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Committee of Public Accounts

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to the report*

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The Committee of Public Accounts

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Summary

Academy trusts are educating increasing numbers of children and handling large amounts of public money. The cost to pupils and the taxpayer of failure are particularly high for multi-academy trusts. It is therefore crucial that they show the highest standards of governance, accountability and financial management. Too often academy trusts are falling short of these standards and the Department for Education (the Department) is too slow to react. The publication of the first Academy Sector Annual Report and Accounts is a welcome step forward in improving transparency and accountability in the sector. Yet the report was not published until nearly fourteen months after the end of academies' financial year. The Department now needs to make the Annual Report and Accounts more timely so that it can be used more effectively by stakeholders, including Parliament and parents, to hold the Department and academy trusts to account.

Introduction

The academy sector in England is responsible for the education of over 2 million pupils across nearly 6,000 academies. In October 2017 the Department for Education (the Department) published the Academy Sector Annual Report and Accounts for the first time. Previously, the Department included academies in its own accounts, which created a number of difficulties as academies have a different year-end (31 August) from central government (31 March). Parliament and HM Treasury agreed that the Department could remove academies from its accounts and produce a separate set of accounts covering the academy sector with an August year-end. This enabled the Department to publish its accounts in July 2017 with an unqualified audit opinion.

The Comptroller & Auditor General qualified his audit opinion on the 2015–16 Academy Sector Annual Report and Accounts due to ongoing issues relating to how the Department accounted for the land and buildings used by academies. The Department plans to address these issues for the next set of accounts in order to achieve an unqualified opinion, and in future years will look to publish the accounts earlier. Achieving these objectives would mean that the account would be more useful to stakeholders and provide greater transparency on the standards of governance and accountability in the sector, as the information would be presented on a more timely basis.

Conclusions and recommendations

1. **The Department for Education's rules around related party transactions are too weak to prevent abuse.** A related party transaction is a business arrangement between an academy trust and an organisation or a person with whom those responsible for the governance of an academy trust have a personal connection. The Education and Skills Funding Agency (ESFA) requires any such transactions to be disclosed in the academy trust's accounts. The total number and value of these disclosures is published in the sector accounts. During the year ending 31 August 2016, 40% of academy trusts engaged in related party transactions, worth a total of £120 million. The Department for Education (the Department) told us that related party transactions can be beneficial to academy trusts, for example, where a trustee provides goods and services free or at a reduced cost. We are not convinced that this is always the case. The Department requires that the price paid by the academy trust should only cover the cost of providing the service and it explicitly prohibits instances where related party transactions are carried out for profit. Working out what constitutes the cost of providing a service can be complex and open to manipulation. It is therefore difficult to prove that a related party transaction for services is not "at cost". ESFA is not required to approve related party transactions, which means that, in most cases, ESFA only becomes aware of potential issues when it receives the trust's accounts at the end of the year. We are concerned that the rules are difficult to police, as the Department's processes are not robust enough to prevent abuse and that such abuses only come to light after the fact, often as a result of the year-end audit, or whistle blowing. These arrangements between academy trusts and related parties should arise by exception, rather than with the current frequency.

Recommendation: *To prevent abuse, the Department should tighten the rules in the next version of the Academies Financial Handbook, expected in July 2018, to prevent academies from entering into related party transactions without approval from ESFA.*

2. **The accounts would better support transparency and accountability if they included more detailed analysis.** The Academy School Sector Consolidated Accounts 2015–16 includes some high-level performance information on the academy sector. While this provides an overview of the sector, the accounts do not currently contain comparative analysis of the performance of trusts of different sizes or geographical locations. Such analysis, along with comparators and benchmarks, would make it easier to assess performance across the academy sector. The information that is currently available on the relative performance of academy trusts is not sufficient to enable parents and local communities to hold academy trusts fully accountable for how they spend taxpayers' money. The 2016–17 report will not be published until October 2018 due to the additional work needed to address the issues around how academy trusts account for land and buildings. We were pleased to hear that the Department has committed to preparing and publishing subsequent accounts prior to Parliament's summer recess.

Recommendation: *The Department should publish more analysis in the accounts for 2016–17, including a comparison of the performance of academy trusts of different sizes and geographical areas.*

3. **Some academy trusts appear to be using public money to pay excessive salaries.**

The Annual Report and Accounts showed that there were 102 instances of trustees being paid salaries which were excess of £150,000 in 2015–16. In November 2017, ESFA wrote to 29 single academy trusts where a Trustee was paid in excess of £150,000, requesting justification for these significant salaries. ESFA has received responses from all 29 trusts, but in two thirds of the cases is not yet satisfied with the trust's response. Unjustifiably high salaries use public money that could be better spent on improving children's education and supporting frontline teaching staff, and do not represent value for money. If the payment of such high salaries remains unchallenged, it is more likely that such high salaries become accepted as indicative of the market rate. This could then distort the employment market in the sector for senior staff. Staff costs represent a substantial proportion of a school's costs already (over 70%), so large increases in salaries, when overall funding is not increasing at the same rate add to the financial pressures faced by schools.

Recommendation: *The Department should extend its work to challenge all academy trusts that are paying excessive salaries and take action where these cannot be justified. The Department should write to the Committee and update us on the results of this work.*

4. **With the growing financial pressures on schools, the Department is not doing enough to identify academy trusts that are at risk of getting into financial difficulty.** The Annual Report and Accounts show that 165 (5.5%) of trusts were in deficit in August 2016, the latest date for which data is publicly available. ESFA told us that it is confident that it has an up-to-date picture of schools facing financial difficulties, based on its review of academy trusts' accounts and budget forecasts. It also carries out risk assessments designed to identify trusts at risk of financial difficulties. These are designed to identify when the resources given to a trust are not being managed in a proper and effective manner. We were concerned that, despite this, the Department could not tell us how many trusts were currently in deficit, and that it did not expect to have this information until October 2018. This uncertainty, and the lack of up to date information, does not instil confidence in the effectiveness of ESFA's financial monitoring and its timely intervention to support schools at risk of getting into financial difficulty.

Recommendation: *The Department should, by the end of June 2018, write to the Committee with details of its progress in improving how it identifies, and intervenes with, academy trusts at risk of financial difficulty.*

5. **The Department could not clearly explain how it protects schools' funds and assets when a multi-academy trust fails.** In July 2016, 3,636 (63%) academies were part of a multi-academy trust (trusts which run more than one school). The Department saw no issue in principle with individual trusts running a large number of academies, but acknowledged that in the past academy trusts had been allowed to grow too big too fast. The Department told us that it did not consider any multi-academy trust to be too big to fail. It asserted that, when failure occurs, it takes

appropriate action. We asked whether schools which had transferred a surplus to multi-academy trust upon becoming an academy would get their money back if the trust were to fail. The Department was unable to explain on what basis funds and assets were allocated between schools when a trust failed. We are concerned about the impact of the failure of a trust on pupils—the consequences are more severe and the solutions more challenging than when a single school fails.

Recommendation: *The Department should write to the Committee by the end of June 2018 with detail of how funds and assets will be protected and redistributed when schools transfer to another academy trust after one has failed. The Department needs to develop a risk strategy for how to tackle multi-academy trust failure.*

6. **The Department does not have enough information about the extent of asbestos in schools to ensure that the risks are being properly managed.** Asbestos is a significant, and potentially dangerous, problem in many schools. In April 2017, we found that the Department did not have a complete picture of the extent of asbestos in school buildings. The Department's first property data survey did not assess the extent of asbestos. Only a quarter of schools responded to its second survey, in 2016, which aimed to collect data on this issue. We recommended that the Department should set out a plan by December 2017 for how it would fill gaps in its knowledge about the school estate in areas not covered by the property data survey. The Department's latest property data survey is currently taking place and will provide more information on the presence and management of asbestos. The Department accepted that information on asbestos in school buildings should be available locally and easily accessible to parents and local communities. ESFA told us that it expected information on asbestos to be available locally for parents to view, and without recourse to Freedom of Information requests. We were concerned to hear of an example where this had not been the case and local communities could not easily access this information.

Recommendation: *The Department should publish the results of its ongoing exercise to collect data on asbestos; and make clear to Local Authorities and academy trusts that information should be made available by the end of June 2018.*

1 Transparency and accountability

1. On the basis of the Academy Schools Sector in England Consolidated Accounts published by the Department for Education (the Department),¹ and the related report by the Comptroller and Auditor General (C&AG), we took evidence from the Department and the Education and Skills Funding Agency (ESFA).

2. The academy sector in England is responsible for the education of over two million pupils across nearly 6,000 academies.² Academy trusts receive substantial grants of taxpayers' money from the Department. The total income of academy trusts was £20 billion in 2015–16, with 90% of this coming from grants.³

3. Academy trusts are required to provide annual accounts to the Department to prove they have managed taxpayers' money in the way that Parliament intended. When done in a timely manner and with supporting analysis, the consolidated account could provide greater centralised oversight over the Academy Sector than is available for the maintained schools sector.⁴ Previously, the Department included academies in its own accounts, which created a number of difficulties, as academies have a different year-end (31 August) from central government (31 March). Parliament and HM Treasury agreed that the Department could remove academies from its accounts and produce a separate set of accounts covering the academy sector with an August year-end. This enabled the Department to publish its accounts in July 2017 with an unqualified audit opinion.⁵

4. In October 2017 the Department published the Academy Sector Annual Report and Accounts for the first time. We welcome the publication of these accounts, which increase visibility of the academy sector's performance for Parliament and the public. We nonetheless have some concerns about the quality and usefulness of the accounts. The C&AG qualified his audit opinion on the 2015–16 Academy Sector Annual Report and Accounts due to ongoing issues relating to how the Department accounted for the land and buildings used by academies.⁶ The Department plans to address these issues for the next set of accounts in order to achieve an unqualified opinion and, in future years, will also look to publish the accounts earlier.⁷

Ensuring the accounts support transparency and accountability

5. The Department published the 2015–16 Academy Sector Annual Report and Accounts 14 months after the end of academies' financial year. It expects to publish the 2016–17 accounts in October 2018, again over a year after the end of academies' financial year. The transparency and accountability of the information included within the account, and

1 Department for Education, [Academy Schools Sector in England Consolidated annual report and accounts for the year ended 31 August 2016](#), Session 2017–19, HC 425, 26 October 2017

2 Department for Education, [Academy Schools Sector in England Consolidated annual report and accounts for the year ended 31 August 2016](#), Session 2017–19, HC 425, 26 October 2017

3 Department for Education, [Academy Schools Sector in England Consolidated annual report and accounts for the year ended 31 August 2016](#), Session 2017–19, HC 425, 26 October 2017, Note 2 – Income, p. 98

4 Qq 12, 34

5 Department for Education, [Consolidated annual report and accounts for the year ended 31 March 2017](#), Session 2017–19, HC 116, 19 July 2017

6 Department for Education, [Academy Schools Sector in England Consolidated annual report and accounts for the year ended 31 August 2016](#), Session 2017–19, HC 425, 26 October 2017, The Certificate of the Comptroller and Auditor General to the House of Commons, p 74

7 Qq 1, 11

its usefulness to stakeholders, is lessened by this significant delay between the reporting period and its publication as the published information is by then out of date. The Department told us that the delay in publishing the accounts is necessary to give it time to resolve the issues with accounting for land and buildings which led the C&AG to qualify his audit opinion. The Department committed to reducing the delay between the end of academies' financial year and the publication of the accounts. It told us that it planned to publish the 2017–18 accounts before Parliament's summer recess in 2019. This will provide audited information on the academy sector on a more timely basis.⁸

6. The accounts contain some high-level analysis of the performance of the academy sector. However, they do not include sufficiently granular analysis to enable a reader to understand the performance of the sector in detail or to draw comparisons between trusts, in particular across geographical areas or by academy size. Nor do they contain benchmarks to allow parents and local communities to understand whether or not the performance of an academy trust is improving.⁹ The Department confirmed that it does not currently have such analysis, but could provide it in future accounts.¹⁰

Related party transactions

7. Academy trusts can obtain goods and services for their schools in a number of ways, including related party transactions. A related party transaction is a business arrangement between an academy trust and an organisation or a person with whom those responsible for the governance of an academy trust have a personal connection. This can include family members.¹¹ In 2015–16, academy trusts undertook over 3,000 of these transactions worth a total of £120 million.¹² The Department asserted that related party transactions can be beneficial to schools, as they may receive goods or services for free, or at reduced cost. It recognised, however, that it is important that related party transactions are transparent and properly procured.¹³ The Department told us that 40% of academy trusts have related party transactions that involve either the academy's Headteacher or governors.¹⁴

8. The Department confirmed that it expects related party transactions to be subject to proper procurement processes, and that the value, and nature of related party transactions, along with details of the relationships involved, are disclosed in the accounts of academy trusts.¹⁵ The Department and the Education Skills Funding Agency (ESFA) told us that all related party transactions are subject to a tendering process and academy trusts are required to provide evidence that the service is being delivered at cost rather than making a profit.¹⁶ However, under the current rules academy trusts are only required to seek approval from ESFA for 'novel, contentious and/or repercussive transactions'.¹⁷ In practice this means that the majority of day to day related party transactions require no prior approval. ESFA may only become aware of most transactions when it reviews the annual accounts.¹⁸

8 Qq 1, 11–12, 14–15, 107

9 Qq 78–79

10 Q 78

11 Q 52

12 Department for Education, [Academy Schools Sector in England Consolidated annual report and accounts for the year ended 31 August 2016](#), Session 2017–19, HC 425, 26 October 2017, Note 15 – Related Party Transactions, pp 114–115

13 Q 38

14 Q 37

15 Q 28

16 Qq 51–52

17 Education and Skills Funding Agency, [Academies financial handbook 2017](#), 1 July 2017

18 Q 32

9. ESFA told us that it reviews the accounts of some 500 academy trusts each academic year. Where it identifies transactions that do not comply with the rules, or where these are brought to the Department's attention by other means, the Department will investigate these transactions.¹⁹ The Department told us that only in 1–2% of cases did it identify related party transactions which were in breach of the rules. It also confirmed that criminal proceedings are instigated where this was merited.²⁰

10. We heard of related party transactions where the rules were not properly followed, or where there were doubts about the propriety of the transactions. For example, Wakefield City Academies Trust purchased IT services worth £316,000 from a company owned by the Chief Executive of the Trust, and paid a further £123,000 for clerking services provided by a company owned by the Chief Executive's daughter.²¹ We similarly heard that the founder of Bradford Academy, who was a former teacher, was ordered to repay £35,000 after being sentenced to prison for defrauding the school. The founder and other former members of staff at Kings Science Academy paid £69,000 of Government grants into their own bank accounts.²² There have also been problems with related party transactions at the Bright Tribe Academy Trust, which resulted in schools being removed from the Trust.²³

11. Academy trusts are required to demonstrate to the satisfaction of their own auditors that related parties have not made a profit from the relationship (i.e. that transactions are at cost or below).²⁴ We were concerned that determining whether a service has been delivered at cost is dependent on information from the supplier, who may have a vested interest in manipulating or inflating this information and is in a position to do so.²⁵ We questioned whether there were incentives for trustees to take advantage of the system, due to the weaknesses in the system of oversight.²⁶ The Department, noting our dissatisfaction with the current processes, committed to reflect on the adequacy of the current arrangements.²⁷ Following our evidence session, the Parliamentary Under Secretary of State for the School System wrote to all Chairs of academy trusts to remind them of the need to scrutinise any related party transactions, and to ensure that a full and proper procurement process is following and the trust is able to demonstrate that the services have been provided at cost.²⁸

Salaries paid to senior members of staff

12. The average annual salary of a Headteacher in a local authority maintained school is £88,000. The equivalent for a Headteacher at an academy school is £92,000. Academy schools are responsible for setting the salaries of their own staff, but must ensure that decisions about levels of pay follow robust, evidence-based processes and reflect the

19 Qq 29, 32

20 Qq 22, 28

21 Q 27

22 Q 32

23 Qq 41–45, 47

24 Q 56

25 Qq 50, 53

26 Qq 50, 60

27 Q 106

28 Department for Education, [Letter from Parliamentary Under Secretary of State for the School System to all Chairs of academy trusts in England](#), 21 February 2018

individual's roles and responsibilities. Academies are required to disclose in their accounts the numbers of staff who are paid over £60,000, in bands of £10,000, as well as the names of each trustee and the amount that they get paid.²⁹

13. The overwhelming majority of trusts (96%) do not pay anyone over £150,000.³⁰ There were nonetheless 102 instances of trustees being paid salaries which were in excess of £150,000 in 2015–16.³¹ The Department has no easy way of correlating performance and salaries, and therefore could not tell us whether or not those who were being paid in excess of £150,000 were also those responsible for the best performing schools.³² In November 2017, ESFA wrote to 29 single academy trusts (i.e. academy trusts with only one school in the trust) where it could identify from the accounts that the trust was paying at least one person over £150,000 to ask why such large sums of money had been paid.³³ This was the first time that such an exercise has taken place. ESFA received responses from all 29 trusts, but only one third were able to provide a response that it judged to be reasonable. It told us that it would be inviting the Chairs of governors of the remaining two-thirds of trusts to meet with ESFA to explain why they feel these salaries are appropriate. It also confirmed that this is the beginning of asking academies to be more transparent and publicly accountable for the public funds that ESFA gives them.³⁴ Following our evidence session, a letter to all Chairs of academy trusts in February 2018 from the Parliamentary Under-Secretary of State for the School System stated that ESFA would shortly be writing to multi-academy trusts who pay at least one trustee in excess of £150,000 to ask them to provide further information on the rationale for this level of pay.³⁵

14. Unjustifiably high salaries use public money that could be better spent on improving children's education, and do not represent value for money. While such salaries remain unchallenged, it is more likely that they will become accepted as indicative of the market rate. As well as distorting the employment market in the sector for senior staff, these may build in unnecessary year-on-year increases, both in salaries, and related costs such as pensions. Large increases in salaries, when overall funding is not increasing at the same rate, add to the financial pressures faced by schools.³⁶ ESFA told us that where it identifies that an academy trust is in financial difficulties and that this is partly due to staff salaries, it will encourage the trust to reduce pay accordingly.

15. Staff pay represents a substantial proportion of a school's costs already (over 70%).³⁷ Following our evidence session, the Parliamentary Under Secretary of State for the School System accepted that not all academy boards were being rigorous enough on the issue of senior salaries and that senior pay should reflect the pay they make to schools' performance and how efficiently they run their trusts. In a letter to the chairs of all academy trusts he reminded trusts that the pay of a Chief Executive Officer or other non-academic staff

29 Qq 61–62, 66

30 Q 66

31 Department for Education, [Academy Schools Sector in England Consolidated annual report and accounts for the year ended 31 August 2016](#), Session 2017–19, HC 425, 26 October 2017, paragraph 7.3, p 64

32 Qq 66–67

33 Education and Skills Funding Agency, [Letter to Academy Trusts about levels of executive pay](#), 4 December 2017

34 Qq 61–64

35 Department for Education, [Letter from Parliamentary Under Secretary of State for the School System to all Chairs of academy trusts in England](#), 21 February 2018

36 Q 66

37 Q 66

should not be expected to increase faster than the pay award for teachers, and that there should be a reduction in senior pay where the educational performance of schools in the trust declines over several years.³⁸

Information about the extent of asbestos in schools

16. In April 2017, we found that the Department did not have a complete picture of the extent of asbestos in school buildings. The Department's first property data survey, carried out between 2011–2014, did not assess the extent of asbestos in school buildings. The Department carried out a further survey in 2016, which specifically looked at the management of asbestos in schools. However, only a quarter of schools responded to the second survey. We recommended that the Department should set out a plan by December 2017 for how it would fill the gaps in its knowledge about the school estate in areas not covered by the property data survey. We specifically stated that this should include how it would understand the prevalence, condition and management of asbestos, and also know more about the suitability and safety of school buildings.³⁹ The Department told us that it was conducting a new survey to assess the condition of school buildings, the prevalence of asbestos and evidence of the ways in which it is being managed.⁴⁰ The Department confirmed that this survey would collect data on asbestos.⁴¹

17. Schools and local authorities (whichever is the employing body), overseen by the Health and Safety Executive, are legally required to maintain an inventory of the asbestos in school buildings, and a plan for the management of that asbestos. These documents should be available to people who have an interest in the subject.⁴² We heard an example of where this had not been the case and local accountability had been hindered by a lack of accessible information.⁴³ Parents and campaigners wanting information on the extent and management of asbestos in a school in Whitehaven, Cumbria, were required to submit a Freedom of Information request in order to access the plan which was held in Stockport, Greater Manchester.⁴⁴ ESEFA confirmed that this important information should be readily accessible and that a Freedom of Information request should not be necessary to gain access to it.⁴⁵

38 Department for Education, [Letter from Parliamentary Under Secretary of State for the School System to all Chairs of academy trusts in England](#), 21 February 2018

39 Q 114, Committee of Public Accounts, [Capital funding for schools](#), Fifty-seventh report of Session 2016–17, HC 961, 26 April 2017

40 Qq 43, 107, 114

41 Q 108

42 Q 112

43 Q 76

44 Q 112

45 Qq 113–114

2 Financial sustainability

Financial pressures on schools

18. The academy sector reported an operating surplus of £534 million for the year ended 31 August 2016, representing an average of approximately £90,000 for each individual academy school. However, 165 academy trusts had a cumulative deficit, with a total deficit of £50 million (an average of around £306,000 per trust in deficit).⁴⁶

19. As a whole, the academy sector had cash reserves worth £3.2 billion at 31 August 2016. Under the last spending review all schools, academies and Local Authority Maintained schools are required to make efficiency savings worth a total of £3 billion.⁴⁷ We reported on the financial sustainability of schools in March 2017. We concluded that savings would be harder to achieve without detrimental effects on the quality of education and educational outcomes, and that it was not clear how the Department would monitor both spending and performance so that it could intervene quickly where schools were making efficiency savings in ways that risked educational standards.⁴⁸ We asked how schools were managing. The Department told us that 2017–18 was the final year of reduction in per-pupil spending and that real-terms spending per pupil was now protected until 2019–2020.⁴⁹

20. The Department and ESFA told us that they were working to identify academy trusts which were in financial difficulty in a number of ways, including reviewing schools' annual budget forecast returns and encouraging all schools to prepare three to five year budget plans. ESFA told us that it was working with both academies and local authority maintained schools to understand the robustness of their three to five-year plans.⁵⁰ Where it has concerns, it is now able to provide additional support to schools using efficiency advisors, although this work is still at a very early stage. The Department confirmed that around forty schools would be working with efficiency advisors by the end of February 2018.⁵¹ ESFA told us that national contracts will also be made available to academies and local authority maintained schools to obtain savings in the procurement of ICT, energy supply and office equipment. It estimated that the energy costs of schools could be 10% cheaper under the new contracts, and that office equipment would be around 40% cheaper.⁵² On 21 February 2018, the Parliamentary Under Secretary of State for the School System wrote to all chairs of academy trusts emphasising the importance of ensuring the financial health and sustainability of their trust and reminding them of the national deals that are available to them on items such as energy and printers.⁵³

46 Department for Education, [Academy Schools Sector in England: Consolidated annual report and accounts for the year ended 31 August 2016](#), Session 2017–19, HC 425, 26 October 2017, Financial Overview, paragraph 1.12, p 15

47 Q 95

48 Committee of Public Accounts, [Financial sustainability of schools](#), Forty-ninth report of session 2016–17, HC 890, 28 March 2017

49 Q 95

50 Qq 81, 96

51 Q 94

52 Q 81

53 Department for Education, [Letter from Parliamentary Under Secretary of State for the School System to all Chairs of academy trusts in England](#), 21 February 2018

21. ESFA asserted that it is confident that it has an up-to-date picture of schools facing financial difficulties. It told us that its internal audit team reviews the accounts of all academy trusts and conducts a further review of some 500 trusts' accounts.⁵⁴ ESFA told us that it also carries out risk assessments designed to identify trusts at risk of financial difficulties. These assessments are designed to identify when the resources given to a trust are not being managed in a proper and effective manner.

22. Despite these efforts to identify schools at risk of financial difficulties, we were concerned when the Department told us that information on the level of deficits across the sector in 2016–17 would not be available until October 2018.⁵⁵ Recent press reports have noted that eight of the largest 13 academy trusts, including Ormiston Academies, Academies Enterprise Trust, Greenwood Academies and Ark Schools, have issued warnings that funding was not sufficient to meet expenditure pressures.⁵⁶ ESFA confirmed that 39 academy trusts were still operating under a Financial Notice to Improve, which means that the trust has serious financial problems.⁵⁷ The Department was unable to tell us the number of times that it had had to intervene in an academy trust in difficulties, but reported that around 2.5% of trusts had to be re-brokered in 2016–17.⁵⁸

Impact of multi-academy trust failure

23. In July 2016, 3,636 (63%) of academies were part of a multi-academy trust (trusts that run more than one school).⁵⁹ The Department told us that it sees no issue in principle with trusts running a large number of academies, but admitted that in the early days of the academy programme some academies grew too big too fast.⁶⁰ It asserted that it did not consider any multi-academy trust too big to fail, and that it took appropriate action when a trust failed.⁶¹

24. We asked how the Department safeguarded the assets of schools, especially cash, which were transferred to a multi-academy trust in the event that a multi-academy trust failed.⁶² Three schools transferred a total of £800,000 to the Wakefield City Academies Trust by schools when they became part of the multi-academy trust, which subsequently failed. The Department stated that the transfer of surpluses from individual schools to the academy trust was in the nature of the academy system. The Department agreed to look into the specific example of St Gregory the Great Catholic School in Oxford, identified as having a £900,000 deficit, which was being subsidised by other academies in the trust.⁶³

25. We were concerned that some multi-academy trusts were so big, that any failure of the multi-academy trust would have a negative impact on the education of a large number of children.⁶⁴ Finding new trusts to take on these schools is time-consuming, which further

54 Q 96

55 Q 80

56 Q 23

57 Q 98

58 Q 100

59 Department for Education, [Academy Schools Sector in England Consolidated annual report and accounts for the year ended 31 August 2016](#), Session 2017–19, HC 425, 26 October 2017, paragraph 2.10, p 19

60 Q 72

61 Qq 69–70

62 Q 71

63 Q 93

64 Q 71

impacts on children's education.⁶⁵ We asked what incentives were in place to encourage other trusts to take on schools with substantial problems, either financially or in terms of performance. Recent high profile cases, such as Wakefield City Academies Trust,⁶⁶ and Bright Tribe Trust⁶⁷ are case studies in what can go wrong and the consequences for pupils when they do. The Department told us that it would provide money to academies to take on new schools where an academy trust had failed and to fund any improvement that the school needed to turn around, but only where it had confidence that the trust would spend it well.⁶⁸

26. The processes put in place to deal with the failure of a large multi-academy trust are still relatively new.⁶⁹ ESFA told us that it had learned lessons from previous monitoring arrangements and was now monitoring the performance of multi-academy trusts much more closely and more rigorously. This included working closely with the national schools commissioner and the regional schools commissioners to examine schools' finances, improvement and educational performance. ESFA told us that the national schools commissioner examines the top ten largest trusts, meets with them regularly and follows their progress. ESFA feeds into this process through its examination of the academies' financial reports. A similar arrangement exists with the regional schools commissioner, where ESFA's local teams feed into the regional schools commissioners' intelligence on educational performance, leadership and management. ESFA told us that to stop multi-academy trusts growing too big, too fast, it now has growth checks in place, and arrangements to examine the financial capacity and capability of a trust before it is allowed to grow.⁷⁰

65 Qq 41–46, 70–72

66 Q 30

67 Q 99

68 Qq 101–105

69 Q 69

70 Q 71

Formal minutes

Monday 26 March 2018

Members present:

Meg Hillier, in the Chair

Bim Afolami

Stephen Morgan

Gillian Keegan

Anne Marie Morris

Shabana Mahmood

Lee Rowley

Draft Report (*Academy schools' finances*), proposed by the Chair, brought up and read.

Ordered, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 26 read and agreed to.

Introduction agreed to.

Conclusions and recommendations agreed to.

Summary agreed to.

Resolved, That the Report be the Thirtieth of the Committee to the House.

Ordered, That the Chair make the Report to the House.

Ordered, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

[Adjourned till Wednesday 28 March 2018 at 10.30am

Witnesses

The following witnesses gave evidence. Transcripts can be viewed on the [inquiry publications page](#) of the Committee's website.

Monday 29 January 2018

Question number

Jonathan Slater, Permanent Secretary, Department for Education, **Eileen Milner**, Chief Executive, Education and Skills Funding Agency, and **Mike Pettifer**, Acting Director of the Academies and Maintained Schools Funding Group, ESFA

[Q1–130](#)

Published written evidence

The following written evidence was received and can be viewed on the [inquiry publications page](#) of the Committee's website.

ASE numbers are generated by the evidence processing system and so may not be complete.

1 Department for Education ([ASE0001](#))

List of Reports from the Committee during the current session

All publications from the Committee are available on the [publications page](#) of the Committee's website. The reference number of the Government's response to each Report is printed in brackets after the HC printing number.

Session 2017–19

First Report	Tackling online VAT fraud and error	HC 312 (Cm 9549)
Second Report	Brexit and the future of Customs	HC 401 (Cm 9565)
Third Report	Hinkley Point C	HC 393 (Cm 9565)
Fourth Report	Clinical correspondence handling at NHS Shared Business Services	HC 396 (Cm 9575)
Fifth Report	Managing the costs of clinical negligence in hospital trusts	HC 397 (Cm 9575)
Sixth Report	The growing threat of online fraud	HC 399 (Cm 9575)
Seventh Report	Brexit and the UK border	HC 558 (Cm 9575)
Eighth Report	Mental health in prisons	HC 400 (Cm 9575) (Cm 9596)
Ninth Report	Sheffield to Rotherham tram-trains	HC 453 (Cm 9575)
Tenth Report	High Speed 2 Annual Report and Accounts	HC 454 (Cm 9575)
Eleventh Report	Homeless households	HC 462 (Cm 9575)
Twelfth Report	HMRC's Performance in 2016–17	HC 456 (Cm 9596)
Thirteenth Report	NHS continuing healthcare funding	HC 455 (Cm 9596)
Fourteenth Report	Delivering Carrier Strike	HC 394 (Cm 9596)
Fifteenth Report	Offender-monitoring tags	HC 458 (Cm 9596)
Sixteenth Report	Government borrowing and the Whole of Government Accounts	HC 463 (Cm 9596)
Seventeenth Report	Retaining and developing the teaching workforce	HC 460 (Cm 9596)
Eighteenth Report	Exiting the European Union	HC 467 (Cm 9596)

Nineteenth Report	Excess Votes 2016–17	HC 806 (Cm 9596)
Twentieth Report	Update on the Thameslink Programme	HC 466
Twenty-First Report	The Nuclear Decommissioning Authority's Magnox	HC 461
Twenty-Second Report	The monitoring, inspection and funding of Learndirect Ltd.	HC 875
Twenty-Third Report	Alternative Higher Education Providers	HC 736
Twenty-Fourth Report	Care Quality Commission: regulating health and social care	HC 468
Twenty-Fifth Report	The sale of the Green Investment Bank	HC 468
Twenty-Sixth Report	Governance and departmental oversight of the Greater Cambridge Greater Peterborough Local Enterprise Partnership	HC 896
Twenty-Seventh Report	Government contracts for Community Rehabilitation Companies	HC 897
Twenty-Eighth Report	Ministry of Defence: Acquisition and support of defence equipment	HC 724
Twenty-Ninth Report	Sustainability and transformation in the NHS	HC 793
First Special Report	Chair of the Public Accounts Committee's Second Annual Report	HC 347

Public Accounts Committee

Oral evidence: Academy Schools Sector in England Consolidated Accounts 2015-16, HC 760

Monday 29 January 2018

Ordered by the House of Commons to be published on 29 January 2018.

Watch the meeting

Members present: Meg Hillier (Chair); Bim Afolami; Sir Geoffrey Clifton-Brown; Martyn Day; Caroline Flint; Luke Graham; Gillian Keegan; Layla Moran; Stephen Morgan; Gareth Snell.

Adrian Jenner, Director of Parliamentary Relations, National Audit Office, Elaine Lewis, Director, NAO, Laura Brackwell, Director, NAO, and Richard Brown, Treasury Officer of Accounts, HM Treasury, were in attendance.

Questions 1-130

Witnesses

[I](#): Jonathan Slater, Permanent Secretary, Department for Education, Eileen Milner, Chief Executive, Education and Skills Funding Agency, and Mike Pettifer, Acting Director of the Academies and Maintained Schools Funding Group, ESFA.



Examination of witnesses

Witnesses: Jonathan Slater, Eileen Milner and Mike Pettifer.

Q1 Chair: Good afternoon and welcome to the Public Accounts Committee on Monday 29 January 2018. We are here today to look at the academy sector accounts. This is the first time they have been consolidated separately from the Department for Education accounts. There are some very interesting pointers in them.

I note, Mr Slater, that you have written to us saying you will not be able to deliver the accounts before the summer recess. Can you give us a bit more background on that?

Jonathan Slater: Yes. The last time I wrote to you I said I was working hard on making sure we got the accounts unqualified as quickly as possible. Obviously our aim is to get them both unqualified and done before the summer recess, but the one I am working on at the moment will be the first time I have tried to get the land and buildings qualification removed. That requires us to collect and substantiate 13,000 pieces of data from trusts on the land and buildings that they hold. It is a one-off exercise. Once you have done it the first time, it is done, and then for future years you only have to add a few more on and take some off. That process of confirming 13,000 land and buildings documents is taking us longer to confirm than we hoped it would, although if you look back at the previous letter I wrote I hinted that it might take longer this time round. I am now confident that the only way I could get it done this time before the summer recess was in a way that would not lead us to getting that qualification taken off. I am afraid October is the best I can do for this one, but, having done it once, I will have no excuse not to get it done before the summer recess the following year.

Q2 Chair: We like a permanent secretary who makes a strong commitment for the following year, so we will hold you to that. We understand from previous hearings the complexity of trying to gather this data. It is important data, so we will give you a free pass on that one.

I have a couple of other questions before we go into the main session. When we saw you two weeks ago we asked you about Carillion. Since then the Secretary of State has written to the Chair of the Education Select Committee, and you wrote to us last Thursday or Friday. Are there any further updates since those letters about how things are going with Carillion, or is it still as it was last Thursday?

Jonathan Slater: I have got one piece of new information since the last time I was in front of you. I told you last time that we had managed to transfer all those 1,200 Carillion apprentices to new training providers, and the next task was to find them employment. We have managed to get 440-ish new employments so far towards the 1,200. Otherwise the story is as I told you last time.



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Q3 **Chair:** Okay, thank you. I know our sister Committee is interested in getting updates on that.

I want to ask about an article that appeared in *The Times* at the weekend. Kat Lay, the health correspondent, identified 50,000 absent pupils who are potentially off the radar. There is some discussion about what the Government do with the data on children who miss education. Do you recognise the figures in *The Times* report?

Jonathan Slater: Sorry, are you referring to exclusions, or a different piece of data? Ofsted drew attention in its report to—

Q4 **Chair:** The National Children's Bureau did a freedom of information request. It received responses from 137 councils and found that 49,187 children had been reported as absent from education. There was a question about where they are and what is happening to them. Your Department had commented that councils have a duty to intervene, but the question is whether that duty is being fulfilled properly and whether you have sight of it in Whitehall.

Jonathan Slater: To avoid misleading the Committee, I had better come back to you. I think the issue being referred to was drawn to the public's attention most recently by Ofsted in its annual report, which described illegal exclusions by individual schools. Ofsted quite rightly is going to focus more on making sure that that issue is dealt with properly by individual schools, supplementing the role of local authorities. But just in case it is a different issue, I will come back to you.

Q5 **Chair:** It may be a different issue. I am sorry we did not give you notice of this. There are issues here about the quality of education those children are getting where they are off the radar of the school, but supposedly under the aegis of the local authority, which is one of the issues that was raised. Perhaps we can exchange letters on that. You are such a frequent visitor that we can pick it up at the next hearing.

Jonathan Slater: Yes, I would be delighted to.

Chair: Before we get into the main session and I introduce the witnesses, Layla Moran wants to ask a question.

Q6 **Layla Moran:** Mr Slater, I am sure it won't have escaped you that David Meller has hit the headlines. I want to ask about the due diligence around his appointment to the DfE board. Can you take us through what due diligence there was for his initial appointment?

Jonathan Slater: For his original appointment to the board?

Layla Moran: To the DfE board, particularly.

Jonathan Slater: I can't take you through the detail of what was done back in 2013 when he first joined the DfE board, but a standard process is gone through when people are appointed to public positions. I explained to the Committee at the last session that we are reviewing our due diligence arrangements for public appointments. However, he went through the standard process that the Department operated back in 2013.



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Q7 **Layla Moran:** Is it fair to say that the standard process missed a few quite important things?

Jonathan Slater: Well, it didn't include an undercover reporter attending a party.

Q8 **Layla Moran:** True, but I am sure that other people had raised issues about the Presidents Club for a while—not least the current Minister, who had been attending it for a number of years. It is only fair to ask now, in the light of this, whether you have thought about the rest of the DfE board and whether you are planning to do a slightly deeper dive on some of them, in order to avoid such embarrassment?

Jonathan Slater: There are things you find out because of due diligence of a proportional nature and things you do not. I am sure we all accept that. I said at the previous meeting that, in the light of the public appointments to the Office for Students, we were looking at our due diligence arrangements. I said to the Committee before that I thought we could have done better on that.

Whether that proportionate arrangement would have discovered this thing, I do not know. I am looking forward to Peter Riddell's advice—he is back as the Commissioner for Public Appointments—in due course. The Cabinet Office is also looking at this, because it is of course a cross-Government issue. I am very happy to update the Committee on what comes out of that process.

Q9 **Layla Moran:** Do you have a rough timeline for when?

Jonathan Slater: I am already tightening up processes, and I expect Peter's advice to come in the next few weeks.

Chair: Our sister Committee, the Public Administration and Constitutional Affairs Committee, will be looking at public appointments.

Q10 **Caroline Flint:** Who handled the invite for the Minister? Was it his private office, or did he do it personally?

Jonathan Slater: He wasn't invited as a Minister. He was invited before he was a Minister, so the invitation didn't come anywhere near the Department for Education.

Chair: Thank you.

We will now move on to our main session. As I said, we are looking at the sector accounts for the academy sector, which has been growing since academies were first introduced. They are produced separately from the Department for Education accounts, which, without repeating previous hearings, is because it was very difficult to consolidate accounts that finished at different times of the year.

We have as witnesses, from my left to right, Eileen Milner, the chief executive of the Education and Skills Funding Agency—I welcome you again—Jonathan Slater, the Permanent Secretary at the Department for



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Education, and Mike Pettifer, the acting director for the academies and maintained schools group at the Education and Skills Funding Agency. Ms Milner, I understand that you have a bit of a sore throat, so I hope you have enough water.

Eileen Milner: I do, and I have my Strepsils.

Chair: Members will direct their questions, so we will be careful not to ask you questions unless it is necessary. That does not mean you will be off the hook.

Our hashtag today, for anyone following on Twitter, is #academies.

Q11 **Gillian Keegan:** Thank you very much for producing the accounts. I had the pleasure of reading them over the weekend. I understand that you were operating on different dates, but can you explain why it took so long to produce a separate set of accounts for academies?

Jonathan Slater: Absolutely. I do not know if you heard this before the meeting began, Chair, but just before I do so may I say that you have two accounting officers in front of you, and one of them—me—very much hopes to get to see his daughter singing at the O2 centre later on this evening? I am hoping to get away at quarter to 6, leaving you with another accounting officer, albeit that that is not the ideal plan. I just wanted to make sure that you knew that.

Chair: We hope that, if you answer the questions briefly and we ask them briefly, we will all be away by half-past 5. Short, candid answers are the order of the day.

Jonathan Slater: Fine. It took us a long time to get this right because it is the first time we have done it on the basis of an academic year, which gives us the chance to get the thing unqualified. It will take us a long time to get the next one right, because we have to sort out the land and buildings qualification. From that one onwards, we should get it done in accordance with normal practice before the summer recess.

Q12 **Gillian Keegan:** But academies have been operating for quite a long time, and I think it is much more useful to have this view of them than the view that other Committees will have had previously. I am just wondering why you are making that change, with transparency on the accounts for academies coming in only this year for the first time. It did not come two, three, four or five years ago.

Jonathan Slater: The problem with doing it the old way, the way we did it for the previous four years, was that it was going to get qualified automatically every single year because academy trusts do everything, as you know, on an academic-year basis. We had to do it on a financial year basis, and we just got a qualification each time. You did not want me—I did not want this either—to just come along forever saying that they are always going to be qualified.

Q13 **Gillian Keegan:** I understand that, but you could have made the change that you made this year three years ago.



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Jonathan Slater: Yes; I think there was a reluctance on all sides of the table to break the discipline of a reconciliation on a financial year basis. I think that you, we, the NAO and everybody else wanted to see if we could get it done properly on a financial year basis. Eventually, we all agreed that it was not working, and I was lucky enough to be the permanent secretary who had the chance to put it right.

Gillian Keegan: Okay. Well, at least we've got them now.

Chair: That is a positive spin on it.

Q14 **Gillian Keegan:** I understood the second part about land and buildings, which is of course another big factor that is missing from the accounts. I think you have identified 13,000 bits of data that you need to consolidate between now and next October—I guess that is the new date. Can you just go back and explain the process that you will go through? How confident are you that you will get that?

Jonathan Slater: It is going well so far. Last year, we piloted the approach of getting the relevant documentation to prove the land and building ownership with 30 trusts. We did that with the NAO watching us and it went well, so we are now rolling it out across all 3,000. It is the first time that we have done it. I cannot say that it will definitely work, but it is looking good so far.

The thing that made us qualified in the past was that we just assumed that all the academies owned their buildings. We therefore included them in our accounts. The NAO rightly said, "Some of them might not. Some of them might be owned by a church that could take them back in two years' time. You have to be able to prove the ownership, and you can do that only if you look at every single case." That is what we are doing at the moment, and it is going well so far.

Q15 **Gillian Keegan:** Will you be taking that as a static state, or will you be looking at changes in ownership as well?

Jonathan Slater: Of course. As I suggested to the Chair earlier, the reason it is taking us longer for this next round—the round to October—is because you have to do the 13,000 once, but once you have done that, for future years, as you say, all we will need to do is add in new ones and take out old ones.

Q16 **Gillian Keegan:** I have had very little involvement with academy trusts, but one that I have been involved with had a movement of the land and buildings from one part of a trust to another charitable organisation and, I think, eventually to somewhere else in what looked potentially like sleight of hand on the ownership of the buildings. How will you be able to see those movements that have happened over the years that we have had academy schools?

Jonathan Slater: We are doing a snapshot for the '16-'17 accounts now. Thereafter, we will ask those trusts to demonstrate changes each year.

Q17 **Gillian Keegan:** So that is looking forward, not to the past. You will not



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be able to see anything that has moved into a different ownership structure already.

Jonathan Slater: We will be describing the world as we see it for the '16-'17 year. That is what we will be doing only for that year.

Q18 **Gillian Keegan:** And it is not possible for you to also get—

Jonathan Slater: If there were concerns that anybody had about anything like that, obviously you should draw them to our attention and we would be happy to look at them.

Q19 **Sir Geoffrey Clifton-Brown:** Each of these academies are independently audited, aren't they?

Jonathan Slater: That's right.

Q20 **Sir Geoffrey Clifton-Brown:** So why didn't the independent auditors pick up on this issue much quicker, particularly after the Comptroller and Auditor General had qualified his accounts the first time?

Jonathan Slater: Absolutely, each is independently audited and that is great. The task that we had to accomplish was consolidating them together in what I am reliably informed is the largest such exercise anywhere in the world. I do not think there is anything else where independent charitable companies, which had their own auditors, have to be consolidated into a consistent set—

Chair: Sir Geoffrey is talking about something slightly different.

Sir Geoffrey Clifton-Brown: I absolutely understand that, Mr Slater, but if an independent auditor audits one set of academies' accounts, surely part of that independent auditor's job is to look at the value of the assets. How could they do that unless they ask questions about the ownership?

Jonathan Slater: They do, absolutely. The task we have to do on top of that, as we consolidate them, is to apply a common standard across the whole piece that is consistent with Government accounting. When one looks at it—this is what the NAO did with us in the past, leading to the previous qualification—one finds that two trusts whose situation looks similar have auditors who, perfectly properly, have concluded different things in what appear to be similar circumstances. You can only really get to the bottom of it, when you are trying to consolidate at our level, if you look at the source documentation. I wish it wasn't so, but this is what I am advised and what we are doing now.

Q21 **Sir Geoffrey Clifton-Brown:** How will you deal with this going forward? It is likely that the values will drop. Once you start to look into the leases on these properties, some are owned by the Church, and others are on very short leases. That will reduce the value. I am a chartered surveyor. When you come up with a consolidated figure considerably lower than the present one, how will you deal with that?



Jonathan Slater: Well, we will write down the value. The thing that has been causing us difficulty is being able to demonstrate to the satisfaction of our national auditors the issue of recognition. That is the issue that has been standing in our way. Clearly, as you say, once you have put that out of the way, we need to ensure that we have a consistent method of valuing those assets that are recognised. We have been dealing with the problem of recognition.

Q22 **Gillian Keegan:** Now we have our first set of accounts, how confident are you that the resources given to academy trusts are being managed in an effective and proper manner?

Jonathan Slater: I am confident for the vast majority. There are equally, as the SARA demonstrates, trusts that have not been managing their resources properly. One can be positive about the fact that 98% of trusts' accounts are, indeed, unqualified; that only 5% of them have issues of regularity; and that only in 1% or 2% do we need to put in place financial notices to improve. Nevertheless, in 1% or 2% we need to go in with such notices. In 1% or 2% of cases, we see related party transactions that are in breach of the rules. The vast majority are using their resources as they are supposed to and some are not. That is one of the things that keeps my ESFA colleagues very busy.

Q23 **Gillian Keegan:** We will go into some of those examples, because there have been some high-profile examples. If you look at the newspapers, I think they are reporting for next year's accounts that eight of the top 13 largest groups have issued warnings. Are you expecting not to be so confident next year?

Chair: That was a feature in *The Observer* at the weekend.

Jonathan Slater: I interpret your question as: are they using their resources properly? To which I gave the answer that I did. I think the question you are now raising is not so much, "are they using their resources properly?", but, "have they got enough money?" That was the question being raised in *The Observer*.

We have had a number of discussions here about the financial challenges that schools are facing and the extent to which they can improve their efficiency. This is the 2015-2016 data for academies. We have more up-to-date data for local authority-maintained schools—for reasons we can explore if you would like—which show that the number of schools in surplus on the maintained side has dropped a bit from 2015-16 to 2016-17. There are still 91% of maintained schools in surplus, but 9% are in deficit, so that is the balance. I would not be at all surprised to see a similar change in the academies as we get to the 2016-17 data in October, because, of course, in the last two financial years, schools have been faced with the challenge of having real-terms protection, but not real-terms per pupil. We talked about the challenge of schools improving their efficiency, and I would not be at all surprised if some schools are struggling with that more than others over the next year or two. It is our job to work with them to help them improve.



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Sir Geoffrey Clifton-Brown: On this same subject, *The Guardian* reported on 27 January that “More than half of the major operators of the government’s flagship academies programme have sounded the alarm over school funding”. Some of the bigger groups—Ormiston Academies, Academies Enterprise Trust, Greenwood Academies and Ark Schools—are reporting that all or some of their schools will have a deficit this year. What is your Department doing about this?

Jonathan Slater: It is important to distinguish between an in-year deficit—what a trust might choose to do with its resources in a particular year—and its underlying financial position. So Ark might well choose, as indeed they have done, to spend more on a particular school in a year than the income for it, but what is more interesting from an overall position is the extent to which they are, as a trust, in surplus overall to a significant degree—and they are. The situation is different trust by trust, and we can explore individual cases, but for us it is more interesting to look at the cumulative position: are they cumulatively in surplus or deficit? A trust taking over a failing school, as Ark does, might deliberately choose to invest in that school to improve its performance in-year, but the question is about the underlying position. The underlying position for ‘15-‘16 is that there is about £2.3 billion of surpluses and £50 million of deficits. I have suggested that for ‘16-‘17 the figures might tilt a bit—but just a bit. It is important to be clear on what we are describing in any one moment.

Q24 **Sir Geoffrey Clifton-Brown:** So we are not seeing an overall picture of a consistent number of academies getting more deficits and your letters of instruction becoming greater in number?

Jonathan Slater: I would expect to see, as when we produced the ‘16-‘17 accounts, an increased number of trusts in deficit—a small increase, just as there has been a small increase for maintained schools—because between ‘15-‘16 and ‘16-‘17 there was real-terms per-pupil pressure placed on schools. Although I have said to the Committee that it is possible for schools to absorb that by improving their efficiency in general—we can discuss the extent to which they are doing that; I have case studies of it happening, as well as case studies of it not—on average I would expect an increased number in challenge. My point is that, starting from the position at the end of ‘15-‘16 where 94.5% of schools were in surplus and 5.5% were in deficit, it might move to 90% and 10% by the end of ‘16-‘17, but we will have to see in October.

Q25 **Sir Geoffrey Clifton-Brown:** The second part of my question: are your letters of instruction to take corrective action increasing?

Jonathan Slater: Financial notices to improve represent—each year there are more academy trusts than the year before—about 1% or 2% each year. The numbers vary a bit.

Q26 **Chair:** So 1% or 2% of the total number of academy schools.



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Jonathan Slater: Yes—requiring such a notice. I don't think that I can ascribe a trend yet, but one of the things that we will have in '16-'17 is a bit more data to show us that.

- Q27 **Caroline Flint:** What red flags are there that would prompt your Department to investigate an academy chain's accounts? For example, there was a report in *The Times Educational Supplement* in October 2016 that WCAT—Wakefield City Academies Trust—had been purchasing IT and clerking services from companies owned by its chief executive and his daughter. I think that there was over £440,000 presumably gained by taking money from the individual schools within its chain. Would that prompt an investigation? Why didn't it?

Jonathan Slater: We had investigated that particular case some considerable period of time before. One of the things we look for in trusts' accounts is related party transactions. Normally, those are legitimate. If the trust concerned follows procurement rules, discloses them, has evidence behind them and nobody has made a profit—if nobody is making any money out of it—that is fine. Tick. If there is any evidence that one of those conditions has not been met, the ESFA sends in its provider risk assurance team—as it did to that trust in that case, a couple of years before that came to the attention that you referred to—to look into whether anything has been done wrongly. As I said, we find that about 1% or 2% of such transactions have not been in accordance with the rules each year. Those cases are normally through error, but they are occasionally deliberate, in which case trustees get leave, police get called in and—

Chair: Mr Slater, you indicated that you would not mind not being here all night. If you are quicker with your answers, we might get away sooner—Ms Flint's question was very precise.

- Q28 **Caroline Flint:** So you are fairly relaxed then about the chief executive of an academy trust paying himself money towards a company that he owns, and which other members of his family are part of?

Jonathan Slater: No; what we look for is whether it has been procured properly, whether anybody has made a profit out of it, and so on. In some cases it is fine, and those rules have been met. In other cases, they haven't been met, and trustees go, and one or two people are convicted of criminal offences each year.

- Q29 **Caroline Flint:** And was that made clear to schools that you said had to join a trust? For example, High Craggs Academy Primary School in Shipley was instructed by the Department for Education to join the trust in April 2016. It paid over £178,000 surplus immediately to the trust's accounts. When you instructed that school to be part of this trust, was it informed that this arrangement was in place?

Jonathan Slater: I don't know the details of the conversation that took place between the Department and that school on that occasion. What I can say is that that allegation was investigated and improvements in



process were identified, but the Department did not find that there had been any fraud in that case.

- Q30 **Caroline Flint:** There was £178,000 from High Craggs Academy; £800,000 was transferred to the trust from Wakefield City Academy; Hemsworth Arts and Community Academy transferred £220,000 to the trust's accounts; and Heath View, a primary school in my colleague Mary Creagh's constituency, paid over £300,000. With the demise of WCAT, will all those schools be getting those surpluses, which they passed over, back for themselves?

Jonathan Slater: The way the system works is that when a school becomes part of a multi-academy trust, the funding is held at the multi-academy trust level. That is the nature of the system. It is absolutely, completely, made clear in advance to schools that that is what will happen. It is a matter for the trust board to allocate resources among the schools in its trust, as it wishes and in accordance with governance arrangements. That is the system that I manage.

If, say, parents in a particular school raise money, then of course that money stays with the school, but it is for the MAT to resource schools within its trust as it wishes. Clearly, at the point at which there is a rebrokerage and schools move to another MAT, they need a clean slate, they need resources to support school improvement, and they need capital, but it is not illegitimate for a trust to switch resources between schools; that is their job.

- Q31 **Caroline Flint:** I am just looking at some of the totals I have highlighted. Are you saying that as they get transferred into a new multi-academy—I have a primary school in my own constituency that is affected by this issue. I think that Delta Academy is now going to be its sponsor. Are you saying that the moneys that were held centrally at WCAT will go to the new sponsoring academy in full?

Jonathan Slater: It is not about trusts holding the money centrally; it is that trusts can decide how to allocate resources between the schools in their trust. That is the system; that is what a multi-academy trust is. So, no money is held back by Wakefield; "Wakefield" in that sense doesn't exist. All the money gets allocated out to the new schools in their new trusts.

Caroline Flint: Okay. Perhaps—

Chair: We will let Layla Moran in and perhaps Caroline can come back again later.

- Q32 **Layla Moran:** We have a couple of other examples here. The founder of Bradford Academy, who was a former teacher, was ordered to repay £35,000 after being jailed for defrauding the school. At Kings Science Academy, Sajid Raza and his sister paid £69,000 of Government grants into their own bank accounts. Are you saying that that is not the DFE's responsibility and that it is the responsibility of the trust?



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Jonathan Slater: No, no—well, it is vitally important that trusts do not act fraudulently. We investigate any evidence of any wrongdoing. We look at 500 trust accounts every year in detail, to see if there has been any wrongdoing. If we find a related party transaction that somebody is trying to make some money out of, we investigate it. On most occasions, we find that it's not deliberate; on some occasions, it is. The trustee resigns, we bring in the police and, in the cases you have just described, people were on the receiving end of criminal convictions, and so they should be.

Q33 **Layla Moran:** And are you confident that you're catching them all?

Jonathan Slater: I can't say that we don't miss anything. We look at 500 schools in detail every year. Do we find everything?

Q34 **Chair:** But Mr Slater, compared with the maintained sector, is there an increase in this sort of behaviour in the academies sector?

Jonathan Slater: I haven't seen any evidence of that at all. One of the advantages we have for the academy sector is that they have to produce an audited set of accounts, and the auditors are required to identify any related party transactions. That makes it a little bit easier for us than for maintained schools, which are just part of the local authority's accounts.

Q35 **Chair:** But local authorities would surely pick this up at a maintained school.

Jonathan Slater: They should do. I have not found anything different between the two, but it is difficult to make that comparison.

Q36 **Chair:** This is taxpayers' money provided to businesses setting up multiple chains of schools, in many cases. From hearing just some of the examples that we all know about, do you not think it is a bit of a chancers' charter? People can take taxpayers' money and award big contracts to themselves and their family members.

Jonathan Slater: It does sometimes happen, and it sometimes has in maintained schools, and we take action whenever we see it being done inappropriately, as we should.

Q37 **Gillian Keegan:** What percentage of the trusts have related party transactions relating to either the governors or the headteachers?

Jonathan Slater: Two out of five; 40%.

Q38 **Gillian Keegan:** Forty percent?

Jonathan Slater: Of course, it hides a multiplicity of circumstances. There will be many people in this room who have been a governor at a school, and they will have heard a conversation in which somebody says, "I can sort this out. I can provide some activity. I'll do it at less than cost." That is a related party transaction, and it is a jolly good thing too, as long there is some transparency about it, it is procured properly if it goes above a certain level and so on. It is about identifying what is good and what is bad. Sometimes it is bad, and then we take action.



- Q39 Caroline Flint:** Just to be more precise, what is the basis for allocating the money that WCAT held? Given that they probably spent some of it, of what they have got left that they took from all the 21 schools within their group, what is the basis for allocating that money? Is it just going to move to the new MATs and the new sponsors, or will it come back to the schools before that?

Jonathan Slater: What I was saying is that the Wakefield Academy Trust dissolves, and its resources get allocated out to schools, in accordance with their new arrangements. If a particular sum of money was associated with a particular school, because it had been collected from the parents there, it would go to that particular school. That is what I am describing—a process which makes sure that each school starts with a clean slate, and indeed, often, more resources. There is no money held back, because the trust no longer exists.

- Q40 Caroline Flint:** But what if it was substantially less money than they had handed over in the first place, bearing in mind that some of that money might have been spent on IT contracts for relatives or whatever? How does it reflect, in reasonable and proportionate real terms, the amount that those schools passed over in the first place?

Jonathan Slater: All I am saying is that it is in the nature of joining a multi-academy trust that an individual school makes that choice. The difference between a single-academy trust and a multi-academy trust is that if you join a multi-academy trust, you are sharing your resources across the trust. You are sharing your governance across the trust. I am just describing the facts of it. That is the system. The advantage of that is that you get access to other expertise across the trust; the disadvantage is that you have less—

Caroline Flint: It is basically like an LEA.

- Q41 Gillian Keegan:** I think the point is what happens if you end up with one that is dodgy. We have heard examples here. As I said, I have very limited knowledge of the academies sector, but every single one I have looked at has been a dodgy one; I don't know why that is the case. It seems to me, with this whole concept of related party transactions and multi-academy trusts, that if they go wrong, there is very little protection for those left behind—either the schools or the people trying to pick up the pieces to make sure the pupils get the education they deserve. When these things have happened, what have you learned from this and what changes have you put in place to stamp this out?

Jonathan Slater: It is in the nature of this sort of discussion. We are about to discuss the cases that go wrong, and you want to know whether there are more than there should be. I draw your attention again to the fact that 98% of trusts' accounts are unqualified, 95% have no regularity concerns and 2.5% have concerns about related party transactions. Where we have those concerns, action is taken. I invite you to see it in context. Where we see it, we take very strong action. Bright Tribe was an academy trust—you know it well—where there were related party transactions that



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were concerning, and we took the schools away from it. We have seen people convicted in courts. That is our job.

- Q42 **Chair:** Mr Slater, can I move on to Bright Tribe? In Whitehaven, people were up in arms about it. In fact, the local MP was escorted off the estate for raising concerns about some of the problems at Whitehaven Academy—Bright Tribe obviously took it over. Wasn't any due diligence done to make sure Bright Tribe was the right organisation to deliver the much-needed improvements to Whitehaven Academy?

Jonathan Slater: Yes, work is always done. Whenever a new sponsor comes along, they are approved on the basis of due diligence and proper checks. Sometimes things go wrong, including for local authority maintained schools, as you say, and it is our job to stamp it out when they do.

- Q43 **Chair:** But it had moved from "inadequate" to "requires improvement". In 2013, when Bright Tribe took it over, it promised to raise standards as a deal with the dilapidated estate. Both of the local MPs have contacted me to say that that is very far from what happened. I have had information from parents who are very upset about what is going on. Teachers have raised concerns about the inadequacy of the buildings. There is asbestos on site, but no real assurance about what will be done about that. Haven't the people of Whitehaven and the pupils at that school been sold down the river? That trust was given the opportunity to take it on and has failed abysmally. Eileen Milner, what safeguards were in place to make sure this was caught before this catastrophic failure? The school is crumbling physically, it has no resources, and results are dipping because of the trust's inadequate management.

Eileen Milner: I apologise in advance for being somewhat sub-optimal in the voice department.

The points you raise are incredibly important, because they touch real people and real lives. I do not say that in a trite way. In taking on this job, I am acutely aware that what touches my inbox—I hope you get assurance from this—are very serious matters about which we have concerns. We work with the regional schools commissioners to address things where we see poor practice or things that are not being dealt with in the way that we all want for our children. We work quickly and collaboratively as a single team on matters relating to finance and the quality of education, and we go in and enact change.

When you have organisations that are set up as autonomous bodies, as academies are, we need to work first through the chairs of governors, headteachers and trustees, and assess whether they can effect the changes we want to see. That is what we have been doing. It has happened in the case you mentioned and in many of the other cases we will perhaps touch on. Sometimes it takes longer than what many of us would like, but when you are dealing with autonomous bodies, you have to give time to the process that allows you to make significant changes. Where we have significant concerns—for asbestos, in particular, we are



about to engage in an exercise across England in which we are going to be asking schools to account still more fully for what they are doing—we are serious, we are galvanised, and we work in partnership to make a real difference.

- Q44 **Chair:** Many people in Whitehaven have raised issues about that academy and the trust running it, Bright Tribe. I have a copy of a letter that one of the local people sent on 10 March 2017 to the regional schools commissioner north, which challenged them on some of the things that then came to fruition. It wasn't until October or November of that year that Bright Tribe removed itself, yet problems had been raised with the regional schools commissioner. Your organisation has overall responsibility for the financial side of this at the very least. Why wasn't action taken either by the regional schools commissioner or you? Why was it only when Bright Tribe walked away that there was—well, I wouldn't call it a resolution, but at last they got rid of that particular organisation.

Jonathan Slater: Mike is closer to the detail on this. I raised it as an example of the Department engaging, in the light of concerns about related priorities and transactions, and taking the school away. It is an example of something bad happening—I don't deny that bad things happen—and action needing to be taken. It wasn't that we weren't taking action. People are right to be concerned—that is why we took the action that we did.

- Q45 **Chair:** Bright Tribe was also one of those trusts that spread regionally. It had not really had a connection with Whitehaven before, so why was it chosen to take over that particular academy?

Mike Pettifer: The regional schools commissioners will have worked with the trust to identify the best options for them. What they have done more recently is establish their teachers' boards. They have MAT growth checks and an approach to looking at financial capacity, educational capacity and so on, before they allow trusts to grow and take on new institutions.

- Q46 **Chair:** What if a trust covers several different schools commissioners? Who makes the call about whether they should expand?

Mike Pettifer: They will have a lead commissioner, or if it is one of the largest trusts in the country, Sir David Carter, the national schools commissioner, will have a direct relationship with them. For every trust that they work with, they have a clear and direct relationship.

- Q47 **Chair:** What say did local people in Whitehaven have about whether the Bright Tribe lot took over their school? It had been troubled for a while. This was supposed to be the great rescue attempt.

Mike Pettifer: Whenever a school moves into an academy trust, there is a consultation process. The governors make a decision about whether they will convert to an academy trust or move into a sponsor, unless they have an academy order and they have to move. A process is followed before any school changes to an academy.



Chair: A process, but not one that necessarily involved everyone.

Q48 **Gillian Keegan:** When the process comes up with the wrong answer, how do you feed that back into your processes to improve them? That is what I am trying to get to. You came up with the wrong answer, either on dodgy transactions or on fit for school. They have not had the right outcome. How are you feeding those learnings back?

Jonathan Slater: Mike referred to changes in the process of academising schools and of choosing which trust they should go into—changes that have been made on the back of the programme’s experience in the early years, in which, it would be fair to say, there was initially a focus on getting the programme under way. Some of the checks and balances that we now apply were not applied then—you learn from experience. The sort of checks that Sir David Carter oversees were not in as fully when the programme was at an earlier stage.

Q49 **Gillian Keegan:** It seems that you were more worried about getting the thing going than getting a quality system in place.

Jonathan Slater: I think the Department has learned from experience that some of the trusts grew too big too quickly.

Q50 **Gillian Keegan:** With the high degree of related party transactions, it is almost designed to attract the wrong behaviour in some ways, don’t you think?

Jonathan Slater: It is important to get the balance right here. As I say, related party transactions cover a multiplicity of different issues—

Q51 **Gillian Keegan:** Could you not separate them out into for-free and for-profit? That would be a good place to start.

Jonathan Slater: Any for-profit related party transaction is not allowed—is in breach—and we will take action against a trust if anybody is making any profit from any related party transaction. I absolutely agree that that is a key distinction.

Mike Pettifer: They have to go through a tendering process. As part of that, they have to provide evidence that their service is being delivered at cost.

Jonathan Slater: And that is what the independent auditor of the school does. If we have any concerns arising from that, we investigate.

Q52 **Chair:** Why is it ever right for someone to use someone they know so intimately, like a family member, to take on a contract? Even if you go through the tendering process, that is an in-built advantage for the person with the inside knowledge.

Jonathan Slater: It depends on the circumstances. I referred to local governors offering a service for free, which is a related party transaction. A church diocese offering a service to schools in its diocese is a related party transaction. A school providing improvement services for another school in its MAT can often be a related party transaction.



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Q53 Gillian Keegan: I think we need to separate out those ones from the ones that are clearly—

Jonathan Slater: I agree.

Gillian Keegan: Having been a procurement manager, “at cost” is whatever you say it is—it just needs to be justified to some degree—because I am in control of the costs and you are not. The reality is that you have a system that is open to abuse—some is ongoing. The Durand Academy has obviously been discussed many times; it is related to my constituency. You will be interested in the lawyers they are using. The legal fees are now £600,000 or something. They have gone up threefold. You have no control over this use of public money.

Jonathan Slater: We do seek to distinguish between those where people have procured properly and made a profit or not. If they have not procured it or if they have made a profit, we come in hard. It takes a long time to close down the Durand Academy, but it is closing this June.

Chair: Ms Keegan’s point is that if you are the person setting the contract, you can name the cost, name the value and make the judgment. That is a really powerful position. In most other organisations, you would not be able to give business to someone that you are related to or live with.

Q54 Gillian Keegan: It would exclude you in most business contracts. It would exclude you from being a provider in most cases, whereas in this case it is actively encouraged by the sound of it.

Jonathan Slater: Related party transactions obviously do apply in business.

Q55 Gillian Keegan: Not to this extent, where somebody who is involved on the board or in the executive management has a separate company providing services. I honestly do not think that that is very common in the business world.

Jonathan Slater: I was just making the point that the concept is not unique.

Q56 Chair: If it is a small family business they can contract with whom they want, but this is taxpayers’ money.

Jonathan Slater: Yes, so, unlike a business, precisely because it is taxpayers’ money, we require them to demonstrate to the satisfaction of their own auditors and to us that they have not made any money out of it. That is what we required.

Q57 Gillian Keegan: The system is set up to encourage them to be able to make money out of it, but it is hidden in a cost. That is how it is set up. That is why you are seeing so many examples of it. I encourage you to consider separating out those services that are genuinely given for free or not for profit and those that have any commercial angle to them, and to consider whether you can learn more from the many examples that have been brought up here today.



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Jonathan Slater: Having to take that challenge is the distinction we seek to draw in the work that we do. I take the point that the Committee is not convinced that we are distinguishing adequately between at cost and not. I will take that away.

Q58 **Chair:** Do you do any benchmarking with other sectors? Ms Keegan has raised the corporate sector. If you were a Minister—Ms Flint and I were, and we had to absent ourselves from any decision if anyone related to us had a connection with it. There were clear rules to prevent a clash, and yet in the academy sector it seems rife.

Mike Pettifer: There is an expectation that you would do the proper procurement process, and that would not entail people deciding their own contracts. If it was investigated and it was found that that happened, that would not be compliant.

Q59 **Chair:** But in a small institution, or indeed the head office of a multi-academy trust—we have highlighted some of the examples—it is not difficult to persuade someone that your mate is good at doing an IT contract. We have seen this. We can all think of examples. How come it is not ruled out? This is taxpayers' money. You have to be completely above board.

Jonathan Slater: Sorry. I am saying that those are the rules that we set to distinguish between proper procurement—as you say, it involves not being part of the decision-making process for something that you will benefit from. That is a standard procurement rule. We require those procurement rules to be applied. Sometimes they are not, and we take action. The NAO might want to look at the extent to which we do that properly. I am always in the business of improving the way we do it.

Q60 **Gillian Keegan:** It just seems to be a remarkable coincidence that the people who are trustees are also the people who have leisure centre services or legal services. Which comes first? You seriously need to look at some of the incentives that arise, and learn from that.

Jonathan Slater: I take the point that is being made and will reflect on what I am hearing.

Q61 **Gillian Keegan:** On that happy subject, let us move to levels of pay. How do you compare levels of pay across the sectors? How do they compare to local authority levels of pay?

Jonathan Slater: I can unpack this. I shall keep it short, and then you can take it further. The average local authority maintained head teacher gets paid about 88 grand. The average academy head teacher gets paid about 92 grand. That is one piece of data. We require all academy trust accounts to include the names of any trustees and how much they get paid. That is why we report here, and where we see data that we think is odd, we take action.

Q62 **Gillian Keegan:** Ms Milner, I think you sent a letter to trusts in December asking them to explain their levels of pay and to give some kind of rationale. Have you had any response to that?



Eileen Milner: One of the very first things that I did on taking up post was to write to the chairs of governors of 29 single academy trusts where we could identify from the accounts that they were paying at least one person more than £150,000, asking them to provide an explanation of why that was, in their view, a sensible thing to do. The reason for doing that—it has ministerial sponsorship—is that all academy trusts are governed by the academies financial handbook: the rules, if you like, about what you can and cannot do. That sets out that the boards of trustees must ensure that their decisions about levels of executive pay follow a robust, evidence-based process and are reflective of the individuals' role and responsibilities. Given that a SAT by definition has only one school in it, those 29 trusts seemed like a good place to start.

You asked about the responses so far. I would say that of the 29, a third have provided me with responses that I find reasonable and am reassured by. I am not so reassured about the other two thirds, and I will be inviting the chairs of governors in to see me to explain why they feel that these salaries are appropriate. I hope you take some assurance that we are acting first to understand, but then to challenge, particular situations.

Q63 **Gillian Keegan:** Is that just at headteacher level, or are you doing that analysis for other parts of the pay scale?

Eileen Milner: What academy trusts have to do, in terms of what they must make public and disclose, is identify how many members of their staff are paid more than £60,000, in bands of £10,000. That allows for a degree of accountability. Beyond that, all trustees—bearing in mind that either a chief executive or a headteacher will almost always be a trustee of a SAT or a MAT—are named and you can see what their remuneration package is.

In the first instance, we are particularly interested in looking at those where the levels are more than £150,000. As I say, that is the beginning of asking academies to be transparent and publicly accountable for what is set out for them in the handbook to which they sign up as part of their financial agreement with us. That is where we are starting.

Q64 **Chair:** Is this the first time the ESFA or its predecessor bodies have written in this way? This letter was a first-time initiative, wasn't it?

Eileen Milner: It was indeed, yes.

Q65 **Chair:** Do you plan to do it regularly?

Jonathan Slater: We are in the middle of this first exercise, as you have heard from Eileen. I would be very surprised if it was the last. Ministers decided to do this, and a Minister will decide what to do next.

Chair: So it was the politicians that decided this. That is interesting.

Q66 **Gillian Keegan:** This is not only interesting regarding the use of public money for academies; it is also potentially changing the marketplace for salaries for headteachers, teachers and so on. Given that 75% of the cost of any school is teaching salaries, and given the nature of that going up



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over time and the pension clicker going over time, it seems that if this is going to be driven up and the marketplace is going to change, every school will find it difficult to keep within their budgets, as they have stochastic parts of their budgets, which are their salary costs going up year on year.

Jonathan Slater: There is a choice to be made—yes, it is a ministerial choice—on the balance between, on the one hand, giving trusts the freedom to pay people whatever they want and, at the other end, us deciding how much they should all get paid. You have heard from Eileen about an increased amount of pressure on salaries paid above £150,000. They are exceptional; 96% of trusts do not pay anybody more than £150,000. That is the focus of attention here.

Equally, if the ESFA finds an individual trust in financial difficulties and that is partly because of what it is paying its people, it takes action and persuades the trust to reduce its pay. I would expect the pressure to increase. I would not expect those salary levels to continue increasing in the way you have suggested. Academy headteachers' salaries have gone down by about 0.5% in the last 12 months.

Q67 **Gillian Keegan:** With all this data you now have, do you have an easy way of correlating performance and salaries?

Jonathan Slater: I cannot claim to have a comprehensive analysis of that. It is one of the questions that is asked. If you were looking for a justification of why an academy trust was paying a particular amount of money, one of the things you would look at would be the difference that individual had made to the trust. But I do not have a formal correlation.

Q68 **Chair:** You do not look at the progress 8 score, or anything like that.

Jonathan Slater: No. In individual cases, you would look at whether a possible justification for a high salary might be the particular contribution that person had made, as evidenced by performance. But I am not in a position to say, "Salary X delivers performance Y."

Q69 **Gillian Keegan:** This is the last question from me. Bearing in mind that this is a relatively new approach, at what point do you consider that the multi-academy trusts may become super-sized ones—too big to fail—and how are you monitoring that?

Jonathan Slater: We are taking a lot of care, as multi-academy trusts become larger, and doing the sorts of checks that Mike was describing earlier, which we used not to do and which are designed to make sure that we are making these decisions carefully.

Q70 **Gillian Keegan:** I am not sure that I got an answer there. How are you going to analyse at what point they are too big to fail? We have enough experience now of consolidation or over-consolidation. Basically, the risk is back on the Department.

Chair: How many people are going to have to go through what Wakefield academy trust's pupils went through?



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Jonathan Slater: No trust is too big to fail. If it fails, it fails, and we take action to protect the children from those schools.

Q71 **Chair:** Ms Keegan is being very clear, but let us just be really clear. If one school fails, that is challenging, but you can resolve it. But if you have a multi-academy trust fail, that is several schools and thousands of pupils. That is the point Ms Keegan is trying to make. This is a bigger scale of failure—a bigger impact on more people.

Gillian Keegan: And you assume that it will be financially challenged, and that the money has gone with it.

Jonathan Slater: Yes. Mike will talk through this in more detail, but what I am saying is that we are really careful now as trusts take on schools to try to minimise the chance of anything going wrong, but I can't say that it won't.

Mike Pettifer: You talked before about learning lessons, and that is what we have been doing. The national schools commissioner and the regional schools commissioners work with us really closely and we look at the finances, school improvement and educational performance together. The national schools commissioner looks at the top 10 largest trusts, meets with them regularly and follows their progress. We look at the financial reports and feed into that. That happens, again, at the regional schools commissioner level. My local teams will feed in to the regional schools commissioners' intelligence on educational performance, leadership and management. They are monitoring much more closely. To stop growth before capacity they have MAT growth checks in place, and they now look at all the evidence of the actual financial capacity and capability in terms of the educational improvement resources they have in place before they grow. There is much more rigour applied to this than there was previously because we have been learning lessons from some of the cases you have referred to today.

Q72 **Chair:** Sorry, but there is more rigour being applied to a problem that did not exist before because there weren't multi-academy trusts. There is a whole structure and cost.

Jonathan Slater: The point that Mike was trying to make was that it is true that in the early days of the academies programme there were some trusts that built too fast—got too big too fast. That is undeniably the case. We have sought to learn from that. There is nothing in principle wrong with a trust running 50 schools, so long as it has good capacity, good leadership and good skills. There is nothing wrong with that in principle, at all.

Q73 **Chair:** Well, it takes away local accountability.

Jonathan Slater: You can have a political debate about the pros and cons—

Chair: We don't discuss the policy in this Committee, so we don't take a position on whether academies are a good or a bad thing, but accountability and transparency are at the very heart of what we do. Ms



Flint can pick up this point.

- Q74 **Caroline Flint:** How do parents engage with someone sponsoring a group of academies, when it comes to how they take money centrally to spend on things? How do parents, others in the community, Members of Parliament, councillors and anybody else who is interested in children's learning hold a big chain to account, given that its head office could be on the other side of the country?

Jonathan Slater: Trusts are required to demonstrate that they have effective arrangements for parental engagement.

- Q75 **Caroline Flint:** What is an effective arrangement?

Jonathan Slater: It will depend on the local circumstances. Generally, a multi-academy trust has local governing bodies for each—

Caroline Flint: No, I am talking about corporate responsibility. If they are doing a lot of the procurement—we heard different examples of that earlier—how do you hold them corporately responsible, given that they are not there in your local community? The heads are running the schools—that is one level of accountability—but I am talking about the overall strategy for the trust's development and how they spend the surpluses they have gathered together in the centre.

- Q76 **Chair:** Can I just raise an example, moving back to Whitehaven and Bright Tribe? Global Asbestos Awareness Week took place, and one of the team did an FOI and was told that they could inspect the documents relating to asbestos for the school, but when they turned up a lot of barriers were put in their way. I won't go through the whole thing, but they had to go to speak to a member of staff in Stockport to get information about asbestos in a school in Whitehaven. I won't go through all the barriers, but it was very difficult to get the information. That is not local accountability.

Jonathan Slater: No, it isn't. The point I was trying to make earlier was that a debate about whether one wants schools to be overseen by local government or by central Government is a policy choice. Clearly, where you have multi-academy trusts—

Chair: We aren't talking about whether it is done by local councils. Ms Flint was talking about parents.

- Q77 **Caroline Flint:** I am talking about parents. Regardless of the form the schools are contained within—whether it is an LEA or a MAT—I am asking about the ways in which parents and others on behalf of them can hold those bodies to account. There are ways and means of doing that for individual schools when I get casework from parents worried about their children's educational needs, bullying or whatever, but for the big headline stuff that we are addressing today—when large amounts of money are being spent—how do we hold trusts to account?

Jonathan Slater: The trust has to set out to our satisfaction how it proposes to get the governance right between what is done at the trust



level—the head office level—and what is done at the individual school level. Typically, you have a governing body, including parents, at the individual school level, with a set of delegations from the trust at head office level that have the ability to refer upward concerns about what is happening at the trust level. One of the things we have learned from the experience of the first few years is that it is harder for a trust to work well across a very large geographical area. It is not impossible, as Ark and Harris demonstrate. When we sign those off, we want to see how they propose to manage across that area, and they need to demonstrate to us that they have a satisfactory delegation system.

Q78 Layla Moran: Following that point, the set of accounts now gives us an opportunity to compare different parts of the sector. You mentioned one concern that people have, which is multi-academy trusts' large geographical spread, compared with the more regional ones. I notice that you don't break that out in the accounts. Is that deliberate, or do you do it behind the scenes? You break them out if there has been a compulsory move or if they are sponsored, but you don't break them out into the types of trust.

Jonathan Slater: I don't think it is deliberate. We can draw any suggestions for improving our data into the next one.

Chair: That is a recommendation.

Q79 Layla Moran: The other question I wanted to ask is this. There is consternation, especially among schools that are part of smaller trusts, that they are not able to make the same efficiency savings as the big ones. I have heard—they have told me—that they are under more financial pressure than the big ones. Have you seen that from the accounts? Have you done that analysis? If not, maybe you should.

Chair: Another suggestion from Ms Moran—she is full of ideas today.

Jonathan Slater: A helpful suggestion. In principle, a large trust has economies of scale that a small one has not got. Equally, a small trust has more local ownership than a large one. You have to get the right balance in all the circumstances, rather than there being one right answer.

Q80 Layla Moran: In the context of the financial sustainability of all the schools, you have suggested that there are some in-year deficits that we can monitor now in the maintained sector. Are you aware of the deficits in the academy sector in the same way that you are in the maintained sector for the current year, for example?

Jonathan Slater: We are auditing the 2016-17 academy accounts. We are bringing them together into a national document right now. Unfortunately, they will not be in a signed-off state until October. I am sorry it is late, but it will—

Q81 Chair: We have gone through that. We will not repeat that. Mr Pettifer, did you want to come in on this point?



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Mike Pettifer: We get budget forecast returns, where the academy forecasts a year ahead. We are encouraging trusts and schools in general to start taking up three to five-year financial forecasting, because we think that will help them to manage their finances and to try to take a more preventive approach to managing their money going forward. Some of the larger multi-academy trusts will be doing that now. Sometimes you will see in-year deficits because they have invested in significant capital improvements or other improvements across the trusts, but overall they are cumulatively in a reasonably healthy position.

We have implemented some practical help for all schools, both maintained schools and academies. There are some national contracts that will be available that we have negotiated nationally to get a good deal on such things as ICT, energy, back-of-house office equipment and that kind of thing, where you can use these services and buy them at a cheaper rate. We think that the energy costs are about 10% cheaper. The back-of-house office equipment is about 40% cheaper. We already have in place risk protection arrangements nationally. That is a sort of insurance cover for trusts. We are trying to promote efficiency. We have a benchmarking tool that has recently been updated for academy trusts and schools to benchmark themselves against similar-sized schools with similar intakes to see where their efficiency rating is and where they can look to improve that.

Q82 **Layla Moran:** Will that be available for the maintained sector as well?

Mike Pettifer: Yes. We are working closely with the local authorities on this as well, because we want to raise the profile and importance of three to five-year financial forecasting.

Q83 **Layla Moran:** But given that in the maintained sector you have to submit three-year accounts, why was that not always done in academies? I don't understand.

Jonathan Slater: The difference between maintained schools and academy trusts is that academy trusts are independent entities and have to produce their own accounts and get them audited. Local authority maintained schools are part of the local authority, so they do not have to produce their own separate accounts. What Mike is discussing—

Layla Moran: Boards of governors have to produce a three-year budget and then it has to be signed off.

Chair: They are not accounts as such, but it is financial information.

Q84 **Layla Moran:** With the budget that Mr Pettifer was talking about, given that that has happened for years in the maintained sector, why is it not already happening in the academy sector?

Jonathan Slater: The point we are making here is that we are asking trusts to demonstrate to us that they have a three to five-year sustainability plan. The conversation we have had with the Local Government Association and local authority representatives demonstrates that they would find that tool just as useful as us for the local authority



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maintained area. It is not about whether they budget; it is about having the conversation about how confident they are that their income will match their expenditure in three years' time. We are finding that that is useful across the whole sector.

Q85 Layla Moran: On that income, we have the additional £1.3 billion—we went through where that was coming from in some detail in a room that looked like this, and we are still interested to see some of that. How much of that money is going to go to academies versus the maintained sector? How much is that skewed towards academies?

Jonathan Slater: It is not skewed towards academies at all. It will be allocated out according to the national funding formula. We do not have one pot for one type of school and another for another.

Q86 Layla Moran: I know, but I am asking as a point of interest. Now that you have taken them out, you can see how that is lying.

Jonathan Slater: Two thirds of secondary schools are academy trusts. About one third of primary schools are academies. So about two thirds—

Q87 Layla Moran: But that's not how it works. It depends on the area.

Jonathan Slater: Sure. I have not done a calculation as to how much of the money will go to academies and how much will go to local authority maintained schools, because it is done on a provider-blind basis. You get it for the pupils and where you are, not for what type of school you are. We fund them on exactly the same basis. We haven't always, but we do.

Q88 Layla Moran: I like your wording there: we spend it on the pupils. We have had some examples of where academy trusts are getting income and grants and they are not spending them on the pupils. They are spending them on things such as management fees and levies and so forth. How confident are you that all the money given to schools is being spent as much as possible on the pupils? What due diligence does the Department do around that?

Jonathan Slater: We benchmark costs, including senior management costs. That is part of the benchmarking tool, which is available on the internet. Anyone can see how their school compares with every other school of its type. When the team goes into individual trusts, we check whether there are financial concerns and how the money is being spent. We have talked already this afternoon about where money is not being spent properly and where it is needed. So we benchmark and we look for anything that is untoward and act accordingly.

Q89 Chair: Do you benchmark legal costs? Ms Keegan mentioned earlier how the Durand Academy's legal costs trebled in the last year.

Mike Pettifer: No, I do not think we benchmark legal costs. They are fairly exceptional cases.

Q90 Chair: I have been on the receiving end of some of those letters, as the National Audit Office knows. No doubt I will get another one, so maybe I should mention the Durand Academy Trust again to make sure they get



value for money.

Jonathan Slater: Durand is a great example. As you know, we were taken to court by Durand and we won. They spent money—

Q91 **Chair:** They also spent a lot of money on letters from lawyers to people like me and my predecessor and the National Audit Office, which I would say is not good value for money and probably not what the money should be spent on at all. Do you pick that up, Mr Pettifer? If another school suddenly started writing legal letters to members of the Committee or whoever and their legal fees went up, would alarm bells ring? Is that a red line?

Mike Pettifer: It's very rare. In answer to the broader question about the funding and how it is spent, ultimately it is generally per pupil generated at school level. The school then sets its budget, and that will be how much it is going to spend on its staffing, its resources, its curriculum, its back-of-house facilities and so on. Then the RSCs will judge them on the educational attainment of the pupils.

Q92 **Layla Moran:** So what happens when a school fails within a trust and other schools have to compensate? I will give you a specific example. In April 2016 in Oxford, St Gregory the Great Catholic School was identified as having a £900,000 deficit partly because it became an all-through school and got its budget wrong, which is worrying in terms of how that got approved. It then went into financial special measures and Ofsted put it into special measures in May 2017. It is one of seven schools in that trust. We understand that the other schools have been subsidising the financial position, and there is now huge pressure across all the schools in that trust. Is that a common story, or is that something that would worry you?

Jonathan Slater: If we see a problem of that sort at an individual school, we would look to ensure that action is taken to improve its effectiveness and its efficiency. It is true, as I said earlier, that the MAT can spend resources across the MAT. That is the difference between a multi-academy trust and a single academy trust. But one would want to make sure that a MAT is improving the efficiency and managing the resources of schools better, rather than just switching money from others.

Q93 **Layla Moran:** Absolutely, but can I put this to you? One of the reasons Ofsted stated that that school went into special measures was partly because the leaders were so focused on the deficit that they took their eye off the ball with teaching and learning. How much support are we giving these schools? Is it enough early on?

Jonathan Slater: I would be very happy to look at that individual case and come back to you on it. We definitely see it as our responsibility to work with both single and multi-academy trusts that are in financial difficulty to improve their finances and their performance. It should be possible to do both and not one at the expense of the other. But I am happy to come back to you on that particular case.

Q94 **Layla Moran:** On the broader point, you mentioned in one of our



sessions—you come here so often I have forgotten which one it was—that you were recruiting financial advisers into the Department to help with exactly this kind of problem. Where are we with that?

Jonathan Slater: We have just started this month with the first school efficiency advisers working with the first handful of schools. By the end of next month, our plan is to increase that to about 40 or so. We are trialling that at that sort of level with a view to procuring a much larger-scale service for the new year from September, based on how we get on with this first phase—sending advisers into schools with financial challenges, and helping to make sure that they draw down national deals of the sort that Mike described.

Q95 **Sir Geoffrey Clifton-Brown:** Can I ask you a general question on the funding of academies? At the moment, they hold cash of about £3.2 billion. You are requiring them to make efficiency savings of £3 billion by '19-'20. Okay, you are giving them a little bit of extra cash—£1.3 billion was announced, and out of that you are giving them a bit of extra cash. If my academies in Gloucestershire are anything to go by—they were some of the earliest to become academies—they have already cut their budgets to the bone, yet you are going to require them to make more efficiencies. How are they going to manage?

Jonathan Slater: The £3 billion has been overtaken by the increased funding that is going in from '18-'19. Across the sector as a whole—of course, it varies school by school, as we have discussed—the real-terms per-pupil reductions in spend are over. They finished in '17-'18. From now through to '19-'20, the sector as a whole will see a real-terms per-pupil protection. From '15-'16 to the current year, they have had to cope with a reduction in per-pupil spending. We are in the final year of that now. Absolutely, as you say, academy trusts and local authority-maintained schools have had to reduce their costs to cope with that real-terms per-pupil reduction. That ends at the end of this financial year.

Mike Pettifer: By '19-'20 about £2.6 billion of additional funding will have gone in, through the national funding—

Jonathan Slater: That is a consequence of the switch at the end of this year.

Chair: So it is stop-start funding, isn't it?

Q96 **Layla Moran:** What progress are we making with identifying those schools? You have suggested that the balance will be tipping in the direction of possibly more being in financial difficulty. Do you have any sense of which they are already? I do not know whether Ms Milner wants to come in on that.

Eileen Milner: No.

Jonathan Slater: I will save Eileen's voice. Mike and his team are right now asking for evidence from trusts of their confidence in their three to five-year plans. That work is ongoing, and it is on the basis of that that we are sending the first team in.



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Mike Pettifer: We also look at their budget forecast returns, where they are forecasting a deficit going forward. Trusts will work with us as well; they will contact us if they are concerned about funding going forward and managing the budget.

We have a number of different ways. The accounts returns themselves are looked at. All of the 3,000 accounts returned in '15-'16 were looked at by our internal audit team, with around 500 looked at in some detail after that. We then all get referrals from there as well. There are lots of different data points that we can use.

Chair: I just remind Members that we have just over 10 minutes, so can we be quick on both sides?

Layla Moran: We are nearly there, so we can go to the O2, if that is where we are going.

Chair: Yes, or to wherever we so wish. We are not finishing early for that. I should stress that we are only finishing if we are finished.

Q97 **Layla Moran:** Indeed, and we will try.

After that point, we have financial notices to improve, if it has gone horribly wrong.

Jonathan Slater: There are a number of steps before that.

Q98 **Layla Moran:** I just wanted to ask first of all—perhaps this question is to Ms Milner—how many of those are currently in place.

Eileen Milner: We have 39 live financial notices to improve, all of which, as Mike was about to say, represent the end point of a number of stages that we will have gone through. We think very carefully before we put a financial notice to improve in place, and we will work very closely with SATs and MATs before we do that.

The number of financial notices to improve is reducing, which is a very good sign and is a credit to the work that Mike and the team are doing. It demonstrates that trusts are coming to us earlier—they are self-identifying—or we are getting to them sooner and are able to see trends and risks emerging sooner than we did, which is enabling better conversations to be had. We put an FNTI in place only when we feel that we need to signal that restraints need to be put around some of the autonomy and freedoms that are signalled by the academies financial handbook, and that we need to put a firmer hand on the tiller. That is what an FNTI represents.

Q99 **Layla Moran:** Thank you very much. Finally, I want to ask Mr Slater about what happens when a trust pulls out. We have spoken about a number of them—in particular, Bright Tribe. At that point, how can you be sure that the students don't suffer? St Gregory's, for example, is going downhill financially, and suddenly the senior management have nothing to do with teaching and learning any more. What mechanisms do you have to allow you to step in at that stage to make sure children don't

suffer?

Jonathan Slater: If the worst comes to the worst and one needs new management and leadership, there are a number of steps before you rebroker. We can send in a new interim executive board to take control.

Q100 **Layla Moran:** How often does that happen?

Jonathan Slater: I don't have the data in front of me. I will come back to you on that. Sometimes one needs to go as far as rebrokering the school. 2.5% of trusts in 2016-17 had to be rebrokered.

Q101 **Layla Moran:** That brings me on to my next question. Do you find that it is a tough ask of trusts to take on a school that is perceived to be failing? What resistance do you meet? How easy is it? How difficult is it?

Jonathan Slater: As we were saying earlier, it is important to do the thing right and resource them properly. The evidence shows that some of the early expansions happened because trusts were too keen to take on too much challenge, because they could see the benefit of economies of scale and all the rest of it. We resourced that.

Q102 **Layla Moran:** So there are money incentives for them to take it on.

Jonathan Slater: It is not so much that. We pay for the capacity they need to take on new schools, and we pay for the improvement that the school needs to turn round. That is part of the deal.

Q103 **Layla Moran:** Why wouldn't that money be spent before the school failed?

Jonathan Slater: You would hope that the existing academy sponsor and management board could turn it round. We invite school improvement bids all the time. We are seeking to resource improvement, and we rebroker only if we have lost confidence in the trust's ability to use that money well.

Q104 **Layla Moran:** So that pot of money exists, either before or after, but you need confidence in the people using it.

Jonathan Slater: Yes, exactly.

Q105 **Chair:** So if they are failing, you will put more money in.

Jonathan Slater: If we are confident that the trust will spend it well. If not, we take the school away from them.

Q106 **Chair:** I just want to ask a couple of questions and touch on some of the responses you recently gave to Treasury minutes on our capital funding for schools work. We talked earlier about related party transactions and due diligence issues. Have you changed due diligence, or are you looking at changing it? I just want to pin you down on that. You talked about always keeping it under review, but do you have any particular plans to change the way you look at related party transactions so that you pick up issues at an earlier stage?



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Jonathan Slater: What I said was that we have increased the due diligence we do before a multi-academy trust increases in size. We made that change some time ago. I explained the checks and balances we have got in place for related party transactions, and the Committee was not satisfied by my answers.

Chair: You are a perceptive man, Mr Slater.

Jonathan Slater: I said—perhaps I didn't make enough of it—that I heard what you were saying, and I was going to reflect in the Department on that point.

Q107 **Chair:** We will take a note of that. I just wanted to be clear about where we had got to on that. You are doing this big work, which will delay the accounts next year, particularly on issues relating to the physical premises. We talked in a previous hearing about asbestos in schools, and the issue came up in some of the evidence submitted to us, particularly relating to Whitehaven Academy. In that wider work, are you going to be able to identify where asbestos exists in schools to inform a clear plan for dealing with it nationally?

Jonathan Slater: Yes. I wouldn't want the Committee to think that the ESFA hadn't already carried out a survey of school condition, including asbestos. I think Mike Green, who leads on that area, was sitting to my right talking about that at a meeting a few months ago. As Eileen says, we can take that to the next level. We will be doing that in the next few months.

Q108 **Chair:** And that next level will include asbestos.

Jonathan Slater: Absolutely.

Q109 **Chair:** Do you have a much more detailed inventory, Ms Milner, about where asbestos is in our existing school estate, whoever owns it?

Jonathan Slater: Yes. It is going to be a more detailed account, including asbestos.

Q110 **Chair:** And will you have a plan to deal with it nationally? Obviously, there is a huge cost, and sometimes it can arise accidentally. Some other work needs to be done, asbestos is found on the site, and suddenly there is a cost to the school budget. How are you going to make sure it is funded? Have you got a plan to remove asbestos in total from our school estate?

Jonathan Slater: Ah. Well, that is a different question. As you know, the right way to tackle asbestos is not always to remove it.

Q111 **Chair:** Well, not necessarily tomorrow, but over time.

Jonathan Slater: We need to make sure each local authority and academy trust is managing its buildings and its health and safety risks, including asbestos, as well as it should. Sometimes it will require removal, and sometimes it won't. It depends on the trust's circumstances.

Q112 **Chair:** To go back to Whitehaven, somebody there was very keen to go in



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and check that the approach to asbestos was properly done locally in the school, and they were referred to a bureaucrat—well, maybe it wasn't a bureaucrat—in the multi-academy trust in Stockport. What information should parents and campaigners expect to be able to get locally from their local education authority or their local academy trust, if that is the case, about the asbestos condition in schools? If you have got those central guidelines, what should an average citizen who wants to find out about the asbestos risk in their area be able to do? Where can they get that information? Ms Milner, perhaps you can answer that.

Eileen Milner: The school or the local authority—the employing body—has a duty in statute, which is overseen by the HSE, to have an inventory of the asbestos that sits on their premise or premises, and a plan for the management of that asbestos. Those documents should be available to people who have an interest in that situation.

Q113 **Chair:** Would you expect people to have to use freedom of information to get it?

Eileen Milner: I would not expect people to have to use freedom of information.

Q114 **Chair:** So what would you consider to be good practice in making sure that information is transparent and available to people?

Eileen Milner: My instinct is that, as far as possible, you should make information public. Personally, I can see no reason why you wouldn't share it. The difficulty with asbestos is that the Health and Safety Executive suggests that schools are environments in which the risk of asbestos exposure is not as high as it is in other areas. I suppose that some schools may think that they would be causing undue concern. I say that in no way as a defence of why it shouldn't be shared, but maybe that is something that goes through people's minds.

Jonathan Slater: If there is a particular case that you want to draw to our attention, we are more than happy to look at it. We carried out a survey in 2016 of asbestos management specifically, and it identified that most trusts and schools were managing it properly. We are following that up with a more detailed condition survey this year, in which we are seeking complete evidence of that in practice.

Q115 **Chair:** My point is that, as we often see on this Committee, there can sometimes be very good intentions and good policies from Whitehall—dare I pay you a compliment, Mr Slater?—but then you cascade it down to the local level and the information is not available. Whitehaven is a particularly stark example of that. I have a meeting with the Minister, although somebody else may be taking it, with a constituent of mine whose mother died of asbestos from working in a school, so I have got a constituency interest as well as a PAC interest in this. I am sure we will get some more information from that meeting. It is helpful to hear from you, Ms Milner, that there is no reason why this information is not in the public domain.

I just want to pick up the points about the Treasury minute. I am not



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going to go through the question-and-answer bit of it, but we asked you, Mr Slater, about the range of school places that local authorities should maintain to be cost-effective, and you weren't able to give us an indication of that. Why not?

Jonathan Slater: Of what is the right number of surplus places?

Chair: Yes.

Jonathan Slater: Because it depends upon the circumstances in the locality. A certain number of places may seem excessive until you know that there is going to be a significant increase in the secondary school population in that area over the next five years.

Q116 **Chair:** So how would you know that you are not funding unnecessary spare places if you can't give us a range? Do you have a hidden working range for each local area?

Jonathan Slater: That I am not prepared to share with you?

Chair: Well, if it is hidden, you would not want—we always think it is better to be in the public domain.

Jonathan Slater: There is a standard margin that we expect local authorities to use as good practice to allow for unknowns, which is 2%, as you know. Over and above that, the level of surplus places that we think is justifiable will depend on the circumstances. We do not have a set figure over and above that 2% margin; it depends on the circumstances. We are acutely conscious of the importance of taxpayers' money not being wasted on places that are not needed, but we do not want to end up with not enough places. We are going to have another 500,000 people going to secondary school in the next five years, and we need to make sure that there are 500,000 places for them.

Q117 **Chair:** We talk about school places. One of the rationales for having free schools is to provide more places. We wanted to know whether you publish the Department's own assessment of the extent to which successful free school applications meet the various local needs—you have talked a lot about different local needs throughout this session—as distinct from the applicants' assessments. We often hear from applicants that they want a school of a particular type or with a particular ethos—there are some quite interesting experimental ones, to put it politely, out there—but when do you make the assessment? When will you publish your assessment of whether that free school actually meets the local need in an area, or do you not make that assessment?

Jonathan Slater: For each application, we are assessing a whole range of things, including local views, basic need, whether it is providing something new, and whether it is improving quality. If you are asking me about what we publish, to be completely straightforward, I do not have that information in front of me. I am happy to come back to you on what we publish, and if you think we should publish more—

Q118 **Chair:** We did ask you to publish more in our recommendations, but we



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will go back and perhaps have a further conversation by letter.

Jonathan Slater: I am sorry.

Q119 **Chair:** I did not give you notice that we would be going back to the Treasury minutes, but we will perhaps have an exchange of correspondence, and we will raise this with you whenever you next come in front of us—it will be very soon, I am sure.

Jonathan Slater: I will make sure I know the answer next time.

Q120 **Chair:** No doubt it is only a matter of days away. You are a lucky man, Mr Slater, to come so often before the Committee—I am sure that we beat the O2 any time.

What are you doing to make sure that applications for free schools are coming up in areas where there is a need for places? There is a bit of a concentration in certain areas, quite often led by the demographics of the people involved, it seems, whereas other areas have a real shortage of schools and no free schools coming forward. It is a completely free, open programme, but are you making any changes?

Jonathan Slater: We will shortly be announcing the application process for the next wave of free schools. You will see what we propose to say about focusing them where there is a particular need. It is not yet published, but I am sure there will be a PAC hearing shortly after it is published.

Q121 **Chair:** There is a PAC hearing all the time.

Jonathan Slater: It is a question that we are focusing on right now, to make sure that the programme has a particular focus on where there is a particular need for good school places.

Q122 **Chair:** I know of a very small alternative provision in a borough just on the edge of my constituency that was urged to become a free school. It has fewer than 30 pupils. I wonder if that was to get the free school numbers up to the required—

Jonathan Slater: No.

Chair: It seems an extraordinary and unnecessary move for a small school to change its status when it is working perfectly well as a small charity.

Jonathan Slater: I would not call a school that changes its status a free school; I think that is the name for a new school.

Chair: Or an academy. Well, okay—it just seems to me a way of changing the name of something in order to meet the requirements. We will be very interested in probing this further. It is not about the policy; that is not what we are here for. It seems that a lot of taxpayers' money can be thrown at these, even if they are not in the right areas and they have vacancies.

Q123 **Layla Moran:** Just one quick question on a related note about the



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admissions policies of academies. In Oxfordshire, most of our secondaries are academies now, but we are facing the problem of looked-after children getting into the right place, because academies cannot be imposed upon to take a looked-after child, for example. We are finding that the minimum wait for a child in Oxfordshire to get into the right school is something ridiculous like three months. I appreciate that that might or might not be a special case, but are you looking at the admissions criteria, and how that is playing into the local authority plan? Currently, local authorities have the statutory duty, but both hands are tied behind their back.

Jonathan Slater: Statementing by local authorities applies across all schools—academies as well as maintained. You are right that academies are typically their own admissions authority, but that does not mean that they could ignore the requirement for a local authority for a statement for a particular—

Chair: A statement is different from looked-after children.

Q124 **Layla Moran:** Looked-after children, or children who, for example, find out down the line—particularly when they are in year 6 and want to apply to their secondary—that they cannot get into the right one because they are either looked after or they have to move. In the maintained school sector you could ask them to raise their class size by one, knowing that someone is going to leave. The academies in Oxfordshire have been saying, “No, we won’t do that. It doesn’t fit our admissions criteria.” So you have got different admissions criteria.

Jonathan Slater: It is true that academies have freedoms that local authority maintained schools do not have. We would seek to engage with academy trusts in a particular area if we thought they should expand in the way you have described because of the local circumstances. It is true that they have freedoms under law that local authority maintained schools do not have, but that would not stop us engaging with them on issues like that. I am more than happy to look at the case you have raised.

Q125 **Caroline Flint:** Is it not the case that an academy or a free school can put in a bid to create another free school even if it is in a building next door to their existing school? If they do it through that route, rather than go for an application for capital spend to expand their existing school, they can go through the free school route to get that money in, when to all intents and purposes it is the same organisation, the same ethos and the same overall management structure. Is that not the case? I have an example.

Jonathan Slater: I look forward to receiving it.

Mike Pettifer: There is quite a rigorous process of looking at the evidence to justify any new free school, so it would depend on the case.

Q126 **Caroline Flint:** It is a direct question. Is it not the case that you can have a free school on a site and the people running that free school can put in an application to create a new free school, even though it is literally



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pretty much on the playing field next door to the existing school? But because they create them as two different entities, they get away with getting money for that new building, whereas other schools cannot get money for capital spend to expand.

Jonathan Slater: As Mike says, we want to make sure that any application for a free school genuinely is a new school. It obviously is possible for a trust that is running some existing schools to build a new one, but it has to be a new school, and it has to meet need and a whole set of criteria.

Q127 **Chair:** A new school would have to have a headteacher of its own and suchlike?

Jonathan Slater: Yes.

Chair: I think Ms Flint will be writing to you.

Jonathan Slater: I look forward to it.

Q128 **Chair:** You have a lot of letters coming from us today. It has been an interesting session. It is good to have the consolidated accounts. We look forward to seeing them earlier and earlier until they are actually on time. We recognise the challenge of bringing them together. What they show has been instructive.

You have also picked up from the Committee a concern that there are so many multi-academy trusts emerging, there is a danger that that is not extending choice. So few organisations could end up running schools that it is reducing choice for parents. If one fails, it has a huge impact on people. Can you reiterate or expand on what you were saying earlier about the safeguards you have in place? When one multi-academy trust fails, it has a huge impact on more pupils. We have seen recent high profile failures in Yorkshire and elsewhere.

Jonathan Slater: We now do two key things that we did not always do. One is a rigorous health check overseen by the national schools commissioner from a performance point of view, and by the ESFA from a financial point of view, before an academy trust increases in size. If it does increase in size, it must be resourced properly to do so. The MAT capacity improvement fund that was announced the other day was a particularly jargon-filled way of describing it, but that was the point of it. That is a part of the answer. The other is by highly proactive management of the academy sector of a sort that we have to do these days now that we have 7,000 academies, which they did not have to do five years ago when they had 200. That is why Mike's team is looking for three to five-year financial plans and why his regional schools commissioner colleagues are looking at the performance of those schools and their plans over the next three to five years. They are co-located in the same offices and are having much more proactive conversations and engagement than they did in the past.

Q129 **Chair:** It is all well and good that that is beginning to happen. That is quite right. We would agree with that, but our children are not experiments. A number of them have lost out very badly. We have raised



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the case of the poor children in Wakefield City Academies Trust, which has a number of schools across cities and towns in Yorkshire. There is the Whitehaven Academy and many others. We cannot list them all today. Do you have anything to say to the pupils and parents of schools that have failed because of a lack of oversight?

Jonathan Slater: The reason I enjoy the job I do, as I do it, is that my job is to try to help to make sure that those children get the best possible education they can. That is a great reason to come to work. Wherever they are not getting well served by the leadership and management of their school, be it a local authority maintained school or an academy trust, that is not good. My job is to make sure that we are doing the very best we can to get ahead of anything like that.

Q130 **Chair:** Do you have any message for the parents and pupils of the schools we have mentioned today—about the failures in the multi-academy trusts that led to—

Jonathan Slater: My message to them is that I am doing all I can, as are my colleagues in the Department, to get that put right as soon as I possibly can, because their education is very important and they get only one chance.

Chair: I think that that sums it up. They get only one chance, and when it does not go right it has a devastating effect on those individuals. I am sure you all have that front and centre of your mind, as you have said, Mr Slater. We now need to see the fruits of that, and we will be having you back very soon to talk about so much that is going on in the education world.

Thank you very much indeed for your time. The transcript will, as ever, be on the website, uncorrected, in the next couple of days, and our report will be out probably after the short recess we are about to have.