combines the necessary collaborative responsibilities reflected in the current Dedicated Schools Grant and the devolved Education Services Grant. It is expected that the bulk of schools currently collaborating through the use of the Dedicated Schools Grant would continue to do so.
- 24. Legal entity of schools:** Successive governments have introduced primary legislation regarding the legal status of state schools in this country. A complex picture has been created, with the application of legal duties differing across different types of schools. For a school, of any status, to have the freedom to hold their sponsor to account in cases of poor performance, join new partnerships and move between chains, it is important to ensure such a school has the necessary legal status. More than this, when a school ceases to be a school, it is important that commercial benefit is returned to the public purse, which makes a legal foundation important. The incoming Secretary of State should therefore immediately take cognisance of the confusion, contradictions and complexity that exists over the legal situation of schools in England to find a coherent way forward (see extract from an opinion of David Wolfe QC, which he has generously agreed we can reproduce in Appendix III).
- 25. Greater transparency:** It is recommended that complete transparency should exist within the system, in line with other publicly funded services. This should include access to information through the Freedom of Information Act, as well as satisfactory audit arrangements. This should apply to all those engaged in the expenditure of public funding, including privatised support services as well as those directly delivering the education service. Schools must follow through on having their own accounts audited and publish appropriate information online, including the cost of contracts over £10,000 and the beneficiary of such contracts. Foundations, trusts and sponsors should be subject to the same rules of accounting and transparency.
- 26. Private sector providers of educational services brought within a standard framework:** It is recommended that all private sector operations purchased by either sponsor or school management should be subject to accountability and to a full evaluation of both the educational and financial benefits and drawbacks, and therefore brought into a framework of supervision. Under the principle that 'schools control schools', the test should be what is considered best by the leadership team and governors, rather than those in charge of the superstructure. Schools would have a clear say in which of their services and support systems should be drawn from outside the school and which should be employed directly. A Community Trust model has worked in many areas effectively, in both providing the right services to raise standards, conducted in line with the best possible procurement practice.

Logically, the same tests should be applied to large scale sponsors like AET as they are to publicly accountable bodies at local level.

THE LOCAL AREA

- 27. Best practice made available to governors:** Best practice in training of governors and trustees should be identified, developed and disseminated, as well as regularly updated. This should be in conjunction with, and on the advice of, the National Governors Association, and drawing on the work of the National College. There is a great deal more work to be done on training and preparation, including ensuring each Governing Body is equipped with a competent lead on finance. It is accepted that the whole governing body have responsibility to develop a positive relationship with parents and external partners. However, it is considered to be helpful to both parents and to the school itself if there is a coherent complaints procedure and a nominated governor/trust member whose task it is to oversee such accountability mechanisms. It is recommended that proposals are taken forward on how best to ensure that the two-way exchange of information and meaningful accountability to parents, including (where it does not already exist) an annual forum. As is the case with other areas of public funding, Freedom of Information requirements would apply where other applications for information had been unsuccessful.
- 28. Greater support made available to governors:** Greater support should be given to governors/trustees in enabling them not only to be better supported and informed, but also to have paid time off work to undertake their important role. A Labour Government should explore with employers organisations how best to achieve this goal, in giving time and specific support to chairs of governing bodies in particular. As with so many requirements in undertaking public duty, cognisance will have to be taken of the size and capacity of the employer, as well as the size and range of duties demanded by the institution concerned. It would also be appropriate to consult on the possibility of moving to a model of remuneration for chairs of large trusts (or in extremely large schools with their own independent governing body).
- 29. DSS responsible for ensuring available dashboards are being properly accessed and utilised:** This review recommends that dashboards should be proactively made available to all those involved in the governance function, as well as to those undertaking the scrutiny role. There are a number of dashboard models already in existence. The office of the DSS should draw them together into a coherent source of information and ensure school governors utilise this resource. This would help with early identification of where problems might arise as well as rapid spread of best practice, and would inform both governors and parents of relevant information.
- 30. Accessible and consistent procedures for parental redress across Local Authorities, and Local Authorities to encourage the creation of Parent Teacher Associations:** There are already a number of arrangements and procedures for taking the views of parents into account, but they are very little known and utilised. As set out by the Leader of the Labour Party Ed Miliband in February 2014, it is proposed that in extremis, a trigger mechanism should exist for parents to be able to call in help or to draw on processes for redress where problems arise in a school. Where an Ofsted report has not taken place recently (this would apply to coasting schools, not just those who have a requirement for improvement), the DSS would be empowered to bring in Ofsted or to broker direct improvement support. Any such

trigger mechanism should be substantial enough to avoid vexatious complaints. The head and leadership team have responsibility for running the school and for responding to the school community, but accountability, both to parents and the wider community, has to be established in a way that provides both a response to and elicits support from, those whose interests lie in the success of the school. It would also be appropriate for the DSS, with the relevant Local Authority, to encourage the development of Parent Teacher Associations. Such important methods of encouraging participation in supporting the work of schools, and being engaged in and well-informed about the life of schools, could work alongside local governor associations to facilitate participation in Citywide Learning Bodies, assessment panels and the like. Whilst further consideration needs to be given to this, not least in ensuring that those engaged more widely in decision-making procedures are truly representative, enhanced democracy at local level does entail finding ways of encouraging civic participation.

- 31. Local Authorities to use their scrutiny function to monitor training providers and further education provision, with the aim of reducing NEETs:** Local Authorities should be supported to scrutinise training providers and further education provision, with a clearer role in their scrutiny functions relating to young people who are not in employment, education, or training. There should be, in every area, proper mechanisms for the collection and collation of information as a valuable resource for ensuring young people get the support they need, the essential advice for securing skills, and the right qualifications for sustainable employment. Local Authorities are best placed to use data to work in collaboration with training and post-16 providers, to ensure that there are not gaps in provision and that young people do not fall through the net.
- 32. Urgent review into unregulated alternative provision:** Whilst Pupil Referral Units (for those excluded from school) are properly inspected, this basic requirement should be a clear duty for all alternative providers. Labour should review this whole area of need, drawing down on the evidence so far adduced by Ofsted and give priority to immediate improvement.
- 33. Clarification of the objective of Every Child Matters and the long term relationship between the DSS and officers of the Local Authority:** It is recommended that further work should be undertaken into how the original objectives set out in the Every Child Matters agenda are being met and how they might be updated to meet the modern challenges young people face. A wholesale upheaval is clearly not in the interests of anyone, so it is not recommended that we immediately move to deconstruct the existing landscape. Nevertheless we believe that a re-evaluation should be undertaken in thorough consultation with practitioners to find a way to proceed. This should reflect what is functioning best and include the developing role of the Director of School Standards.

THE CENTRE

- 34. Inspection of Chains and Trusts:** Sir Michael Wilshaw, Head of Ofsted, is clear that in order to ensure standards are maintained in all schools, Ofsted should be able to inspect academy chains. Their oversight is crucial to the delivery of education in their sponsored schools, and it has already been agreed as party policy that sponsor chains and trusts should be inspected. Additionally, it might well be worth Ofsted undertaking a review directly into the effectiveness of different configurations of sponsor academies and trusts. If academies are

using their size and scale in advertising their value, this assumption would be worth testing in practice.

- 35. Inspection of wider Local Authority education services:** Currently, Ofsted inspects Local Authority looked after-children provision and safeguarding services on a regular cycle with graded judgements. Extending this model to the wider Local Authority education services and increasing its frequency could significantly strengthen accountability as well as helping to acknowledge and spread best practice.
- 36. Curriculum advisory group to be established to report to the Secretary of State:** An advisory group, whose membership should be agreed through consensual processes across the political spectrum, should be established. It would make recommendations on keeping curricula up to date and comparable with the best performing systems internationally and aim to ensure all children access their entitlement to a basic programme of learning, wherever they live and whichever school they attend. The advisory group would make recommendations on a light-touch curriculum, retaining flexibility and scope for innovation at school level. This would ensure consistency and the avoidance of politicisation of the curriculum, which should not be down to one politician at one moment in time. All children, wherever they live in England, should have this entitlement, including the development of those aspects touching on personal development, citizenship and, therefore, a sense of identity and belonging.
- 37. Clarification of the role of Ofqual:** This review also recommends clarification of the role of the Office of Qualification and Examinations Regulations (Ofqual). Given that examination companies designate the particular programmes of study and that the syllabus determines what teachers are teaching, it is critically important to clarify who makes decisions about what is taught, what is examined and how, and ensure all schools have the same freedoms and duties over this. At the present moment, some parts of the system are subject to a curriculum, some are only subject to the examinations taken (under the auspices of Ofqual), and some aspects of the syllabus fall into neither category.
- 38. Reconsideration of decision to merge the National College for School Leadership (NCSL) and Teaching and Development Agency (TDA):** This review concludes, along with many submissions received, that the decision by the present Coalition Government to merge the National College for School Leadership (NCSL) and Teaching and Development Agency (TDA) was a mistake, and urgent action should be taken to identify a way forward to re-establish the standing of each organization. The restoration of the National College as an independent body is essential in ensuring the development of effective leadership within English education. Labour has also already expressed its support for the proposed new College of Teaching which has the potential to play a major role in driving up standards of continuing professional development – central to Labour’s plans for raising standards in teaching.
- 39. Revision of the role of the Office of the Schools Commissioner:** It is recommended that Labour should revise and strengthen the existing Office of the Schools Commissioner and determine its relationship and working arrangements with the new independent Directors of School Standards. Whilst our proposals will ensure adequate and robust scrutiny of all providers of those proposing new schools, including educational experience and financial probity, the legacy of inadequate supervision and audit will need to be handled through the Commissioner.

40. Abolition of the role of Regional School Commissioners and greater inter-authority collaboration at regional level: This review recommends the abolition of the Regional School Commissioner post and structure. A regional structure will not provide the local oversight and support needed to ensure standards remain high. It would be inefficient to have different oversight structures for different types of schools (the Government's Regional Commissioners only oversee academies and Free Schools). It would be expected that all Directors of School Standards in a definable region would work together to establish sensible planning to enhance effectiveness of provision on a number of functions. First, brokering appropriate teacher training provision, such as full coverage of teaching schools alliances. Additionally, coherent and comprehensive provision for special needs, including responsibility for ensuring sufficient capacity to allow access to dedicated residential, day and peripatetic resource. This combined approach across Local Authority boundaries could ensure that specialisms (too costly for any one Authority) would be offered with high quality provision and the establishment of resource centres to support integrated education. Similarly, the Traveller Roma and Gypsy Education Support service has been decimated, and a regional cross boundary approach would help to restore essential provision in this area.

Introduction

At the behest of the Labour Leader Ed Miliband and the past and present Shadow Education Secretaries, a wide-ranging review was initiated to look at the future landscape of the education service in England and to make sense of the changes introduced by the Coalition Government.

As the Shadow Education Secretary Tristram Hunt laid out in October 2013, One Nation Labour will work to “provide a good school place for every child in every community”.⁶

The mantra of the New Labour Government elected in May 1997 was ‘Education, Education, Education’. The overriding objective was to raise standards, root out failure and adapt the structures and status of schools with the sole objective of bringing about sustained improvement.

Following the introduction of Local Management of Schools in 1988 and the adoption of experiments in local governance by some Labour authorities, it was widely acknowledged that schools ‘control schools’.

Regrettably, general comment from the less well-informed continues to reflect a bygone era. Changes over the last quarter of a century have already achieved what some people in Government still appear to believe they are seeking to introduce into the system.

Paradoxically, it is this Coalition Government that have sought to develop the direct relationship between schools and the Secretary of State, and the close oversight of schools and their governors by sponsor academy chains.

By contrast, the Labour Government sought to experiment with a bottom-up approach to collaboration through the policy initiative Excellence In Cities, which led to the highly successful London Challenge.

The experiment with the Pupil Learning Credit in those early pilots has now been extended by the Coalition Government into the Pupil Premium, which we support.

On the revenue side, Labour increased delegated funding to schools to 90% (mandated for schools, as opposed to that available to the Local Authority for broader education services).

As a result of the changes brought about by the 1998 Schools Standards and Framework Act, a consensus emerged that outstanding school leadership and autonomy allowed innovation to flourish, which formed the crucial ingredient to raising standards. This applied whatever the status of the school.

All schools were encouraged to examine how best to draw down on both national and international evidence in school effectiveness, working with the then Standards and Effectiveness Unit, and the newly-formed College of School Leadership.

⁶ Tristram Hunt, ‘A good school place for every parent in every community – that’s Labour’s mission’ *LabourList*, 13th October 2013

In addition, good teachers were encouraged to stay in the classroom through the introduction of the Advanced Skills Teacher programme, as well as improved incremental scales based on a threshold of good teaching practice.

Voluntary Aided and Voluntary Controlled schools were incorporated in the changes which maintained this autonomy. At the same time, the Government expanded the number of Specialist Schools, building on the strength of the school and its community, and offering input from business, further and higher education and individuals with specialist expertise.

Foundation Schools and subsequently Academies (from 2000 onwards) extended the self-management of schools in an incremental manner.

The objective of introducing these early academies was to dramatically improve the performance of those schools who had had a history of underachievement and low aspiration. That is why now, in everything proposed in this paper, we address the question freedom to – not ‘freedom from’ – and therefore a positive approach to genuine collaboration. Academies are here to stay and we need to build on this landscape.

Collaboration through the formation of Federations was encouraged and the early academies were incentivised to work in cooperation with both neighbouring schools and the wider community.

The substantial expansion of Specialist Schools reinforced collaboration and led to the introduction of online sharing through the intranet, which facilitated the creation of both the Specialist Schools and Academy Trust and the Independent Academies Association.

Now, with almost 4,000 academies – with the declared objective of 25,000 schools being linked through funding agreements either directly to the Secretary of State or through sponsor chains – it is an impossible task for central government to manage the programme in a way that was possible when some hundreds of schools were overseen by the Department.

Ofsted have recognised the importance of decentralisation and it is welcome that there will now be regionalised oversight of inspections. The chief inspector of schools, Sir Michael Wilshaw, recently described the architecture of English schools as ‘atomised’.

Clearly coherence is essential in reversing the trend towards inconsistency and confusion.

In this report we indicate the urgent necessity to create a local transmission function between the Secretary of State and schools in order to oversee standards. The aim would be to level the playing field between different types of school so that all providers of education are supported and challenged to build on previous best and to focus on continuing improvement.

Fair funding, schools established on the basis of need, and freedom for all schools to innovate, to be creative and to accept responsibility for outcomes, will be the central task.

Best practice

Collaboration is key in shaping the next stage of English education, training, careers and employment support.

It is perfectly possible to place emphasis on continuing school-centred improvement and raising standards for underperforming schools, whilst retaining support and outreach to other schools and the wider community. In fact, the two aspects go hand in hand.

It is our intention, therefore, to take what is working well and seek to extend and embed best practice across England. In future policy we intend to include ways that freedom for schools to innovate and to manage their own affairs can be combined with links to parents and the wider community.

Freedom for schools has brought substantial benefits, but the role of Local Government and other elements of what has become known as the middle tier have become incoherent and confused. Our task in future will be to facilitate cooperation, matching the dynamic of world class leadership with the imperative of a partnership approach and cooperation between schools.

As demonstrated in the latest Pisa results (a well-respected comparison between major developed countries in key outcomes for maths, reading and science), education systems which place emphasis on partnership and collaboration are ones which demonstrate the best outcomes.⁷

Almost all the submissions to this review have noted the centrality of greater collaboration in raising standards; indeed, most referred to the success of the London Challenge as a recent example of how schools working together can benefit each other (see Appendix I). This initiative demonstrated how widespread improvement was achieved at a level greater than any other similar cohort across the country. The head of Ofsted acknowledged in the Annual Report (December 2013) that seven London boroughs now have no secondary schools judged to be less than good or outstanding and noted the reason for this success included ‘a willingness to learn from the best’ and ‘focused initiatives’. Challenge Partners, a group of 180 schools focused on improvement in London, which grew out of the London Challenge, point to the importance of a continuing focus and sustained pressure.

This approach in miniature was also clearly responsible for the phenomenal uplift in standards in boroughs such as in Tower Hamlets. Other initiatives have shown very real improvement, including in Greater Manchester.

Hackney in London had a chequered history in relation to education, but it has now been turned around by the actions of the schools themselves and the support of the council. In 2002, the Hackney Learning Trust took over education services. Learning Trust staff were staff of Hackney Council – a devolved department, with its own freedoms and flexibilities, but still very much part of the wider organisation.

⁷ <http://www.oecd.org/pisa/keyfindings/pisa-2012-results.htm>

An important element of the architecture of transition was the setting up of an Education Advisory Board of experts to advise the Mayor on research developments both nationally and internationally to ensure that Hackney remained at the cutting edge of education.

Today the Learning Trust ensures that as schools become increasingly devolved, the Council can continue the vital schools improvement work that has diminished in so many other authorities. It raises money for school improvement programmes through trading education and support services, not only with Hackney schools but with schools outside the borough. In 2012/13, the Hackney Learning Trust generated more than £4 million, £600,000 of which was from outside the borough. 100% of schools in Hackney, including all academies, choose to buy services from the Hackney Learning Trust.

Certainly, the experience of Wigan Council is also one that should be widely embraced. In this particular instance, the Local Authority assisted in brokering collaboration of 130 schools through eight consortia.⁸ Each has developed its own leadership and is commissioned to deliver school improvement on behalf of the authority, which in turn holds the consortia to account. Head of Ofsted Sir Michael Wilshaw singled out Wigan for praise in his annual reports in both 2012 and 2013. Nearly 85 per cent of the borough's schools were judged good or outstanding at their most recent Ofsted inspection in 2013, compared to 78 per cent nationally.

Other examples would be Wolverhampton Schools' Improvement Partnership and the Bradford Partnership. Each are endorsed and supported by schools themselves and facilitated by the Local Authority.

Herts for Learning (HfL) is a not-for-profit schools company established between the Local Authority and Hertfordshire schools providing a wide range of school improvement and business support services. 92% (483) of Hertfordshire schools, have already bought a share in the new company and the County Council have a 20% shareholding.

The all-party Education Select Committee in the House of Commons considered partnership in their report published in October 2013 when they concluded "such collaboration has great potential to continue driving improvement to the English education system."

Similarly the Academies Commission, which reported in January 2013, were clear in calling for an intensive drive for and developed system of collaboration.⁹

In accepting that improvement has to be from the bottom-up, the best and most effective examples of support for self-improvement have come from 'improvement partnerships'. Naturally, these come in very different shapes and sizes. Federations, multi-academy trusts and sponsor chains, will often offer their own improvement formula or 'buy-in' from elsewhere.

A separate review undertaken by the think tank Compass into the education landscape similarly concluded that there is a requirement for an effective intermediary between schools and the Secretary of State, and they foresee the Local Authority as having a major function.

⁸ Written evidence submitted by Local Government Association to Education Select Committee, October 2013

⁹ Academies Commission, *Unleashing Greatness: Getting the best from an academised system*, January 2013

As indicated later in the paper, it is believed the role of the Local Authority is to identify and make available the necessary information (analyse and publish data) so that there can be transparency on what is and is not working. This means being able to identify where failure exists, to be the voice and advocate for parents and children and to use their scrutiny function effectively. In other words, to build on the very best practice that already exists.

The challenge is how to solve the problem of providing sufficient autonomy to be able to drive standards from within the school, whilst at the same time providing accountability to protect the interests of pupils and safeguard the investment of public resources?

The answer recommended here is (as we will show in this paper) to reject the top-down approach of the present Coalition and at the same time to avoid a return to a long-rejected culture of imposed conformity.

It is recommended that there should be a bottom-up approach in building partnerships at local level, together with a top-down devolvement of responsibilities to offer greater accountability. To facilitate this, a new executive post should be created: an independent Director of School Standards will work at the local area level to drive high education standards in every part of England.¹⁰ The DSS would be responsible for driving up standards in all schools in his or her area, whatever their status. This would be a statutory appointment made from a shortlist of candidates approved by the Office of the Schools Commissioner. The appointment would in most circumstances be made across Local Authority boundaries, with an appointments panel representing key local partners. The presumption would be for Local Authorities to join together to appoint a shared DSS across a local area or sub-region as this collaboration will help to raise standards and efficiencies whilst maintaining the local link. He or she would be appointed on a fixed term five-year renewable contract and would be statutorily independent. The creation of this position would represent a light-touch approach with minimal bureaucracy. It would provide the kind of objective voice that historically was offered by the local Director of Public Health, rather than a return to the former Chief Education Officer position and the structures that underpinned. It is recognised that the configuration of partnership arrangements, both across Local Authority boundaries and between schools, will vary according to circumstance. London in particular, with historic cross-boundary arrangements, would be expected to reflect geography, social and economic ties.

This post-holder would facilitate intervention to drive up performance – including in coasting and ‘fragile’ schools. He or she would take into account the views of parents and the wider community, and would broker collaboration between schools and across local areas. This approach will build on the success of partnerships such as the London Challenge, and in terms of procurement and support, the Hackney Learning Trust. The aim of the DSS would be to ensure the spread of best practice and drive the raising of school standards wherever poor performance exists. Parents would have the right to request intervention from the DSS where concerns had not been adequately addressed. Clearly, Ofsted inspection reports and performance against floor targets would be key, but discretion would be in the hands of the new DSS. The DSS would also be responsible for the planning of additional places using Local Authority data and intelligence, and

¹⁰ The relationship with the Director of Children and Young People’s Services to be determined by the further work in considering existing structures outlined in recommendation 33

he or she would subsequently oversee the process of competition for new schools (as indicated later in Recommendations 19-21). Where newly established sponsors are involved, there should be a two year probation period in which both early inspection and new oversight would be available. It is recognised that the DSS would have a key role in providing such oversight. The new post would have a small back-up secretariat providing only the most essential administrative support, with information, data and, where necessary, intervention drawn from the Department for Education, Ofsted, and the relevant diocesan and Local Authorities. Schools, whatever their status, would be required to provide any data requested and to cooperate fully with the DSS.

Logically, the level of intervention will depend entirely on the performance and therefore the outcome measures from the school in question. "Intervention in inverse proportion to success," as Professor Sir Michael Barber has advocated.

This is why the DSS would have a crucial role in intervening to raise performance when standards dip, schools are deemed to be 'cruising', parents are unhappy with the performance of the school or where it has been difficult to broker collaboration within the locality.

Self-evidently, the post-holder will work in collaboration with, and as a partner of, the Directors of Children and Young People's Services in the relevant Local Authorities. In addition to the local arrangements (sometimes known as borough or citywide learning bodies or forums) with whom the DSS would work closely, there would be a local Education Panel. This would include representation from schools in the area, parents and relevant Local Authority representatives, who would work with the DSS on the development of a long term strategic plan for education, ensure major commissioning decisions are taken in line with that plan and agree the budget proposed by the DSS. In the event of an impasse, the issue it concerned would be referred to the Office of the Schools Commissioner. This would dovetail with the responsibilities of LEPs and City Deals in relation to skills needs and the regeneration for the broader economy. Additionally, regular updates would be provided to the national Office of the Schools Commissioner and close working arrangements would need to be developed with the regional Ofsted team. On an annual basis, the DSS would invite locally elected representatives, including MPs, to a presentation of the annual report where questions could be raised and appropriate debate could take place. It is also envisaged that governors, trustees and parent groups be represented at this forum.

Partnership only works, however, where schools are partnering with those who genuinely can offer added value, definable improvement and can stimulate internally-driven, year-on-year better outcomes. This is not about any school or outside organisation 'doing it for' or 'to' schools, but generating the necessary change in practice for the school itself to achieve successful outcomes.

A group of experts providing advice to this review offered evidence which, as well as pointing out the moral case for greater collaboration, posited a number of benefits in closer joint-working arrangements not just for schools, but also for parents and students.

The DSS must be empowered to broker collaboration within the local area they lead. There should be a public duty on Local Authorities to demonstrate (for inspection purposes) appropriate procedures for fostering collaboration between schools. Similarly all schools, whatever their status, and other providers of education would be under a duty to demonstrate collaborative ventures or the drawing down on expertise from other parts of the education system (to be

reported upon by Ofsted). The DSS would intervene where unsatisfactory or inadequate collaboration was evident. Partnership working would also be expected to facilitate the sharing of support and procurement processes to cut out unnecessary costs and provide value for money.

This duty to promote partnership would replace the 'command' approach of the Secretary of State to convert the status of school, rather than to improve the standard of education available.

As indicated previously, we favour all schools being part of a collaborative partnership and would expect Local Authorities to establish, if necessary, arms-length Community Trusts in the primary field facilitated by the Local Authority.

Much as arms-length management organisations (ALMOs) has been a model adopted in relation to social housing in some areas, Community Trusts would be established with the support of and in partnership with the relevant Local Authority.

This would apply predominantly to primary rather than secondary level because so many secondary schools are now academies or part of existing trusts/chains. However, the trust model often now incorporates secondary and primary, and therefore we would not adopt a prescriptive approach from the centre.

This review recommends that, where this does not already exist (or where the school in question cannot demonstrate alternative forms of partnership working), the Local Authority should broker the combining of all community primary schools into broad Community Trust arrangements. Much as arms-length management organisations have been a model adopted in relation to social housing, Community Trusts would be established in partnership with the relevant Local Authority. This proposal is set out in detail in the chapter on 'Best Practice'. This would clearly meet the needs of very small schools and would help protect them from the threat of closure. Nothing in this report would stop those involved continuing to be able to draw on support services operated either singularly or jointly (or in combination with social enterprise/the private sector, as listed in Appendix IV). Where there are small isolated schools, it is envisaged that existing experiments to develop 'virtual' partnership/trust arrangements would be expanded. Already, good examples exist of the use of executive headship and combined management teams. It is envisaged that the Community Trust model would facilitate greater teacher and Headteacher development, with school leaders able to access training, experience and professional development through shared working. Where schools wish to remain voluntary aided, they would have the facility to be able to partner in whatever way was most appropriate – and to take advantage of the use of modern communication as outlined above. The intention is to ensure that the existing pluralistic approach is maintained, but that genuine partnership is encouraged. Where a large number of secondary schools in a Local Authority area have not chosen to take on academy status, it would be open to them to combine into a Community Trust in order to foster the collaborative approach set out in this paper.

Similarly if, as in Recommendations 34 and 35, all aspects of the education service are to be adequately inspected, including sponsor chains, it would also be sensible to kite-mark those providing substantial education support services who do not fall under the remit of Ofsted inspection. This would apply to the development of Local Authority joint procurement arrangements and outsourcing ventures (we identify Staffordshire, Devon and Surrey as early

examples where experimentation has taken place). Light-touch arrangements would be put in place to avoid the exclusion of new entrants into the market, which in essence would strengthen the existing procurement rules at local level. The kite-mark would be intended to provide a benchmark of high quality, and would not restrict the entry into the commissioning and contracting procedures of small and niche providers. Kite-marking of external bodies is a basic step in ensuring that wherever a school turns for support or to draw on facilities, an acceptable standard would be on offer, and provide an additional safeguard in relation to probity.

With the newly-developed regional role of Ofsted, there might also be room for more effective self-evaluation and peer group review, offering a bottom-up approach, which would then permit lighter-touch inspection and would feed into the monitoring and evaluation work of the DSS.

Whilst many have accepted the important role of Local Authorities collaborating for training and skills (not least with City Deals), adult education has taken a backseat. Failure to engage with the broader requirements of family and adult learning misses out on the crucial evidence across the world of the importance of parents in the aspiration and ambition of children, and the culture of the wider community surrounding them.

The ability to use modern technology as an outreach into homes and community facilities has been used effectively in many parts of the world and could clearly be a key role for proactive local government as part of their remit in encouraging family learning.

This review recommends the creation of time-limited Education Incubation Zones between schools in a locality, for the purpose of school improvement and raising standards. The aim would be to promote forward-looking practice in pedagogy, use of technology and outreach to parents and the school community. They would offer an opportunity to develop modern forms of communication both within the school and in spreading innovation between schools. In simple terms, to develop what the school of the future would look like. Such innovation could be funded through proactively seeking contributions from endowments, such as the Education Endowment Fund, or major foundations, both nationally and internationally. When funding allows, additional resources should be made available through the Department for Education and local government, to foster creativity and to draw down on best practice from across the world. Education Incubation Zones would have a limited life, to avoid the creation of new permanent structures. Permanent partnership arrangements would of course be in a position to adopt and therefore trial entrepreneurial work, but pathfinder programmes allow for experimentation with careful and sustained monitoring.

In spreading best practice we are mindful that whatever structures exist have a tendency to atrophy and therefore there needs to be an ongoing facility for change within the framework that emerges. This will involve freedom for schools to choose to join Trusts, Federations or Sponsor Chains but also to be able to leave them.

More than half of all secondary schools are now academies, and many belong to chains or trusts. With this in mind, it is sensible for sponsors, with the agreement of the Secretary of State with whom the funding agreement rests and the support of the Office of the Schools Commissioner, to 'float off' groups of schools or nurture new sponsors where, either by geography or experience, there is likely to be a greater synergy. A review should be undertaken by the incoming Secretary of

State, in collaboration with existing sponsor chains, to examine how such reconfiguration might be achieved without disruption or unnecessary top-down interference.

As indicated elsewhere, the impracticality of the existing expansion (either to converter academies or sponsor chains) of direct funding agreements with the Secretary of State, requires a more decentralised and appropriate model. As the National Audit Office have noted, the complexity of existing arrangements and the resource required to sustain this model, necessitates urgent review. In any case, given the complexity of individual funding arrangements, in particular the inter-relationship of school funding with that of sponsor chains, any facilitation of schools moving between chains or trusts might be best achieved by shortening such contractual arrangements to no more than five years. An incoming Secretary of State would, in any case, have to re-examine how to create a long-term model to allow for greater accountability with the ability to undertake a thorough review and identify problems at an early stage. In other countries (including the US) where funding agreements exist, they are renewed every 3-5 years.

Entitlement to high standards and fairness

Entitlement does not simply mean a right to a basic education. It is much more than that. We are talking about fair funding, account taken of societal differences, special educational needs provision and what has often been described as ‘transitions’.

Access to an appropriate school place, within acceptable reach of the family home and with the exercise of some meaningful preference by parents that takes into account the needs of the child, necessitates a fair admissions process.

But entitlement also means access to high quality education wherever you live and from whatever your background. To a basic yet coherent, curriculum delivered in a flexible innovative and professional way, and to high quality teaching, pastoral care and freedom from hunger and fear.

This review concluded it is the responsibility of the Local Authority to identify and make available necessary information and data to ensure transparency on what is and is not working – to be the voice and advocate for parents and pupils.

It is critical that the role of the Local Authority should be geared to the reformed and modernised agenda set out in this paper. While many Local Authorities do an excellent job of representing the interests of parents and pupils, an increasingly fragmented education landscape in England makes it extremely difficult for parents to navigate the system and, therefore, a new ‘duty’ to inform and support the interests of pupils and parents should be placed on local government.

Entitlement means fairness. Fairness in meeting immediate need, but also in transforming life chances, making sure the progress the child has already achieved at one stage acts as a trampoline to access the best available options for the future.

An Ofsted report published in June 2013 showed that whilst 59% of pupils nationally achieved 5 GCSEs at A*- C (including Maths and English), the average for pupils on Free School Meals was just 36%.¹¹

Ensuring that circumstance and societal damage a child has suffered in the very early years is acknowledged and overcome, is not the same thing as accepting that poverty and disadvantage are an excuse for underachievement.

This challenge is as relevant to deprived coastal towns as to the now improving urban core.¹² This delicate balance in relation to the funding formula will require further detailed work to avoid this wholesale shift of resources from those facing historic deprivation, whilst acknowledging the current per-pupil funding imbalance – smaller enclaves require adequate resourcing. This is all about fairness.

Increasing reliance on the Pupil Premium to compensate for a flat rate national formula misses the point. The critical mass of youngsters, their home and physical surroundings creates challenges way beyond the very specific needs of an individual child. The Pupil Premium may deal with this in part, but funding should take account of deep-seated and intergenerational disadvantage writ large within a neighbourhood as a whole. This is about the capacity of a community and therefore a school to be able to cope. Recognition of this is gradually being eroded, not just in funding for education, but in local government as a whole and now in the health service.

Schools now are facing a cut in their main budget on the one hand, and an increase in their Pupil Premium funding on the other. Taken together, the IFS found in June 2013 that around 65 per cent of primary schools and 80 per cent of secondary schools will see a real-term cut in their budget between 2010/11 and 2014/15.¹³

As the Pupil Premium is top-sliced from the education budget as a whole, and as changes have withdrawn money from the very schools with the greatest entitlement to Pupil Premium, one pot of money is in effect compensating for a loss from another. Without the Pupil Premium, such changes would prove to be devastating.

Yet having to sign up for Free School Meals has its drawbacks. That is why Labour should seek to adapt the Pupil Premium (which, as noted earlier, was trialled by the Labour Government in the form of the Pupil Learning Credit back in 2000) to make entitlement less crude and to take cognisance of major challenges such as in-year transfer, preparation for and support to children of travellers, children without fluency in English, requirements arising from special needs provision and the introduction of measures in the Children and Families Act 2014. This will be crucial for special needs education and to assist with those challenging aspects of modern society, like transient populations, and youngsters entering school late in their primary period, which put some schools at a substantial disadvantage in meeting floor targets.

¹¹ 'Unseen children: access and achievement 20 years on', Ofsted, 20th June 2013

¹² Highlighted by the Centre for Social Justice in their report *Turning the Tide: Social justice in five seaside towns*, August 2013

¹³ Institute for Fiscal Studies, 2011

Ofsted have undertaken a critique of how the Pupil Premium is being used and, from a number of sources, it has become clear that it is not reaching the pupils and supporting the work of the school with them in a way that would make the best use of targeted resources. It is recommended that an incoming Labour government should assess the level and use of the Pupil Premium to ensure value for money, and that it is targeted to enhance the life chances of children facing the biggest challenges, whether from special needs or from the nature of the background and societal impact they have experienced.

What is patently obvious is that the Pupil Premium should go to the school (and not to the sponsor chain or trust) where the young people concerned are placed. It is intended to assist in driving up standards and therefore to be devoted to the needs of those young people, not to funding the superstructure.

Submissions to this review have pointed out that there is no contradiction in the Secretary of State (through the funding agency) retaining the role of developing a funding formula and allocating budgets. However, we believe the funding of all schools should be on a fair basis, taking into account societal challenges.

Funding of all schools should, for administrative purposes, be through the relevant Local Authority (or Authorities), given the impossible pressures which will arise on the Education Funding Agency in the changed landscape of freestanding schools.

As we shall note later in relation to the role of centrally directed bodies within the education system, constant reductions in resourcing and greater responsibility adopted from the centre provide contradictions. In January 2014, the National Audit Office drew attention to the fact that the Education Funding Agency now faces a major challenge. It is expected to reduce costs by 15% whilst simultaneously to take on a 50% increase in demand for its services. The NAO noted that there is a real danger of the organisation becoming overloaded. Our proposals would represent a decentralisation of decision-making within a coherent framework, avoiding both cost and confusion.

This would aid the Education Funding Agency in meeting the challenge noted by the National Audit Office when they said:

“to meet its need to reduce costs and manage growing demand, the Agency will need to transform its operations, but it has yet to implement a fully integrated future operating model ... the Agency has not been clear on how to integrate its activities to support cost reduction and more effective working.”¹⁴

It is beyond the remit of this review to make recommendations on this, but the incoming Secretary of State would seek to work with academies to find a way to reduce the administrative duplication and confusion that exists, while delivering funding for all schools and preserving autonomy.

The funding announcement on 13th March 2014 acknowledged that the Government were working on Local Authority-wide areas, funding by all schools within that local authority area, and the need to equalise funding in respect of per pupil allocation. It is therefore entirely logical from the

¹⁴ Performance and capability of the Education Funding Agency', NAO, 29th January 2014

Government's own standpoint to use the resources and knowhow of the Local Authority to ensure that dedicated funding for schools actually reaches schools.

Ministers have of course pledged flexibility. For instance, in a letter in February 2014, Minister for Schools Rt. Hon. David Laws MP outlined:

*"Local Authorities can target funding to pupils for whom English is an additional language through their local funding formulae. There is no restriction on how much of their total budget Local Authorities can allocate through this factor. Funding can be targeted on a per pupil basis so that the amount a school receives increases with need. Local Authorities can also target funding to newly arrived pupils through the mobility factor."*¹⁵

However, the document put out for consultation on the back of the statement by David Laws on changes to the funding formula is revealing. £350 million was pledged for what are described as 'low-funded areas'. This would be welcome (as we indicate in this paper) to ensure fair funding for all pupils, if it were not for the fact that the Minister of State describes those better-funded schools as benefiting from historic circumstance, rather than recognising that a combination of progressive local government and an acknowledgement of deep-seated deprivation led to much of the difference in funding patterns across the country.

This additional funding from April 2015 includes, for instance, an additional £25 million for schools in Surrey. Very welcome for those in a county that has lost very little in the redistribution of local government funding from north to south and from deprived to more affluent areas. What will concern parents in the rest of the country is the implied freeze in cash terms for all other schools in the 2015-16 financial year. The document then describes the formula, demonstrating the utter complexity and confusion inherent:

"We will then apply the minimum funding levels to calculate a new total. This will be done by:

- 1. multiplying each of the minimum funding levels by the relevant number of eligible pupils or schools in the local authority;*
- 2. summing each of the totals in (i) to create a new funding amount for the local authority;*
- 3. applying the area cost adjustment to the total in (ii);*
- 4. if this total is more than the local authority's per pupil cash level in 2014-15, we will increase the local authority's funding to reach this new level;*
- 5. if not, the level of funding remains the same."*¹⁶

Moreover, on Thursday 27th March 2014, David Laws made a further statement confirming that £200 million would be taken in 2015-16 from the Education Services Grant (paid to academies and free schools) for their purchase of services. This consultation runs until 19th June 2014.

Again, it is beyond the scope of this review to make recommendations on this issue, except to note that an incoming Secretary of State would need to take account of the consequences of the Coalition Government's funding changes.

¹⁵ Letter from Rt. Hon. David Laws MP to Jayne Ludlam Executive Director, Children, Young People and Families at Sheffield City Council and Bob Sawyer, Chair, Sheffield Secondary Schools Partnership, 22nd February 2014

¹⁶ 'Fairer schools funding in 2015-16', *Department for Education*, 13th March 2014

It is clear that young people have an entitlement to be taught in buildings suitable for learning; with high quality provision and access to cutting-edge new technology, to outdoor space and to pride in the place they call school.

But high quality education is about what takes place inside buildings. That means classrooms overseen by first class, qualified teachers – those who not only know their subject, but know how to teach that subject. Head teachers with leadership and management skills, but also with a grasp of pedagogy – an understanding of how children learn and what constitutes good and bad teaching.

The greater autonomy offered to institutions, the more important the requirement to the highest possible quality and professional expertise. That means those who know what they are doing – those who have bothered to train, to learn how best to do the job, and can persuade their students that obtaining professional qualifications does matter.

Supervision of others with expertise to offer is part of the professional role of the qualified teacher. So instructors, visiting academics, peripatetic teachers, or those with business experience would be welcome. Equally, those committed to qualifying but have not yet attained teacher status would be able to practice, as is the case with Teach First, which was introduced by the Labour Government (and latterly in the case of School Direct, introduced by the Coalition). This is all about quality, not bureaucracy.

It is perverse that the Government should on the one hand deny children the right to their learning overseen by qualified teachers, whilst asking those very teachers to emphasise to children the importance of qualifications for their future success.

This review concurs on the need to ensure that properly qualified teachers oversee the learning process in publicly-funded institutions.

Urgent steps are also required to offer independent advice that does not result in youngsters taking the wrong courses offered by the wrong providers. Lord Andrew Adonis has found in his review¹⁷ that more than half of the businesses surveyed cited skills as their main barrier to growth. 920,000 young people are still out of work, of which more than a quarter have been looking for work for more than a year – far better information and guidance on careers is required, alongside a major expansion in the opportunities young people have to engage with employers and gain experience of the workplace. Meaningful progression routes should be offered, with the chance to gain qualifications and apprenticeships, which are valued in the market place.

This is why appropriate links are needed that pull together all the initiatives now taking place for young people aged 14-19. A much more joined-up system is vital in relation to schools, sixth form colleges, further education and of course the work going on in many areas in promoting apprenticeships.

City deals that specifically focus on the development of skills could lead the way in demonstrating a holistic and linear approach that links what is happening in schools (careers and information) to the world of post-16, of work and continuing learning.

¹⁷ Adonis Growth Review, jointly supported by the Institute of Public Policy Research (IPPR) and Policy Network

Although the ‘guidance’ relating to careers advice published by the Department of Business, Innovation and Skills in April 2014¹⁸ was the usual vague expansive statement, there was at least an acknowledgement of the critical role of local government working in collaboration with schools and colleges in respect of the challenges ahead as the leaving age is raised still further.

Careers advice and the development of meaningful work experience and placements for young people, far from being encouraged, has been substantially curtailed.

Whilst there is a requirement on schools to provide independent careers advice, recent changes have all but demolished any coherence in relation to developing programmes for social mobility, careers and life choices. Much evidence has been provided of the disintegration of independent careers advice and the importance of not simply providing information in a vacuum, but tailoring it to the needs of individual young people. It will be necessary for an incoming government to draw on existing evidence to determine how and by whom careers advice and progression into post-16 education should be provided. This would build on existing best practice and on plans laid out in the third report of the Labour Party Policy Review’s independent Skills Taskforce, which recommended that Local Enterprise Partnerships (LEPs), were they to be expanded and provided with greater core resources, should play a lead role in brokering workplace learning by helping to build relationships between employers and schools.

Entitlement to access a suitable and appropriate place for any child, at whatever stage of their education, is fundamental. The school admissions system should be an engine for equity and social cohesion. In this way it is possible to ensure as far as any system can – dealing with the background of history, geography and economic inequality – that all children have a fair and equal chance of a place in an accessible and welcoming, high quality school.

The previous Labour government made good progress by creating the national Admissions Code and the Office of the Schools Adjudicator to enforce it. But these fundamental reforms have been undermined by Coalition policies.

The next Labour government should recover lost ground and make further improvements by providing a strong statement that fair admissions are crucial to the wider success of the education system, that complaints to the Office of the Schools Adjudicator will be dealt with effectively and above all, that the regulations will be consistently enforced. Therefore, reforms will need regulatory changes even though improvements can be achieved by simple direction and support from the centre. As we indicate elsewhere it is important to have rights of redress and proper appeals procedures.

It is right to revise the role of the Local Government Ombudsman so that it is much clearer which aspect of review and redress falls to the Adjudicator and the new DSS, and which should remain with the LGO (where there are claims of maladministration that are clearly within that remit). This review recommends that all schools would be subject to the Adjudicator in relation to admissions, and where the LGO (taking on claims of maladministration) currently acts only for some schools, it would be sensible to extend this role to all schools whatever their status. As indicated above, the DSS would focus on school standards.

¹⁸ Published on the Department for Business, Innovation and Skills website, 10th April 2014

Few local authorities now have the luxury of retaining officers with sufficient capacity and seniority to take on the extra work involved in initiating and carrying through an objection to the arrangements of an own-admission authority school.

Guidance from the Department for Education appears to reinforce fair admissions, *“Academies are required through their funding agreements to participate in the local authority’s co-ordinated admission arrangements.”*¹⁹ However, whilst the Office of the Schools Adjudicator (OSA) annual report²⁰ noted that only 10% of Local Authorities objected to the arrangements of other admission authorities in their area, the OSA has separate evidence of much more widespread non-compliance. This review recommends that the School Admissions Code is strengthened by removing the possibility of individual schools ‘opting-out’ of the locally agreed admissions framework. This would not prevent changes to arrangements locally or agreed experimentation by Admissions Authorities, but would avoid the detrimental impact of rogue action with one school damaging the admissions of other schools in the locality. This recommendation does not interfere with the role of diocesan authorities, academies or schools as their own ‘Admissions Authority’, but reinforces the necessity of agreed and coherent arrangements within the relevant local area. It would also be helpful to clarify post-16 admissions policy and therefore the choices available to young people into sixth forms, sixth form and further education colleges.

It will be important to strengthen local monitoring of the Code. In relation to the role of the Adjudicator, reporting mechanisms should be clear so that breaches can be dealt with simply and quickly. A common admissions framework is perfectly compatible with responsibility by schools for determining admissions, and there need not be any conflict of interest when Local Authorities carry out the facilitating role.

It will be necessary to strengthen the OSA and re-instate its power to change admission arrangements directly on upholding an objection (rather than merely issue a ruling). This review also recommends supporting better arrangements for in-year admissions by improving coordination, strengthening Fair Access Protocols (FAPs) and adjusting powers of direction to secure school places for vulnerable pupils. The aim is fairness – so that some schools do not find themselves having to deal with a large influx of children during the course of the academic year, sometimes simply because of temporary spare capacity. Schools already facing the greatest challenges should not have their plans for raising standards severely undermined by a lack of agreed and reciprocal admissions policies.

The long term aim must be to have an external independent appeals system covering all schools, and simplification of the law relating to selection by aptitude and ability. However, given the current caseload that exists in dealing with appeals, it will take time to move to such a scenario, and in the meantime it will be important to recognise and to build on procedures already established within schools (and within multi-academy trusts), and ensure that they are clear and fully exhausted before access to external processes becomes available.

¹⁹ *“Academies are required through their funding agreements to participate in the local authority’s co-ordinated admission arrangements.”*

²⁰ 29th November 2013

Fiduciary duty

'Fiduciary duty', a quaint phrase, was used historically to sum up the requirement that expenditure of public money should be used not just wisely, but with proper weight given to considering different priorities. In other words, that outcomes resulting from policy decisions were informed by evidence, justified by transparent public policy decisions and fair to all those with competing demands.

The changed role and responsibilities of Local Authorities and the abolition of the Audit Commission have transformed the level of scrutiny over how decisions are taken. One example of changes that have led to such poor decision-making and confusion about where responsibility lies is the unworkable capital funding mechanism put in place by the Department for Education. As the Public Accounts Committee (PAC) reported in June 2013:

"The Department's funding allocation did not take into account the challenges that some of the authorities with most pressure will face in obtaining suitable land on which to build or expand schools. For example, the funding mechanism reflects the costs of building schools, but not the costs of buying and clearing land, which can be particularly significant in urban areas such as London."

Indeed the report identifies wider financial issues:

"94% of authorities reported that uncertainty over future funding levels is a major constraint to the way they can deliver new primary places and we are concerned that this uncertainty has resulted in a piecemeal approach to planning."

Sensible allocation of funding is required immediately, as the number of children in infant classes with over 30 pupils has more than doubled in the last five years. 20% of primary schools were full or over capacity in the spring of 2012. The PAC report states:

"The Department told us that it believes that Local Authorities are on track to deliver the additional places required by the end of the spending period and that no Local Authority is currently failing to deliver sufficient school places".

Interestingly, the emphasis is on the 'Local Authority', despite the fact that their job is made especially difficult when the Department choose to enforce their particular preference for school status. Whilst the Department for Education has claimed that Local Authorities will be able to create an extra 110,000 additional primary places, this will fall 120,000 short of the 230,000 primary places that the National Audit Office predict will be needed by 2015.

As Margaret Hodge, the chair of the Public Accounts Committee, noted at meeting in January 2014, their report found that only 30% of free schools achieved their planned admission numbers in 2013.²¹ One in Durham attracted just 34 pupils.

²¹ *Establishing Free Schools*, National Audit Office, 11th December 2013

The Liberal Democrat Minister of State at the Department for Education David Laws said in a written statement to the House on 18th July 2013:

“We will continue to set up free schools where there is both demand from parents and where they can make the biggest difference to local provision through addressing basic need and improving the quality of local schools.”

But this is patently untrue. Schools are being developed where there is a substantial surplus of places, whilst those areas facing major pressure find themselves denied the capital funding necessary to meet basic need.

Far from nurturing local solutions and giving parents a preference, the Government have chosen to impose decisions even when there is substantial local opposition. Even the Conservative Attorney General Rt. Hon. Dominic Grieve MP joined with his constituents in presenting a petition of 5,000 signatures to Downing Street in June 2013 protesting the opening of a free school in South Bucks. Despite this opposition, the plans to open the school were given the go-ahead – with only 6 pupils at the time of opening.

As the Public Accounts Committee observed in January 2014, this was an example of top-down imposition from the Department, rather than bottom-up choice.

The historic settlement with faith groups, diocesan authorities and foundations has stood the test of time. Indeed, we were encouraged to learn from the Church of England their commitment to local direction and accountability:

“The Government has stated that it wishes the decision making to be at a much more local level than is possible when academies are controlled by central government, but our experience is that, even though an LA and local parents would like one solution, the DfE has imposed another one without any justification for the process.”²²

A full extract from the Church of England’s submission to this review is set out in Appendix II.

In September 2013, the Conservative-led Local Government Association published their own survey. They called for a freeze on all new free schools in areas where there was a surplus and criticised existing policy, which placed the decisions in the hands of the Secretary of State, but the problem at the door of Local Government. Peterborough, Redbridge, Ealing, Bristol, Lewisham, Slough, Maidenhead, Sutton, and Barking and Dagenham all predicted a shortfall of at least 20% in number of primary places available developing in 2014.

In April 2013, the Public Accounts Committee found that the Department for Education had overspent on the Academies programme and Free Schools by a staggering £1 billion. Some of this overspend was a direct consequence of overpayment errors made by the Department. 90% of converter academies had been overpaid, costing a total of £350 million since 2010.

As the National Audit Office reported in December 2013, at £1.5 billion, the Free Schools programme will cost at least three times the sum originally allocated.²³ Nearly a third of the free schools

²² Extract from the Church of England’s submission to this review

²³ *Establishing Free Schools*, National Audit Office, 11th December 2013

approved by the Government plan to set up in areas where there are considerable surplus places and the average cost per school is currently at £6.6m – twice the Department for Education’s assumption.²⁴

An official parliamentary answer in October 2013 (Hansard, 21st October 2013) indicated the Department for Education held no statistics on, or apparent interest in, the issue of the breakdown between the money available to be spent in the classroom and resources applied to the administration of this new superstructure – “The Department does not hold information on the amount of overhead costs per pupil of each major academy chain”.²⁵

At academy level, it was claimed by the Observer in July 2013 that the Academies Enterprise Trust “paid nearly £500,000 into the private business interests of its trustees and executives”.²⁶ The Guardian claimed in January 2014 that “Grace Academy, which runs three schools in the Midlands and was set up by the Tory donor Lord Edmiston, has paid more than £1m either directly to or through companies owned or controlled by Edmiston, trustees’ relatives and to members of the board of trustees.”²⁷

Where there is a need for additional school places, and where this cannot be met through investment in existing schools (or if local people do not wish them to be met through the existing schools), it is perfectly reasonable to support parents in coming together, not only to demand but to help plan and play a key role in running a new school. This approach predates the current obsession with free schools. In fact such agreed parental initiative was approved in 2000 with the Elmgreen School in Lambeth after approaches from parents represented by the local Member of Parliament in Dulwich Rt. Hon. Dame Tessa Jowell. Clearly, Tristram Hunt had this in mind when he said Labour was on the side of “parents, social entrepreneurs and teachers interested in setting up a school in areas where you need new school places.”

Local Authorities (as agreed by everyone consulted in this review) would remain responsible for identifying the shortfall in places for children in their locality, and for recommending where such additional places should be established. Clearly, Local Authorities have both the knowledge and the broader intelligence (and appropriate data) to identify where there is need, and to make recommendations to the DSS in relation to whether this should be met by expansion of existing provision or new schools. Whenever change is mooted, it goes without saying that there should be meaningful and full consultation with local stakeholders.

Using data and intelligence supplied by the relevant Local Authority, the DSS would initiate a process of consultation on the opening of new schools, or where there is the need, for substantial

²⁴ *Establishing Free Schools*, National Audit Office/ <http://www.theguardian.com/education/2013/dec/11/free-schools-costs-double-nao-report-michael-gove>

²⁵ Mr Blunkett: To ask the Secretary of State for Education whether his Department holds information on the overhead cost per pupil of each major academy chain. [171175] Mr Timpson: The Department does not hold information on the amount of overhead costs per pupil of each major academy chain (Hansard, 21 October 2013)

²⁶ ‘Academy chain under fire following revelations of payments made to bosses’, *The Observer*, 20th July 2013 <http://www.theguardian.com/education/2013/jul/20/education-school-academies-michael-gove>

²⁷ ‘Revealed: tax-payer funded academies paying millions to private firms’, *The Guardian*, Sunday 12th January 2014 <http://www.theguardian.com/education/2014/jan/12/taxpayer-funded-academy-paying-millions-private-firms-schools-education-revealed-education>

additional expansion of schools. He or she would draw together all relevant heads and other local partners in a light-touch consultation on the nature of the new school/school places required, to identify potential solutions in line with the strategic plan for education in the area. Once notice was given, the DSS would invite proposals from those with an interest in providing a new facility. Where a popular school wished to expand to meet such need, it would be presumed that this option would be supported. The national Office of the Schools Commissioner would set out the framework for running these competitions fairly and transparently and all DSS' would be expected to follow these criteria, within which they would take decisions about new schools. The education panel would have oversight of the process on commissioning decisions ensuring that the DSS follows due process when running school competitions and that decisions on new schools meet the long-term education objectives, set out in the strategic plan for the area.

Where there was a challenge to the process or decision, the Adjudicator would be able to broker agreement or to 'adjudicate'. The DSS would require access to high quality data, and would need to take account of the existing quality and performance by bidders (including financial and governance considerations). The views of parents would be taken into account and a proper process identified for achieving this.

All trusts (including Community Trusts), partnerships, chains, parent groups, diocesan authorities and social entrepreneurs would be able to put forward proposals. If sufficient parents are dissatisfied with the general standard of education and the choice available within a locality, it would not be ruled out that, through the office of the DSS, new sponsors would be invited to make proposals for the regeneration of one or more schools in the area as an alternative to enforced academy status. This aspect needs to be explored further in terms of practical ways of ensuring that high quality education does not entail wasteful expenditure of duplicate provision, so evidenced with a number of Free School developments.

A continuing and relentless drive to raise standards and to provide opportunity for all children to flourish is paramount. Whatever the status of the school, therefore, an entitlement should include the school 'having regard to' a basic national curriculum. This framework should not simply reinforce consistent standards (after all, children are taking nationally set and assessed qualifications) but a sense of national identity. This is crucial to reinforcing the glue that holds any nation and society together.

In this vein, Citizen Schools, a report published by the Institute for Public Policy Research (IPPR) in September 2013, looked in particular at the role of a school as a civic institution – something that is rarely prioritised, yet must be essential to the raising of standards. The aim is to encourage extensive participation in the community and public life, ensuring that young people have the opportunity to become part of – not grow apart from – the community in which their learning takes place.

Space needs to be available to schools outside the core curriculum to use professional judgement and to adapt to local circumstances. One example is the Sheffield curriculum ('Passport to Employment'), which has been developed with the Cutlers' Company and local business, and demonstrates collaborative yet creative approaches to drawing on the strengths of the locality.

This echoes the recommendations of Labour's Skills Taskforce for a new 'National Baccalaureate' for all 14-19 year olds to ensure they receive the mix of academic and vocational learning and skills that they need to excel in the future and play their part in society.

All schools, whatever their status, should be permitted the same freedoms in key areas. Firstly, a light-touch curriculum framework delivered in a flexible and innovative manner. Clearly Ofsted would be required to undertake a judgement during normal inspection procedures in respect of the breadth and depth of the curriculum framework on offer. Going beyond what is required will not be a problem and, in fact, would be welcomed in reflecting local approaches to curriculum development. Secondly, freedom for all schools to adapt the school day and the school week in consultation with parents. Thirdly, subject to consultation, freedom to buy in appropriate services, in a manner that combines the necessary collaborative responsibilities reflected in the current Dedicated Schools Grant and the devolved Education Services Grant. It is expected that the bulk of schools currently collaborating through the use of the Dedicated Schools Grant would continue to do so.

In taking evidence for this review, it became clear that where there was an absolute focus on improving standards, support to head teachers in achieving their goals and the ability to bring in expertise, the best of academy chains were doing an excellent job. This applied particularly to those geographically close, with a relatively small number of schools adopting a partnership approach. Harris and Ark academy chains were mentioned as examples, but there are clearly many others. At the other end of the spectrum, all the evidence we received was that very large chains could easily lose the necessary focus and adopt a top-down, rather than bottom-up, approach – the very opposite of autonomy.

For instance, E-Act were, until intervention in late February 2014, in control of 34 schools. A third of these schools are now to be reassigned to other sponsors.

It is not hard to see how a dominant position could be achieved with a particular structure that would allow a future Conservative government, if minded to do so, to move to privatising not just the ancillary and support services, but the schools themselves who, in academy chains, possess no legal identity of their own.

With the demise of the Audit Commission, therefore, it will be necessary to ensure there are appropriate audit arrangements for every school and oversight body, together with appropriate levels of transparency and scrutiny. The Freedom of Information Act should apply equally to all elements of the education service that are publically funded.

Rarely are the substantial legal issues surrounding ownership of land and property debated, and therefore the right of future generations to retain or regain the commercial value that accrues.

Obvious as it may seem, we need to ensure all pecuniary interests, at whatever level, should be properly declared and accounted for.

We are very grateful to David Wolfe QC²⁸ for his agreement to print an extract from his opinion on the complexity of the legal situation that now faces an incoming government, given the multiplicity of legal identities that exist for different schools (and school statuses) across England. This submission has been appended to this review (see Appendix III).

David Wolfe wrote in an article for the Education Law Journal in May 2013:

“The current structure, which depends on the particular academy, the time it was created and the reason it was created, offers a real opportunity and challenge to an incoming Secretary of State: namely to identify exactly what it is (in terms of legal and governance arrangements) that should be common across all schools and then to give effect to that principled assessment.”

Successive governments have introduced primary legislation regarding the legal status of state schools in this country. A complex picture has been created, with the application of legal duties differing across different types of schools. For a school, of any status, to have the freedom to hold their sponsor to account in cases of poor performance, join new partnerships and move between chains, it is important to ensure such a school has the necessary legal status. More than this, when a school ceases to be a school, it is important that commercial benefit is returned to the public purse, which makes a legal foundation important. The incoming Secretary of State should therefore immediately take cognisance of the confusion, contradictions and complexity that exists over the legal situation of schools in England to find a coherent way forward (see extract from an opinion of David Wolfe QC, which he has generously agreed we can reproduce in Appendix III).

Obviously where such legal entity already exists, there would be no need for change. Any change should be subject to further discussion with diocesan authorities, sponsors/multi-academy trusts and Local Authorities. In order to ensure flexibility, agreement should be sought on the nature of the ‘identity’ arising from small schools combining into foundations and trusts with common staffing, resourcing and property management. Much will depend on the size, geographic proximity and circumstances of the schools.

Similarly, it is recommended that complete transparency should exist within the system, in line with other publicly funded services. This should include access to information through the Freedom of Information Act, as well as satisfactory audit arrangements. This should apply to all those engaged in the expenditure of public funding, including privatised support services as well as those directly delivering the education service. Schools must follow through on having their own accounts audited and publish appropriate information online, including the cost of contracts over £10,000 and the beneficiary of such contracts. Foundations, trusts and sponsors should be subject to the same rules of accounting and transparency.

Equally it is important that there should be completely transparency about the growing trend of ‘joint venture companies’, which involve a major outside enterprise joining in one form or another with the Local Authority in the provision of services. It is, as we indicate below, somewhat more sophisticated than simple outsourcing, as it involves the Local Authority having some equity share

²⁸ Matrix Chambers, London, practices in public law and author of blog www.acanofworms.org.uk on academies and the law

and therefore being offered both investment in and the ability to receive part of any profit/surplus. As this trend grows, there will need to be safeguards to avoid near-monopoly situations arising. At present it appears that schools can choose whether to procure such services, although in the case of small schools, support in partnering other schools and therefore drawing down on expertise in procurement as well as achieving savings, will be necessary. The Director of School Standards would be in a position to broker such collaborative approaches where they do not exist.

Examples of current pilots in this outsourced field are Capita in Staffordshire County Council and Babcock in Devon and Surrey County Councils. Varying services previously on offer from the Local Authority, such as school improvement, leadership and governance support, curriculum and similar oversight, quality assurance and provision of early years, have been reassigned.

More significantly, in February 2014 the Academies Enterprise Trust (AET) announced that it intended to 'externalise' an unprecedented range of front line education services in its schools across England. The proposition is to establish a joint venture company to take over learning support, library, technician and other similar services. Whilst there has of course been commercial expertise brought in (and bought in) for things like information technology and building and landscape work, it has always been assumed that head teachers would be responsible for, appoint and hold to account the team that makes up a holistic approach to the running of a school, and therefore the learning environment in which young people do more than simply sit in a classroom.

It is recommended that all private sector operations purchased by either sponsor or school management should be subject to accountability and to a full evaluation of both the educational and financial benefits and drawbacks, and therefore brought into a framework of supervision. Under the principle that 'schools control schools', the test should be what is considered best by the leadership team and governors, rather than those in charge of the superstructure. Schools would have a clear say in which of their services and support systems should be drawn from outside the school and which should be employed directly. A Community Trust model has worked in many areas effectively, in both providing the right services to raise standards, conducted in line with the best possible procurement practice. Logically, the same tests should be applied to large scale sponsors like AET as they are to publicly accountable bodies at local level.

Many authorities have or are considering (perhaps in conjunction with not-for-profit or social enterprise providers) how support and procurement services could be secured at much lower cost and more effectively than in the past (and certainly by schools diverting resources to develop their own capacity). There is much further work to be done in this area collaboratively (and consensually) at local level, and we set out in Appendix IV the kind of areas this might encompass.

The Local Area

The statutory requirements on Local Government are substantial, from the role they play providing special educational needs and looked-after children provision, through to their requirement to ensure that children attend school. Indeed, a range of ad hoc duties have emerged over the last

century, such as the provision of school transport (where necessary) and supply of support services to schools, from personnel to finance and legal advice.

Together with the joint approach to skills, training, apprenticeships and employability, the main uncontested powers currently exercised are considerable (see Appendix V). Further erosion of these responsibilities should not be sought.

A good start in the early years of life is acknowledged by everyone to be essential for a child's future well being and progress at school. Parents and young children have the right to expect high quality integrated support across education, health and care, as was pioneered by the Sure Start programme.

Long before the first ever national strategy for the development of early years provision and universal nursery education (which began in 1997), Local Authorities had been involved in the provision of old style day nurseries, specialist support and assessment, and the delivery of special needs in these early years. Over the last 17 years, substantial changes have taken place in both the extent and range of childcare and early years provision, with local government taking the lead in ensuring high quality and accessible childcare, in what has emerged as the 'market'. This was partly funded through Child Tax Credits and through to its abolition, the Early Years Intervention Grant.

Local Authorities should have the responsibility to coordinate provision, including childcare, so that a comprehensive service is available to all parents with young children. They should champion the economic benefits of childcare provision, and identify and reach the families whose children need and would benefit most from additional support.

In some areas facing great deprivation, the provision of both breakfast clubs and the extended day through to 6pm has survived austerity measures, but in many others it has fallen away. A key part of the Local Authority's delivery role will be working with schools to ensure that Labour's Primary Childcare Guarantee of before and after school care for parents who want it is available to them.

The wider role of local government has clearly changed over the last quarter of a century, as indicated earlier in this review. The very different landscape requires a different approach. Many Local Authorities have taken on this challenge, but not all.

Some innovative moves have been made by Local Government to become the 'voice' of parents and pupils, providing information and advice, including to governors and trust members of local schools and developing their own scrutiny function. In this way, light can be shed on comparative performance and stimulus given to improvement.

It will be necessary to ensure adequate training of both officers and elected members undertaking this part of their scrutiny role (and in some authorities there is already an effective unit supporting existing activity in this area).

Equally, supporting substantial change in the way in which governors and trustees undertake their role has been identified by some (including Ofsted) as a key task.

Lip service is often paid to the critical importance of active citizenship, participation and engagement in the community and society. Hundreds of thousands, if not millions, of people in this country give

some time as volunteers in one way or another. Being a member of a school governing body or trust is just one of those avenues for giving of time and commitment, and of caring. We should value this. Not simply for its own sake but because it is a critical part of a genuinely participative democracy.

Instead of believing that we have to do our 'politics' from the top-down, we can engage people in making a difference themselves in their immediate connection with decision-taking. That is why we should encourage and embrace those who are involved in the education service at school and at local level.

In this way, we can ensure that the tide of change is not just driven from the Secretary of State or from technocrats appointed to do the job, but by local people themselves in their own lives. To persuade, to inform, to provide the adequate and reliable data – but also to debate, to discuss and to liberate people to start challenging, questioning as well as supporting at local level.

The 'we know best and this is how you should do it' may be a speedy way of bringing about change but it does not embed, convince or carry people forward. That is why at this level, genuine engagement is part of a movement for change, embracing parents and family members, the wider community and representing (not just themselves but wider interests) governors and trust members

In 2012 the College of School Leadership commissioned from head teachers their own view of the role of governors. Whilst this was clearly driven by the experience of heads, it provided a very useful insight into the use of experience and expertise, and the challenge that governors face in holding heads to account whilst providing a supportive role across a range of key elements of the life of a school.

It is our intention to work with heads and the National Governors Association to build on work that has already been undertaken and to give support and (where necessary) access to training for chairs of governing bodies, and governors and trustees themselves.

Those taking on this voluntary role deserve substantial commendation but also to be provided with the wherewithal that makes it possible for them to do this challenging job.

Best practice in training of governors and trustees should be identified, developed and disseminated, as well as regularly updated. This should be in conjunction with, and on the advice of, the National Governors Association, and drawing on the work of the National College. There is a great deal more work to be done on training and preparation, including ensuring each Governing Body is equipped with a competent lead on finance. It is accepted that the whole governing body have responsibility to develop a positive relationship with parents and external partners. However, it is considered to be helpful to both parents and to the school itself if there is a coherent complaints procedure and a nominated governor/trust member whose task it is to oversee such accountability mechanisms. It is recommended that proposals are taken forward on how best to ensure that the two-way exchange of information and meaningful accountability to parents, including (where it does not already exist) an annual forum. As is the case with other areas of public funding, Freedom of Information requirements would apply where other applications for information had been unsuccessful.

Greater support should be given to governors/trustees in enabling them not only to be better supported and informed, but also to have paid time off work to undertake their important role. A

Labour Government should explore with employers organisations how best to achieve this goal, in giving time and specific support to chairs of governing bodies in particular. As with so many requirements in undertaking public duty, cognisance will have to be taken of the size and capacity of the employer, as well as the size and range of duties demanded by the institution concerned. It would also be appropriate to consult on the possibility of moving to a model of remuneration for chairs of large trusts (or in extremely large schools with their own independent governing body).

This review recommends that dashboards should be proactively made available to all those involved in the governance function, as well as to those undertaking the scrutiny role. There are a number of dashboard models already in existence. The office of the DSS should draw them together into a coherent source of information and ensure school governors utilise this resource. This would help with early identification of where problems might arise as well as rapid spread of best practice, and would inform both governors and parents of relevant information.

The private sector has already moved into this field, providing rapid response (answers by text) to queries from governors, trustees and parents. Whilst this is a valuable expansion of access to readily available information, a more coherent and proactive approach at local level would be to automatically provide such data in order to compare like-with-like and to ensure all those involved had the knowledge and information necessary to do the job.

Proper procedures should exist within all schools or provider institutions to offer redress where issues are raised or challenges are made by parents. We are aware that the vast majority of schools handle such issues with both professionalism and sensitivity. Where this does not exist, the Local Authority should highlight the failure to do so as part of their scrutiny function. Where on this or on wider issues of the running of the school, the improvement plan or response to Ofsted reports is unsatisfactory, further action should be available.

There are already a number of arrangements and procedures for taking the views of parents into account, but they are very little known and utilised. As set out by the Leader of the Labour Party Ed Miliband in February 2014, it is proposed that in extremis, a trigger mechanism should exist for parents to be able to call in help or to draw on processes for redress where problems arise in a school. Where an Ofsted report has not taken place recently (this would apply to coasting schools, not just those who have a requirement for improvement), the DSS would be empowered to bring in Ofsted or to broker direct improvement support. Any such trigger mechanism should be substantial enough to avoid vexatious complaints. The head and leadership team have responsibility for running the school and for responding to the school community, but accountability, both to parents and the wider community, has to be established in a way that provides both a response to and elicits support from, those whose interests lie in the success of the school. It would also be appropriate for the DSS, with the relevant Local Authority, to encourage the development of Parent Teacher Associations. Such important methods of encouraging participation in supporting the work of schools, and being engaged in and well-informed about the life of schools, could work alongside local governor associations to facilitate participation in Citywide Learning Bodies, assessment panels and the like. Whilst further consideration needs to be given to this, not least in ensuring that those engaged more widely in decision-making procedures are truly representative, enhanced democracy at local level does entail finding ways of encouraging civic participation.

Alongside this, Local Authorities have a key role in reducing the number of young people who drop out of the system altogether. Those sometimes described as NEETs, who drop out of employment, education or training at the age of 16. Many have dropped out of the system earlier in their secondary school education. By helping to coordinate the work of sixth forms, sixth form colleges and further education (with alternative providers), it would be possible for the Local Authority to help both the individuals concerned and to play a key role in the economic and social regeneration of the locality.

However, since 2010 and the abolition of the Connexions service, the quality of support available to young people has rapidly deteriorated. Careers guidance is now almost entirely left to the school, and in many parts of the country work experience has fallen away.

Data on the number of young people accessing no education or training is now clearly unreliable and therefore intervention is made more difficult.

Local Authorities have a duty to ensure that this data is accurately collected, but in many instances the status of young people is reported as 'unknown', indicating how poorly the present system is working in some areas. If young people are to secure the skills and therefore the qualifications needed to sustain them into meaningful employment, the situation will have to be drastically improved. Again, the scrutiny function of councillors here is important but so is a vision of the proactive role which can be played.

In some parts of the country (particularly where skills have been included in the Government's City Deal programme with groups of Local Authorities) the situation is beginning to improve. City Deals are developed between those Local Authorities signing up to City Regions and Government departments. However, Local Authorities across the board (working with their Local Economic Partnerships) could develop this role proactively.

On 3rd March 2014, Labour's independent Skills Taskforce published its third report. Tristram Hunt welcomed the report and the four recommendations it made, saying:

"Labour will deliver for the Forgotten 50% through a Technical Baccalaureate with rigorous vocational qualifications, requiring schools and colleges to collaborate to reduce NEETs and transforming careers advice by working with local employers so young people have the best chance of succeeding in the job market."

Local Authorities should be supported to scrutinise training providers and further education provision, with a clearer role in their scrutiny functions relating to young people who are not in employment, education, or training. There should be, in every area, proper mechanisms for the collection and collation of information as a valuable resource for ensuring young people get the support they need, the essential advice for securing skills, and the right qualifications for sustainable employment. Local Authorities are best placed to use data to work in collaboration with training and post-16 providers, to ensure that there are not gaps in provision and that young people do not fall through the net.

One of the most controversial areas that has emerged as part of this review is that of how best to identify, root out and therefore deal with failure that can occur when young people access Alternative Providers. Much of this provision is unregistered, unregulated and, until recently, had

not been regularly inspected. Schools refer their own pupils to such alternative providers, often those who for a variety of reasons have been doing badly in school, have special needs or are displaying poor outcomes.

Ofsted are currently undertaking a three year programme to inspect provision, but early evidence is not encouraging. In addition to young people (14-plus) being able to access legitimate further education providers (and, where appropriate, placement with employers), there are now a large number of alternative providers, both commercial and not-for-profit in this field.

Registration of alternative provision was considered but ultimately rejected by the Coalition Government when the Taylor Committee reported.

Whilst Pupil Referral Units (for those excluded from school) are properly inspected, this basic requirement should be a clear duty for all alternative providers. Labour should review this whole area of need, drawing down on the evidence so far adduced by Ofsted and give priority to immediate improvement.

There has over recent years been a considerable restructuring of Children and Young People's Services at local level. The creation of Children and Young People's Directorates sought to bring together the provision of support to schools with the social work and early intervention functions, combining the former Local Education Authority with what had previously been the social services element for young people in the area. The commendable objective was to create a holistic approach to the needs of young people, both in and out of school. Whilst this has undoubtedly strengthened multiagency working, it has also increasingly resulted in an emphasis on 'safeguarding' and therefore the management of risk.

It would be important not to lose this combined approach, including drawing in the health service. This is particularly important in areas such as Child and Adolescent Mental Health Services for children with special needs, emotional or behavioural problems. They are often talked about but much neglected in practice. The implementation of the Children and Families Act 2014 will provide even more of a challenge to Local Authorities (particularly where they take on funding responsibilities from other agencies) and where the role of schools in supporting young people with special needs (including physical disabilities) will become even more critical.

It is recommended that further work should be undertaken into how the original objectives set out in the Every Child Matters agenda are being met and how they might be updated to meet the modern challenges young people face. A wholesale upheaval is clearly not in the interests of anyone, so it is not recommended that we immediately move to deconstruct the existing landscape. Nevertheless we believe that a re-evaluation should be undertaken in thorough consultation with practitioners to find a way to proceed. This should reflect what is functioning best and, include the developing role of the Director of School Standards.

The Centre

The Secretary of State's ideological penchant for Academies and Free Schools has led to an incoherent approach to the planning and provision of places (as outlined in the chapter on 'Fiduciary Duty'). Considerable contradictions about what is meant by 'localism' have arisen under the Coalition Government.

The inconsistency and contradictions run much deeper. New freestanding academies (and those schools converting to academy status) have a direct contractual arrangement with the Secretary of State. This involves an annual funding agreement and oversight by the Secretary of State – though this is more theoretical than real as the much slimmed down Department for Education is struggling to carry out the most basic functions.

A 73-page contract between the Secretary of State and an academy²⁹ not only makes a mockery of any claim to 'localism', but drives a coach and horses through practical and meaningful accountability. Taken together, the top-down approach of the Secretary of State and the operation of the Education Funding Agency would, carried to its logical conclusion with over 20,000 'autonomous' schools, result in an unmanageable Kafkaesque caricature, freeing schools from everything except of course the Secretary of State.

The reflection by Gillian Shephard, when bemoaning in her book *Shephard's Watch: Illusions of Power in British Politics* (p.153) that there were no 'levers to pull' as Education and Employment Secretary in the 1990s, has been literally turned on its head.

As we've demonstrated throughout this paper, the top-down approach pervades all government policy. From the Department, the Education Funding Agency and academy chains – with greater power over schools than local authorities – through to arrangements for funding that are to say the least, contradictory.

Even on occasions where Local Authorities have identified serious weakness, the Department has failed to act. In March 2013, one Local Authority met with the Department and then separately with a school's Chair of Governors and Head about concerns Officers had over the quality of education at a converter academy. Since the Local Authority have no powers of intervention in an academy, they asked the Department to intervene to improve the school's leadership and improve outcomes for students. The Department declined, following a visit of one of their Advisers. Outcomes in August 2013 placed the school below the Government's floor standard. In September 2013, Officers again asked the Department to intervene and improve the school's leadership to benefit the provision for students. It was only at this time that the Department considered issuing the school with a Warning Notice if the school did not agree to be sponsored by a high quality academy sponsor. Governors rightly agreed to this and sponsorship should formally happen in April or May 2014. However, this set of circumstances indicates the peril a school must find itself in before a vastly cut-down Department will act.

²⁹ Model Funding Agreement, Department for Education website, updated May 2013
<http://education.gov.uk/schools/leadership/typesofschools/freeschools/b00222077/pre-opening/funding-agreement>

Similarly, there are concerns that many governing bodies of academies will no longer have a say over who their Headteacher will be, though this has not been fully understood as it is embedded within the small print of extensive contracts. This point was reinforced by Emma Knights, Chief Executive of the National Governors Association, when giving evidence to the Education Select Committee in the House of Commons on 9th April 2014.

There are good and bad academy chains, just as there are good and bad Local Authorities. What matters, therefore, is not a particular political preference, but whether there is good leadership and teaching, with a high level of aspiration. Labour will support effective chains, Local Authorities, trusts and federations, but act decisively where they are going wrong.

As noted earlier, without a coherent policy and prudent planning, a free-for-all can lead not just to the waste of public money, but also to unfairness.

One particular area to consider is the growth of 16-19 free schools/colleges. There are currently just seven open,³⁰ but the implications of their freedom to select students by ability could be significant as the raising of the participation age vastly increases the number of such 'academic-only' institutions. The Government's pretence of giving vocational study the same parity as academic (and importantly allowing a mix of the two) has been exposed, as many of these sponsors are now coming forward seeking only to recruit to very specific A level subjects.

If they were working alongside and in tandem with other schools and colleges, there would be some argument for their creation – but they are not. By contrast, the University Technology Colleges (which do act collaboratively and work with both other schools and the Local Authorities concerned) offer real diversity, which we welcome. Labour's plans to raise standards in further education will also do much to raise standards in vocational education and encourage a more collaborative approach. Deep concern exists in the sector about reductions in per pupil funding at a time when very substantial sums of money are being offered to new 'free school' entrants into this area of provision, including where numbers are falling and comprehensive provision already exists.

Meanwhile in the schools sector more widely, we see the developing dangers where there is a lack of oversight and when policy is driven purely by dogma.

The Al-Madinah School, Discovery New School and King's Science Academy (and possibly others not yet revealed) are examples of what can happen when proper monitoring and oversight do not exist.

In October 2013, the Al-Madinah School was described by Ofsted inspectors as 'dysfunctional' and rated inadequate in every category – within a year of its opening.

In April 2014, the alleged Operation Trojan Horse in Birmingham demonstrated the difficulties that have arisen from this over-centralisation of control of schools.

This architecture which leads schools to be contractually bound to the Secretary of State and free-floating from the communities they serve is not only undemocratic and lacking in any meaningful accountability, but is also clearly unsustainable. Policy will therefore, by necessity, have to take into account a reassessment of how to retain the innovation and autonomy to drive standards from the

³⁰ Hansard, Official Report, 6th January 2014, Column 71W

bottom-up, whilst providing a coherent role for the Department. This will require an effective intermediate tier able to bring some common sense to the currently fragmented landscape, as set out earlier in this paper with the independent role of the Director of School Standards.

The Coalition have recognised this by advertising for and seeking to appoint Regional Schools Commissioners. Ironically, the Government as a whole have set aside all the previous regional structures in a bonfire of 'regional planning', only to reinvent, at least in part, a structure based on those regions.

This represents clear recognition by central government of the need to devolve and decentralise. However, putting a structure in place without report to or oversight by Parliament demonstrates both a reluctance to face up to the consequences of piecemeal change but also a deep unwillingness to engage in a meaningful debate about how a genuinely accountable intermediate function might be fashioned. The Government has also missed the point – a regional tier overseeing only academies and Free Schools fails to deliver the local oversight necessary to ensure standards stay high in all schools or to deal with the divided system we have at present whereby schools of different structures are accountable to and overseen by different bodies.

Academy governance arrangements themselves are opaque, particularly where there is a sponsor responsible for a large number of schools constituting a chain, providing little opportunity for parents or the host community to either support or challenge the decision-takers.

In relation to detailed and cumbersome contracts, it is understood that the Department for Education is considering changes to the funding agreement with freestanding academies, which would allow for greater intervention from the centre or the new Regional Schools Commissioner. However, it is not clear how, with the continuing reduction in the capacity of the Department and the separate role of the Education Funding Agency, such powers might be used more effectively under the auspices of Ministers.

As Conservative MP and Chair of the all-party House of Commons Education Select Committee, Graham Stuart, reflected in the House of Commons on 6th January 2014, we "have Ministers trying to run schools from a desk in Whitehall." The lack of transparency in such decision-making is nothing short of a scandal.

There is a paradox. On the one hand, the Conservative/Liberal Democrat Coalition eulogise about the 'independence' and autonomy of schools, yet on the other they celebrate the success of a sponsoring chain in taking over more and more schools, in circumstances where they quite reasonably do anything but leave the schools to get on with the job themselves. Many use their power to manage and intervene in a way not available to Local Authorities – positively in terms of overcoming failure, but negatively in terms of the false espousing of 'autonomy'.

In developing a way forward it will be important to learn from those academy chains and trusts that have managed to square this circle. Improvement must be driven from the school itself (as set out in 'Best Practice') whilst mechanisms must be put in place for supporting such creative leadership, sharing and spreading best practice.

Equally, the contract with the Secretary of State, particularly in the case of converter academies, represents major government 'interference' which, far from creating a 'free market' that many on the far right of the Conservative Party believe they are developing, is achieving the very opposite.

There is far too close a relationship between some ministers/advisers, non-executive directors and those close to the Secretary of State, and the creation of particular schools, chains and policy decisions. This is unhealthy. Ofsted can report on individual schools, but it is the Department which, in the case of these freestanding schools, has the responsibility to act.

Equally, it is important that more work should be undertaken on reviewing what formula is and is not working in relation to sponsoring chains. Existing evidence shows that those that have a very specific focus, a geographic reach and therefore a sense of identification, are doing best. There is no evidence that large sponsor chains with schools spread across the whole country are providing that focus and workable partnership approach from the bottom-up which yields best results.

Sir Michael Wilshaw, Head of Ofsted, is clear that in order to ensure standards are maintained in all schools, Ofsted should be able to inspect academy chains. Their oversight is crucial to the delivery of education in their sponsored schools, and it has already been agreed as party policy that sponsor chains and trusts should be inspected. Additionally, it might well be worth Ofsted undertaking a review directly into the effectiveness of different configurations of sponsor academies and trusts. If academies are using their size and scale in advertising their value, this assumption would be worth testing in practice.

As already indicated, it is our belief that best practice lies with smaller configurations, geographically-based and properly focused.

Currently, Ofsted inspects Local Authority looked after-children provision and safeguarding services on a regular cycle with graded judgements. Extending this model to the wider Local Authority education services and increasing its frequency could significantly strengthen accountability as well as helping to acknowledge and spread best practice.

It is not part of the remit of this review to comment on the role of Ofsted, which the Labour Party has vigorously supported over the last 20 years. It is however, worth noting, that when the Conservatives privatised inspection in the 1990s (previously the domain of Her Majesty's Inspectorate), around 120 small providers offered competition and therefore achieved the stated goal of breaking a 'monopoly'. Now, there are just 3 large providers. It would certainly be worth Ofsted examining how, with such a dominant position for so few providers, proper challenge and redress can be achieved where genuine concerns are thrown up by schools.

Another area of concern is the power taken by the Secretary of State in relation to those functions previously held by the Qualifications, Curriculum and Development Agency. This body, established with all party support in 1996, brought together the previous vocational and academic oversight of the curriculum and adopted a consensual approach to the development of both the curriculum itself and programmes of study.

When Ministers abolished this agency and took powers directly themselves, they were in effect politicising a very delicate process. Whilst we accept and respect their right to an opinion, no politician owns the right to determine personally the shape and content of what is taught in the

classroom. However, this has evoked only a whimper from a national media, who are largely unfamiliar with the structures.

An advisory group, whose membership should be agreed through consensual processes across the political spectrum, should be established. It would make recommendations on keeping curricula up to date and comparable with the best performing systems internationally and aim to ensure all children access their entitlement to a basic programme of learning, wherever they live and whichever school they attend. The advisory group would make recommendations on a light-touch curriculum, retaining flexibility and scope for innovation at school level. This would ensure consistency and the avoidance of politicisation of the curriculum, which should not be down to one politician at one moment in time. All children, wherever they live in England, should have this entitlement, including the development of those aspects touching on personal development, citizenship and, therefore, a sense of identity and belonging.

Ofqual (set up initially to oversee the quality of examinations taken by students) has adopted a wider role, not least in respect of the particular standing and therefore credibility of examinations.

This review also recommends clarification of the role of the Office of Qualification and Examinations Regulations (Ofqual). Given that examination companies designate the particular programmes of study and that the syllabus determines what teachers are teaching, it is critically important to clarify who makes decisions about what is taught, what is examined and how, and ensure all schools have the same freedoms and duties over this. At the present moment, some parts of the system are subject to a curriculum, some are only subject to the examinations taken (under the auspices of Ofqual), and some aspects of the syllabus fall into neither category.

Similarly, an incoming Labour government would look to reverse the demolition of leadership and development work for teachers and leadership teams. As Andreas Schleicher, head of PISA tests at the OECD told the Education Select Committee in March 2014, the most successful school systems have invested heavily in teacher training and professional development:

“Many high performing education systems in Europe and also in Asia prioritise the quality of teaching ... You are much better off investing this in a) more attractive career structures including better salaries, or b) more opportunities for professional development, more non-teaching work off time for teachers.”³¹

It is time to stop ‘passing the buck’ between the Department for Education and schools as to who carries responsibility for CPD.

This review concludes, along with many submissions received, that the decision by the present Coalition Government to merge the National College for School Leadership (NCSL) and Teaching and Development Agency (TDA) was a mistake, and urgent action should be taken to identify a way forward to re-establish the standing of each organization. The restoration of the National College as an independent body is essential in ensuring the development of effective leadership within English education. Labour has also already expressed its support for the proposed new

³¹ Andreas Schleicher, head of PISA tests at the OECD, addressing the Education Select Committee in the Houses of Parliament, 5th March 2014

College of Teaching which has the potential to play a major role in driving up standards of continuing professional development – central to Labour’s plans for raising standards in teaching.

Some of the work the Teaching and Development Agency had been doing has been incorporated into a new charity – the Teacher Development Trust (TDT) – set up to promote continuing professional development. We would hope that new initiatives would work with and learn from the experience of the TDT.

One idea already picked up by teachers themselves is to share best practice of lessons and lesson plans. Tinderbox, one idea in embryo, is a social enterprise that will allow teachers to search for and access case studies of lessons produced by highly effective teachers.

Evidence has also provided convincing proof of the current confusion about the role of the Office of the Schools Commissioner. Few people outside the education service have heard of this non-departmental public body, know anything about those carrying out the role or, under the new proposals, have any idea about its relationship to Regional Schools Commissioners.

To illustrate this point, it is worth reflecting that the current role of the Office of the Schools Commissioner combines – although it does not appear to fulfil – the duty to both promote academy and free school status, and to get involved in school improvement.

It is clear that with our bottom-up approach, school improvement would be generated locally. Yet on supporting the Academies programme, there is clearly a need for clarity.

In April 2014 the House of Commons Education Select Committee received evidence that 25 out of 88 sponsor chains have had any expansion of their activities frozen. The role of the Schools Commissioner will be crucial in much earlier monitoring with the new Ofsted inspection procedure, so that intervention can take place wherever concerns arise.

At present the Department for Education intervenes to preclude academy chains from expanding or requiring the reassignment of schools. There needs to be much greater transparency around the process of decision-making and the criteria used by the Office of the Schools Commissioner to ensure coherence and consistency.

It is recommended that Labour should revise and strengthen the existing Office of the Schools Commissioner and determine its relationship and working arrangements with the new Independent Directors of School Standards. Whilst our proposals will ensure adequate and robust scrutiny of all providers of those proposing new schools, including educational experience and financial probity, the legacy of inadequate supervision and audit will need to be handled through the Commissioner.

This review recommends the abolition of the Regional School Commissioner post and structure. A regional structure will not provide the local oversight and support needed to ensure standards remain high. It would be inefficient to have different oversight structures for different types of schools (the Government’s Regional Commissioners only oversee academies and Free Schools). It would be expected that all Directors of School Standards in a definable region would work together to establish sensible planning to enhance effectiveness of provision on a number of functions. First, brokering appropriate teacher training provision, such as full coverage of teaching

schools alliances. Additionally, coherent and comprehensive provision for special needs, including responsibility for ensuring sufficient capacity to allow access to dedicated residential, day and peripatetic resource. This combined approach across Local Authority boundaries could ensure that specialisms (too costly for any one Authority) would be offered with high quality provision and the establishment of resource centres to support integrated education. Similarly, the Traveller Roma and Gypsy Education Support service has been decimated, and a regional cross boundary approach would help to restore essential provision in this area.

Conclusion

In putting together a recommended framework to add both coherence and increased transparency to the system, we have at every stage sought to test recommendations against the criteria of whether they contribute to improved standards and fairness.

We believe that the landscape should reinforce the best of innovation and creativity, whilst acknowledging the critical role partnership can play in driving standards.

Reform and modernisation of the system, looking to provide the school and learning environment of the future and using technology imaginatively but effectively, all come together in providing a dynamic process of positive change.

Our objective has been to reinforce self improvement and to drive higher standards from within schools themselves.

Building on previous achievement and intervening only where necessary (“intervention in inverse proportion to success”³²) underpins our approach.

There are, however, many areas of education policy not covered by the remit of this paper. They will continue to be developed by the frontbench Labour education team under the guidance of the Shadow Education Secretary Tristram Hunt.

It is hoped that the foundation laid here will complement work that is already underway and policies already announced by the Shadow Team, helping to ensure that we have a coherent local framework for how structures will aid progress on standards. This in turn should help maximise Labour’s other key reforms of teaching quality and vocational education, allowing them to take root in the system.

We recognise the very difficult task that head teachers currently face and the pressures that exist on the service. Encouraging potential leaders of the future and reassuring them that the support necessary will be available to carry out the ever increasingly demanding and complex task, will be vital for success.

³² As said by Professor Sir Michael Barber

It is recognised that an incoming Labour Government will provide that professional support to ensure that aspiration for youngsters, expectation of the delivery of schools and the continuing role of lifelong learning can be secured in this ever-changing and challenging global environment.

Appendix I: London Challenge

Labour created the London Challenge as a successor to Excellence in Cities. It started in 2003 focused on secondary schools and was launched by Estelle Morris and Stephen Twigg. Tim Brighouse was made the London Schools Commissioner. By 2006, Ofsted reported dramatic improvements. The programme continued to develop within London and began working with primary (from 2008) as well as secondary schools. The model was extended in 2008 to two additional 'City Challenge' programmes in Manchester and the Black Country. The more generalised 'National Challenge' programme was also introduced by the then Government in 2008 to all English secondary schools whose standards were below the floor target.

London Challenge used independent, experienced education experts, known as London Challenge advisers, to identify need and broker support for underperforming schools. The focus was on Hackney, Islington, Haringey, Lambeth and Southwark.

The advisers were supported by a small administrative team based in the Department for Education (DfE). The cost of the support and the services brokered comes directly from the DfE and was spent as the adviser directs. Many of these advisers were also National or Local Leaders of Education. Crucially, there was strong ministerial drive for the programme.

As a result of London Challenge, the average attainment of pupils in London secondary schools is above the national average. In its 2010 evaluation, Ofsted reported:

"After the summer examinations in 2010, only four London secondary schools (about 1%) now remain below the floor target. Primary schools that have become partners with London Challenge are also improving rapidly, despite the relatively recent start to their programmes. The contextual value-added measures of the participating schools, taken all together, have risen significantly from below average in 2008 to above average in 2010. This represents real gains in achievement for the pupils in these schools; they have not just narrowed this gap but, on average, their achievement on this measure now exceeds the average achievement nationally. Four factors have been common to both the primary and secondary schools."³³

Ofsted identified the reasons they believed lay behind its success:

- London schools received clear, consistent leadership from the team leaders appointed by the DfE about the pressing need to improve educational standards and the sense of professional duty incumbent on teachers to do this for London children. That message of commitment and encouragement was repeated consistently by the London Challenge leadership team. These endeavours have reinforced a clear sense of moral purpose among teachers and school leaders to close attainment gaps between London and the rest of the country. The staff in almost every school that contributed to this survey expressed their commitment to London children, not simply to those in their own school. Their sense of pride in being part of a city-wide education service, irrespective of whether they were receiving or providing support, was a fundamental characteristic of London City Challenge.

³³ <http://www.ofsted.gov.uk/resources/london-challenge>

- Second, following the audit of need conducted by London Challenge advisers, the programmes of support for schools that require improvement had been managed by experienced and credible advisers. Monitoring of the programme was done through a school improvement partnership board established for each school receiving support, usually chaired by the adviser, and attended by school governors, school leaders and their mentors, and Local Authority representatives. They have ensured that the programmes have been rooted securely in an accurate audit of the needs of individual schools. The London Leadership Strategy (coordinated jointly by the managers of London Challenge and by the National College for Leadership of Schools and Children's Services) provided the pool of 'system leaders', current headteachers who could be called upon by the London Challenge advisers to mentor a target school's headteacher. These leaders were matched carefully to a particular school, often through a core group of such leaders, to ensure that a good working relationship is rapidly established with the school's headteacher. This matching of partners under the leadership of the London Challenge advisers was a critical early step in brokering good support.
- Third, once the actual needs of a school were identified and support for the leadership was set up, the main work of helping to improve the quality of teaching and learning in the school began through Local Authority advisory staff or externally brokered consultants. Substantial improvements were achieved through effective partnerships with so-called 'teaching schools', which provided extended coaching and practical activities on their own site to groups of teachers from several schools that needed support and were within easy travelling distance. The training provided included separate courses to improve teaching from being predominantly satisfactory to securely good – the 'Improving teacher programme' – and 'From good to outstanding'. Participants and providers with whom discussions were held during the survey were unanimous in their appreciation of the positive impact that this approach had on raising standards in both the host and participant schools.
- Fourth, schools that improved and left the 'Keys to success' programme of London Challenge developed robust systems to track pupils' progress and provide effective intervention for pupils at risk of underachievement. Using data to evaluate the effectiveness of school provision and particular programmes of intervention became embedded in these improving schools. The systems worked without external support, giving schools the information they need to respond quickly to pupils' underachievement.

Key Ofsted findings (2010 report)

- Since the introduction of London Challenge, secondary schools in London have performed better and improved at a faster rate than schools in the rest of England in terms of their examination results.
- The primary schools in London Challenge since 2008 are improving faster than those in the rest of England. The contribution of London Challenge to this improvement is evident in data on pupils' progress since 2008.
- At their most recent inspection, 30% of London's Local Authority controlled secondary schools were judged to be outstanding, reflecting the positive impact of London Challenge.

This compares with 17.5% for the rest of England. Of the 34 academies in London that have been inspected, eight have been judged to be outstanding (24%), with 22% of all inspected academies (84) judged outstanding.

- Only 2.4% of London's secondary schools are currently judged by Ofsted to be inadequate, compared with 4.1% in the rest of England, and 9% of London academies. Across England, 9.5% of academies that have been inspected have been judged to be inadequate.
- The leaders of London Challenge have motivated London teachers to think beyond their intrinsic sense of duty to serve pupils well within their own school and to extend that commitment to serving all London's pupils well. This has encouraged successful collaboration between London school leaders and teachers across schools. This is a key driver for improvement.
- London Challenge has deployed its support strategically. London Challenge advisers have successfully established school improvement partnership boards for schools causing concern, ensured an accurate audit of needs and brokered the resources necessary to meet those needs. They chair regular school partnership boards that monitor and review progress.
- Networks of experienced school leaders from the London Challenge Leadership Strategy, coordinated by London Challenge, provide much of the expertise to tackle the development needs within supported schools and drive improvements in progress. A key strength of these leaders is their skill in matching people and schools, creating a sense of mutual trust. The leaders of the schools that contributed to the survey stated positively that the support is implemented with them and not imposed on them.
- Improvements as a result of schools' involvement in London Challenge are sustained once the support ends because the schools continue to participate in development programmes for teachers.
- These improved schools have also embedded the use of performance data to track pupils' progress and steer intervention and have secured the quality of teaching.

Key data on the success of London Challenge

Chris Cook did a well-respected analysis in the Financial Times last year on what happened in London

<http://www.ft.com/cms/s/0/8f65f1ce-5be7-11e2-bef7-00144feab49a.html?siteedition=uk#axzz2INLPwXNk>

The table below shows what happened in terms of GCSE results between 2005/6 and 2012/13. Essentially, there was an improvement between 2006 and 2010 (on the basis of 5 good GCSEs include English and Maths) of 12.2 percentage points in London, 14.9 percentage points in inner London compared with a 7.9 percentage point improvement in England as a whole.

Those improvements have continued. So compared with 2006, inner London is 22.9 percentage points ahead, compared with a 13 percentage point national improvement.

In the target boroughs, the improvement has been (2006-2013) Hackney + 23.7; Haringey +28.7; Lambeth +23.4; Islington +30.2; Southwark +30.2. Pre-2006 the figures did not include English and Maths so are less comparable.

Region/Local Authority	5+ A*-C grades including English & Mathematics GCSEs		
	2005/06	2009/10	2012/13
London	45.8	58.0	64.4
Inner London	39.3	54.2	62.2
Camden	45.7	53.1	59.1
City of London	.	.	.
Hackney	36.7	55.3	60.4
Hammersmith and Fulham	49.0	68.2	66.0
Haringey	34.3	48.0	63.0
Islington	32.8	50.0	63.0
Kensington and Chelsea	54.3	71.3	80.1
Lambeth	41.7	53.0	65.1
Lewisham	40.8	48.0	57.3
Newham	41.1	52.1	57.1
Southwark	34.4	56.1	64.6
Tower Hamlets	34.0	51.8	63.5
Wandsworth	41.8	58.1	59.4
Westminster	40.6	62.5	68.7
Outer London	48.8	59.8	65.4
Total (State-funded sector)¹	44.1	55.3	60.4
England^{1,4}	45.6	53.5	58.6

Appendix II: Extract from Church of England submission to this review

18. Many of the national academy chains have proved to be very successful at addressing underperformance and bringing about rapid improvement. However, as they expand, they all recognise the need to work in much tighter geographical regions in order to bring maximum impact at a local level. The Church of England is working in this landscape, not as one national chain, but using the 43 distinct dioceses as the local unit of organisation. The advantage of this, whilst having a national organisational structure which ensures consistency of approach and policy decisions relating to the historic nature of Church schools, means that each diocese is able to relate to its local community through bishops, clergy and other community structures, in a much more tangible way.

19. It is important that such accountability is built in to the system in order to ensure that local needs are met, but we do not believe that this is achieved by simply having one or two parents on a Governing Body. There needs to be much greater connectedness with the whole community of parents (present and prospective) but governing bodies have a different function and are responsible for the strategic direction of the school; they need to be more generally accountable to that community rather than have one or two representatives from it.

20. In our report *A Diocesan Board of Education for the Future* we have identified the need for dioceses to form multi-academy trusts as a means of providing high quality leadership and governance across a group of schools, and this seems to be the experience of other academy chains as well. However, it is essential that such high level governance does not result in there being a distance from, or lack of understanding about the school's specific local context. The use of local advisory committees is a positive way of ensuring this balance is kept.

21. The fact that only 10% of primary schools have become academies (within the Church of England sector it is only 5%) is indicative of the feeling that academy status is not appropriate for individual primary schools.

22. Since 2010 the Church of England has taken the view that academy status should be about interdependence, not independence, particularly because the vast majority (4,443) of our schools are primary, and most of those have fewer than 210 pupils. We do not think that a school of this size can achieve the economies of scale that make single academy trust status viable and so we have sought ways to ensure that schools can form MATs together. This was hampered by the insistence that VC and VA schools maintain their predecessor school governance structures, but we are pleased that a solution has now been found which makes it possible for such a mixed category of schools to form a trust together.

23. This interdependence and collaboration is increasingly important as pressures on school budgets increase and support from LAs reduces. But it is the interdependence that is ultimately important, not the status of being an academy.

Appendix III: Extract from David Wolfe QC's submission to this review

1. The result (now and certainly by the time of the next Secretary of State) is that we will still have in place examples of all the different types of maintained school going back to the 1998 Act and a vast range of other schools created under the umbrella of 'academies' manifesting a variety of legal governance arrangements.
2. Each school (and thus the community it serves) will – in legal terms – have a governance structure based on the particular circumstances and political climate at the time and the reasons for the school's creation, whether that was rewarding success, punishing failure or anticipating future events and/or whether it was a time when Local Authorities were seen by the Secretary of State as the enemy or as partners in setting up new schools and – for those academies provided by 'chains' – how the particular chain chooses (over time) to organise the schools it provides.
3. As time goes on these arrangements will be overlaid by further local changes, including some which may have come about without any public involvement at all and often against the wishes of the school and its community. As an example, in October 2010, the Emmanuel Schools Foundation (set up by Reg Vardy along 'creationist' lines), which by then provided four academies, was 'taken over' by ULT, apparently 'at the behest alone' of the original sponsors and resented by the affected school communities.
4. It is estimated that at least a quarter of 'converter' academies (ie those which were allowed/encouraged to convert on their own because they were judged to be doing well) have now become 'associate members' of academy chains, albeit without that necessarily changing their formal governance/legal arrangements, further adding to the complexity.

Statutory Intervention

5. Parliament has also intervened, but not in a coherent or systematic way. Here are some examples.

Discrimination Law

6. Thus, for example, the prohibitions on discrimination in the Sex Discrimination Act 1975, the Race Relations Act 1976, and the Disability Discrimination Act 1995 applied to all schools, including independent schools and, incidentally, therefore to academies. So too their successor provisions in the Equality Act 2010.

Freedom of Information

7. The Academies Act 2010, has applied the Freedom of Information Act to all academies, effective on all existing and future academies. Although that does not override existing funding agreements (because they were simply silent on the issue of FOIA and the Act said nothing about academies), it did mean the funding agreements were now supplemented by statutory rules, regardless of what was negotiated by the sponsor during its formation and subsequently.

Permanent Exclusions

8. In accordance with a general election commitment to make it easier for head teachers permanently to exclude pupils, the Coalition Government moved to replace the long-standing regime of independent appeals against permanent exclusion with a regime of independent reviews.

9. The legal problem which then arose was that the permanent exclusion/appeal regime in Education Act 2002 only applied directly to permanent exclusions from maintained schools. The funding agreements for some academies contractually bound them to follow the maintained school statutory regime (thus if that latter changed, they would follow automatically). But some agreements had 'hard wired' a regime of appeals, and some had even gone as far as directly to incorporate (albeit selectively) provisions from the regulations and guidance which would have applied to maintained schools at the time. That, in turn, meant that changing the statutory provisions for maintained schools (to weaken the position of the excluded pupil) would indirectly bite on some but not all academies.
10. This resulted in statutory intervention effectively to override the funding agreements. In particular, the newly created s 51A of the Education Act 2002 – which applies only to England, leaving the old regime under s 52 applying only now to Wales paved the way for Part 4 of the School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012 (SI 2012/1033) which replicated (in substance) the permanent exclusion regime as it now applies in maintained schools for academies (although not accompanied by the statutory rules on behaviour policies, which might be thought to underpin permanent exclusion).
11. Accordingly, secondary legislation has overridden funding agreements, albeit in a way which, perhaps, academies might have welcomed and which could possibly have been achieved by renegotiating all the problematic agreements.

Special Educational Needs

12. That process is now to go one step further, if proposals currently in the Children and Families Bill 2013 come into effect. Among other things, the Bill repeals and replaces the whole of Part 4 of the Education Act 1996 which makes provision for special educational needs (SEN) in maintained schools.
13. The proposed provisions would treat academies equivalently to maintained schools for all purposes when it comes to SEN (which has not been the case to date). These changes are being brought about by primary legislation (cf the secondary legislation used for exclusions, as above) perhaps in recognition of the fact that, in many instances, it will, in practice, make it harder for academies to resist being named in SEN statements.
14. Crucially, these statutory provisions will specifically override funding agreements in a way which most probably could never have been achieved by agreement. As below, that sets a notable precedent in legal and political terms.

Other Issues: The Operation in Practice of Funding Agreements

15. As explained above, the statutory provisions which prescribe the framework for exclusions, admissions and the curriculum in maintained schools do not apply to academies. These matters were determined by the specific funding agreement for the particular academy.
16. That, of course, throws up interesting legal and enforcement issues, because parents/pupils are not parties to those agreements. Successive Secretaries of State have been reluctant publicly to confront the fact that funding agreements made it harder – compared to the position in an equivalent maintained school, where the rights are statutory and can be enforced by judicial review – for parents and pupils to enforce their rights.
17. As far as I am aware, the courts have only considered this issue in one appeal from the First-tier Tribunal (FTT) brought before the Upper Tribunal (UT) in *SC v London Borough of Hackney*. The issue in that case was whether or not the FTT had jurisdiction to consider appeals against the Local Authority's refusal to name Mossbourne Academy in the SEN statements of some children whose parents requested it. In considering that issue, the UT had to consider what would happen if the FTT ordered that Mossbourne should be named,

and Mossbourne nonetheless refused to admit the child in question. The UT judge found a way. As far as I know, it has not yet been tested in practice. But even if it works in practice, it is highly convoluted and certainly does not provide parents/pupils with easy access to justice.

Does the Diversity of Arrangements Matter?

18. For the time being there are three big problems (although no doubt there will be others), which will grow over time:
19. First: the circumstances of individual schools will change such that the specific and particular legal and governance structure (including thus whether stand-alone or sponsored, which sponsor/chain/etc) which might have been appropriate at the time of their creation, are no longer suitable.
20. Secondly: politicians of all parties (and thus presumably the next Secretary of State) continue to want to make changes to the school system (indeed the public demands it in many instances) which, given that it is no longer a system at all, they will struggle to do.
21. Thirdly: Local Authorities still have statutory obligations when it comes to education of the children in their area; and indeed, the public still expects action from them. But their ability to respond meaningfully gets ever less.

Appendix IV: Potential support services from not-for-profit providers

1. Legal and Governance support for Schools

Governance

Advising on governance with regards the governing documents, charity law, company law and advice on governor's duties and responsibilities.

Trading and Income generation

Advice on the charity law regulations relating to the generation of income and fundraising and formation of trading arms.

Property issues

Advice on the content of e.g. leases or other tenure documents.

Intellectual property

Advice and legal support on how to protect the intellectual property of the school

Contracts and procurement

Dealing with a wide range of commercial issues such as the advising transferring and renewing of general contracts and agreements and the drafting of contracts

2. Academy Conversion of Schools

Academies are independent schools, governed by a combination of charity law, company law, employment and contract law (the Funding Agreement with the Secretary of State). The Academies Act 2010 enables all types of schools to apply to the Department for Education for Academy status. When converting to an Academy, the Governing Body will need advice on a number of areas including -finance; human resources, property and **legal advice**.

The Legal issues that would arise when converting to academy status:

- employment issues which will need to be considered (TUPE)
- The transfer of land, assets and facilities provided by the school (i.e. Children's Centres, Sports facilities, Special Educational Needs resources)
- Agreeing the Commercial Transfer Agreement with the Local Authority
- Establishing the Academy Trust, a private company limited by guarantee, which will be responsible for running the Academy
- Advising on the duties of the Members and Directors

3. Employment and Human Resources Advice to Schools

The breakdown in employee relations can have a significant impact on the day to day running of a school and the staff morale. For maintained schools with delegated budgets or Academies, the respondents to claims will be the Governing Body. Therefore, it is important that schools have access to **legal advice** at an early stage to reduce the risk of claims being made against them. Although a school may be able to access advice from a human resources provider, it is important that **legal advice** is not detached or inaccessible. This service can be provided by an experienced HR consultant that can respond to queries in person via the telephone or online:

Potential legal issues that could arise in a school:

- Employee benefits and rights
- Dismissal and grievance procedures
- Varying contracts of employment
- All forms of discrimination
- Transfers of undertakings ("TUPE")
- The outsourcing of services and the employment consequences for the school and staff (e.g. catering/cleaning services)
- Restructures and redundancy
- Advising on settlements and negotiating the terms of compromise agreements (via partner Solicitors Practice)
- Advising and assisting with the preparation of all types of claims being lodged by employees at the Employment Tribunal, in the County Court or the Employment Appeals Tribunal (via partner Solicitors Practice)

Appendix V: Statutory duties of Local Authorities

i **On high quality provision:** Education Act 1996 Section 13A. Duty on Local Authorities to exercise their relevant education functions with a view to promoting high standards.

ii **On sufficiency:** Education Act 1996 Section 14(1). Duty on Local Authorities to secure sufficient primary and secondary schools.

iii **On insufficient choice:** Education Act 1996 Section 14(3A): Local Authorities to exercise their duty to secure sufficient schools with a view to securing diversity in the provision of schools and increasing opportunities for parental choice.

iv **On new schools:** Education and Inspections Act 2006 Sections 6A, 7, 9, 10 and 11, as amended by Education Act 2011 section 37. This sets out the process for establishing new schools, including a requirement to give precedence to proposals for new academies.

v **On admissions:** School Standards and Framework Act 1998, Sections 84, 86, 92 and 94. These require Local Authorities to comply with the School Admissions Code, publish information about admissions arrangements of schools in their area, and make arrangements to enable parents to apply for their preferred schools and appeal against admissions decisions.

vi Education (Admission Arrangements and Co-ordination of Admission Arrangements) (England) Regulations 2012

vii The Code places a duty on Local Authorities to refer objections to the Schools Adjudicator if they suspect a school's admission arrangements are unlawful. It also requires Local Authorities to report annually to the school adjudicator on admissions in their area.

viii **On school transport:** Education Act 1996, Section 508B requires Local Authorities to make provision for suitable home-to-school transport for eligible children, including those who are disabled or have special educational needs.

ix **On educational excellence:** Education Act 1996, Sections 13 and 13A, sets a general duty on Local Authorities to secure efficient primary and secondary education that meets the needs of their local areas and to promote high standards. Education Act 2002, Sections 79, 85 and 88, sets out Local Authorities' duties to ensure implementation of the national curriculum.

x **On challenging under-performance:** Education and Inspections Act 2006, Sections 63, 64, 65 and 66, sets out Local Authorities' powers of intervention in failing schools. Section 69A (as amended by the Education Act 2011) empowers the Secretary of State to direct LAs to use their powers to give warning notices. Education Act 2005, Section 15, requires Local Authorities to produce a written statement of action they propose to take when the Chief Inspector decides that a school requires special measures or significant improvement. Regulation 6 of the School Staffing regulations (2009/2680) requires LAs to make a written report of any concerns about performance of head teacher to the governing body of a maintained school

xi **On publishing school-level data:** The Education School Information (England) Regulations 2008 SI 2008/3093 Regulation 5 requires Local Authorities to publish a composite prospectus of all primary

and secondary schools, and these regulations require Local Authorities to collect Key Stage 1 data. Section 14A of EA 96 requires LAs to consider parental representations as to exercise of section 14 duties to secure school provision.

xii **On responding to parental complaints:** Education Act 1996, Section 409, and Part 10, Chapter 2 of the Apprenticeships, Skills, Children & Learning Act 2009 require Local Authorities to consider complaints about the curriculum. This duty will be removed when Section 45 of the Education Act 2011 comes into force (expected to be August 2012).

xiv Education Act 1996, Section 19 (3A) and (3B), requires Local Authorities to provide education for **excluded pupils**.

xv Education Act 1996 Part IV, Chapter 1 (sections 312-332B) and Schedules 26 and 27 sets out Local Authorities' duties with regard to children with **special educational needs**.

xvi Children Act 1989 Section 22 sets out the duties of Local Authorities towards children they are looking after, including a duty to promote their educational achievement.

xvii Education Act 2002 Section 175 requires that Local Authorities' education functions be exercised with a view to **safeguarding** children. Children's Act 1989, Section 17, places a general duty on every Local Authority to safeguard and promote the welfare of children within their area who are in need; and to promote the upbringing of such children by their families by providing a range and level of services appropriate to those children's needs. Children's Act 2004, Section 11, provides that Local Authorities, and a number of other specified bodies, must make arrangements for ensuring that their functions are discharged having regard to the need to safeguard and promote the welfare of children.

[Taken from Annex B to the interim report of the ISOS research:

http://www.local.gov.uk/c/document_library/get_file?uuid=129dab82-7e7b-4466-9e17-8661848ffec4&groupId=10171 }