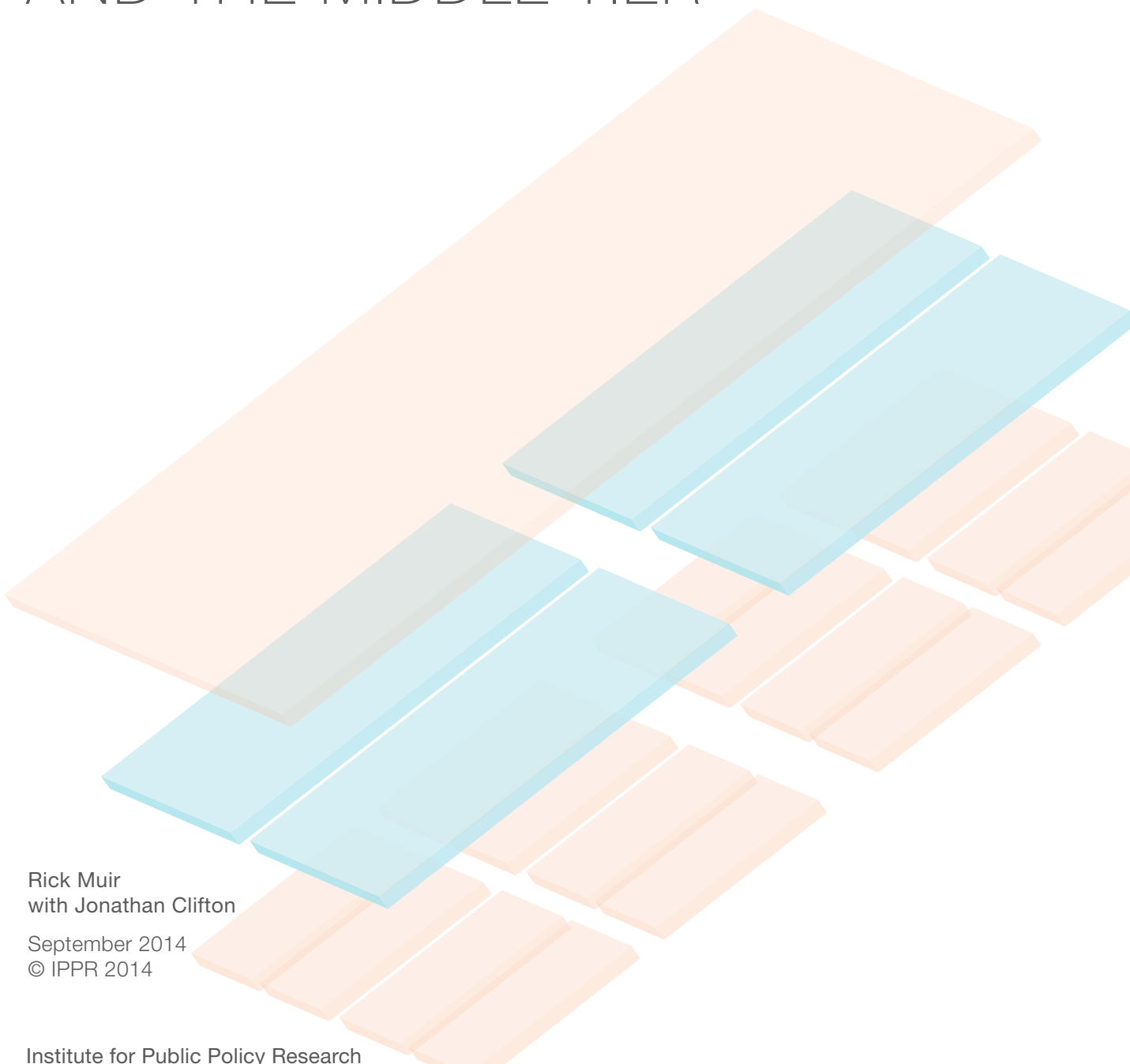REPORT

WHOLE SYSTEM REFORM
ENGLAND'S SCHOOLS AND THE MIDDLE TIER

Rick Muir
with Jonathan Clifton

ABOUT IPPR

IPPR, the Institute for Public Policy Research, is the UK's leading progressive thinktank. We are an independent charitable organisation with more than 40 staff members, paid interns and visiting fellows. Our main office is in London, with IPPR North, IPPR's dedicated thinktank for the North of England, operating out of offices in Newcastle and Manchester.

The purpose of our work is to conduct and publish the results of research into and promote public education in the economic, social and political sciences, and in science and technology, including the effect of moral, social, political and scientific factors on public policy and on the living standards of all sections of the community.

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ABOUT THE AUTHORS

Rick Muir is associate director for public service reform at IPPR.

Jonathan Clifton is a senior research fellow at IPPR. He worked on earlier drafts of this report, before taking up a new role on secondment to the Department for Education in July 2014.

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SUMMARY

With the rise of academies and free schools independent of local authorities, England's schools have become more autonomous in recent years. Combined with stronger accountability, this has contributed to improved standards. The first wave of academy schools was a particularly important component of an improvement drive that has helped to transform inner-city neighbourhoods, particularly in London, which were previously mired by underperforming schools and middle-class flight.

However, the rapid spread of academies and free schools has created a more fragmented school system, with cracks starting to appear in two areas: commissioning and school improvement.

On commissioning, a number of gaps have emerged.
- Place planning has not been adequate, and this has led to a mismatch between supply and demand in many areas. The reasons for this are because popular academies cannot be required to expand, free schools have been established in areas where there is already a surplus of places, there is little local strategic planning of post-16 provision, and local authorities' capacity to carry out functions such as data analysis has been eroded due to funding cuts.
- There has been inadequate enforcement of quality assurance for new providers. The Al-Madinah School, the Kings Science Academy and the Discovery New School have all hit the headlines for poor provision shortly after receiving government approval to open.
- The centralised process for appointing academy and free schools providers lacks transparency.
- There are concerns about value for money, as the government has tried to rapidly increase free school numbers.
- There are concerns that children with special educational needs are losing out, particularly because of the way in which some schools deploy covert selection, and because individual schools are often not best placed to commission specialist services.

Our school system also suffers from gaps relating to school improvement.
- Too many schools are cut off from wider networks of support.
- There is a lack of local oversight of school performance. Even good schools need regular checks and challenges to help spot problems early and drive improvement. When these checks and challenges are not in place there is a danger that schools can become complacent, and 'coast' with mediocre results.

The government has been content to let a number of different structures emerge to fill the functions of a 'middle tier' in the coordination of the school system. Chains and federations of schools have emerged, alongside teaching school alliances and organisations such as Teaching Leaders, to broker collaboration, spread good practice and build professional capacity.

These collaborative partnerships should be welcomed as positive means of building collective capacity and driving improvement. However, it is questionable whether these sorts of 'school improvement partnerships' can effectively address all of the problems we have identified. For instance, provider organisations

cannot undertake commissioning roles which require neutrality and local strategic oversight. Moreover, even where they can play an important role in school improvement, chains have been slow to expand. Taken together, these emergent middle-tier organisations remain very fragmented, with overlapping roles and an inability to take a 'whole system' view.

The government has started to recognise this, appointing eight 'regional school commissioners' who now have oversight of the academies programme. However, they will only have responsibility for academies and not maintained schools, creating inefficient parallel bureaucracies. The new commissioners will lack the capacity to undertake robust performance monitoring and data analysis. They will have no role in school improvement unless an academy is deemed to be failing. They will each cover large regions, and will not be close enough to schools to spot the early signs of trouble.

A new middle tier is required if we are to build a self-improving school system. This paper recommends the creation of locally accountable school commissioners, based on city-regional or county-regional areas. These commissioners would be appointed by combined authorities or partnerships of local authorities across city- or county-regional areas. In London, a commissioner could be appointed by the mayor.

Local authorities should continue to be responsible for championing the concerns of local parents, place-planning and special-needs provision, and should additionally administer local school admissions. The school commissioner would be responsible for functions that need to be conducted at a scale larger than the local authority area, but which it would not make sense to house in the Department for Education.

School commissioners should have the following responsibilities and powers.
- Running competitions for new school providers, based on clear national guidance, to ensure that the process is fair for different types of provider.
- Broker a change of provider where a school consistently falls below the national floor target. They would have a duty to consult local parents and follow a transparent appointment process.
- Renew the funding agreements of existing academies once they end.
- The power to force schools to expand to meet local demand.
- Decommissioning schools where they are no longer viable.
- In future, take on the commissioning of 16–18 provision across their area, working in partnerships with local authorities, colleges and LEPs.
- Brokering collaboration by ensuring that every school is part of a school-led improvement partnership or chain.
- Tracking performance and gathering local intelligence in order to identify and challenge schools that need to improve. They would be required to report on performance to central government, as well as local authority scrutiny boards.

This model would represent a considerable improvement on existing arrangements.
- It would bring all schools under a common framework, meaning that decisions around commissioning and improvement would be taken with an eye on the local schools system as a whole, rather than decisions being made in silos.
- It would put maintained schools and academies on a level playing field in terms of competing to take over schools or open new ones.
- It would provide local democratic oversight of decisions about the school system.
- By virtue of being based at the level of the city-region or county-region, commissioners would operate at the right level to combine local knowledge with the scale needed to develop London Challenge-style

collaboration. At this level they will also be able to tie their decisions in to the subregional agenda, meaning that they would be joined up with decisions about early years, skills, post-16 education and transport.

- It would give local authorities a stronger role in place planning and school admissions, where they are best placed to take a strategic view.
- It would ensure that mechanisms are in place to identify underperformance and intervene in schools that are struggling before they reach crisis point.

INTRODUCTION

England's school improvement journey over the past 25 years has focused heavily on promoting autonomy within the school system. Most recently, the Coalition government has driven a rapid expansion in the number of free schools and academies. By the May 2015 election the majority of secondary schools, and a significant number of primary schools, will operate outside of local authority structures.

Bringing new actors into the school system to raise standards has been a force for good. The first wave of academy schools, which were created in the early 2000s, put in place a series of strong institutions, serving communities that did not have access to high-quality school places. Where there is a lack of good school places, it is right that new schools can be set up.

However, a number of cracks are beginning to show in the increasingly fragmented school system. It is reported that new schools are being created in areas that do not face a shortage of good-quality places. Highly critical Ofsted inspections at the Discovery New School in Sussex and the Al-Madinah free school in Derby have raised questions about the quality of some new providers. Some have argued that the government has been slow to identify poor performance among some academy chains, and that some academy schools have become isolated from networks of support.

At the heart of these problems is a centralisation of power in Whitehall and the lack of any local strategic oversight in an increasingly fragmented landscape. Academies are directly commissioned and monitored by central government, which is responsible for deciding who should provide new schools, brokering changes of provider at failing schools, and identifying when schools should expand or contract to meet local demand for places.

Directly commissioning and monitoring thousands of individual schools from Whitehall is unsustainable. Central government does not have the capacity or local knowledge required to carry out these tasks effectively, and the decisions it takes are very opaque and removed from local communities. As a result there is a lack of effective oversight of our school system. This poses a big risk to the government's ambition of ensuring that every child has access to a good quality school.

There is a growing body of international evidence which demonstrates that a national strategy for raising school improvement cannot just focus on the school level. It must attend to the 'whole system', and to the way in which schools interact with each other and with other actors. Such a whole-system approach means attending to the 'missing middle' in England's school system.

The government has recently sought to respond to these concerns with the appointment of eight regional school commissioners to oversee the academies and free schools programmes. Some have argued that these measures do not go far enough towards restoring some measure of local strategic oversight, and they do nothing to reform the inefficient separate funding and commissioning systems for academies and maintained schools. To tackle this, David Blunkett's recent review called for the creation of local 'directors of school standards', which has now been adopted as Labour party policy. The Liberal Democrats have proposed that local authorities should have more powers to intervene in schools that are underperforming.

This paper makes the case for locally appointed schools commissioners at the city- and county-regional level. The commissioners would be responsible for commissioning all schools in their areas, and making sure that all of them are achieving high standards for young people. This reform would keep schools in the driving seat in terms of raising standards. It would, however, create a better managed system at the local level, ensuring that school places are properly planned to meet local needs, that decisions over the opening and closing of schools take place in a transparent fashion, and that all schools work under a common framework and are accountable to local people for the outcomes they achieve.

1. A WORLD-CLASS SCHOOL SYSTEM

1.1 The challenge

England's education system has come a long way over the last 20 years. An increasing number of young people now stay in full-time education until they are 18, the teaching profession is attracting a larger share of top graduates, schools are more open to public scrutiny, and the number of seriously underperforming schools has been reduced. Nearly 80 per cent of schools are now rated as 'good' or better by the inspectorate – meaning that more children in England have the chance to attend a school rated good than at any point in the last 20 years (Ofsted 2013).

England has been successful at tackling poor performance, but there is a long way to go until we have a truly world-class school system that works for all children. According to the international PISA assessment, around one-fifth of pupils do not achieve basic levels of literacy, a tail of low achievement that is twice as large as those of our competitor countries. There is also a relatively strong link in England between a child's socioeconomic background and their educational performance, with poor white children faring particularly badly. This is a problem because it can entrench cycles of disadvantage, as children from poorer families struggle to acquire the skills and exam results that will help them to find a decent job later in life.[1]

Perhaps the greatest challenge facing England's education system is variability in performance. While exam results in London's schools have improved dramatically over the past 10 years, performance in the other regions has remained static (Leunig and Wyeness 2013). There are 13 local authorities where less than half of all pupils attend a 'good' or 'outstanding' school (Ofsted 2013). A less visible problem is schools that are deemed to be 'coasting' – meeting minimum performance standards but not improving over time (Francis 2011). It is also important to remember that variability in performance is not just a phenomenon that exists between schools - it is also a problem that occurs within each school, as some pupils and classes make much more progress than others (Clifton 2013).

As Michael Wilshaw has argued, this patchwork of provision is a 'barrier to excellence' (Ofsted 2013). As a society, we still have a long way to ensure that all young people have access to a good education, and that our school system is keeping pace with the rest of the world.

1.2 Lessons from top-performing systems

Of course the key to raising standards in England's schools is to ensure there is better teaching in every classroom. This has led some commentators to argue that school structures and governance are not important because what goes on inside the classroom is what really counts. While it is true that the focus of any improvement must rest on the quality of classroom teaching, it would be a mistake to ignore the role that governance structures can play in helping or hindering this process. As the successful education reformer Michael Fullan has

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[1] We should note that England's position vis-à-vis competitor countries varies depending on which international benchmarks are used. While PISA ranks the UK as 26th for maths and 23rd for reading, other studies such as Pearson's find that the UK came 6th in its Global Index of Cognitive Skills and Educational Attainment. See http://thelearningcurve.pearson.com/reports/the-learning-curve-report-2012/towards-an-index-of-education-outputs

argued, having the wrong policies or structures in place can put barriers in the way of high performance. For example, the wrong accountability system can erode the capacity of the profession to share best practice, alienate teachers and distract schools from the core business of teaching and learning. Similarly, when governance structures are aligned to build the collective capacity of the teaching profession, astonishing results can be achieved (Fullan 2010).

There is a growing body of evidence about how school systems should be designed to ensure systematic improvement across the board. These reviews identify how countries have embarked on a journey of school improvement from poor to fair, fair to good, good to great, and great to excellent. They have found that there is a set of common interventions used at each stage of this improvement journey, although countries clearly have to adapt them to reflect their particular political and cultural contexts (McKinsey 2010). This section summarises some of the lessons that England can learn about school governance from these international studies.

1.2.1 Autonomy and accountability
The OECD's comprehensive PISA study is clear that institutional autonomy is an indicator of successful school systems. It finds that there is a strong link between pupil performance and a school's ability to choose curricula, assessment policies, textbooks and other aspects of teaching and learning (OECD 2013). These effects hold even after countries' national income has been accounted for. Giving schools control of decisions about teaching and learning enables them to tailor their provision to meet local needs, as well as giving them the space to innovate and try doing things differently.

However, these studies are also clear that school autonomy on its own is not sufficient to drive improvement – it must be accompanied by effective oversight. The PISA studies note that the benefits of school autonomy interact with accountability arrangements – autonomy is only linked to high performance where schools are held to account through published performance tables (OECD 2013). Meanwhile, charter schools have been most successful in those parts of the US, such as Boston and New York, where the state sets high standards and holds schools to account for meeting them.

1.2.2 School-led systems
McKinsey's study of school improvement observes that as countries move from 'great' to 'excellent' they tend to decentralise and put schools in the driving seat of the system.

> 'The interventions at this stage move the locus of improvement from the centre to the schools themselves; the focus is on introducing peer-based learning through school-based and system-wide interaction, as well as supporting system-sponsored innovation and experimentation.'
> McKinsey 2010: 16

As these systems tend to have highly skilled educators, they prescribe less from central government, giving professionals more freedom over how they work. The assumption is that schools and teachers are best placed to improve practice, collaborate and hold each other to account. This involves giving professionals the ability to innovate in the pedagogy they use, to adapt the curriculum to suit their students' needs, and to learn from one another through peer-to-peer networks. The role of government changes to focus more on enabling professional development, innovation and school-to-school support. McKinsey (2010) argues that while it is possible for central government to prescribe adequate school performance by rolling out standardised approaches to literacy and numeracy, this will only take a system to a certain point on the improvement journey. Beyond this point, policymakers have to encourage professional ownership by, and collaboration between, teachers and school leaders to drive improvement.

It is important to recognise that collaboration does not mean reducing public scrutiny or the performance expectations for teachers. Collaboration is a vehicle for helping to spread good practice and creativity throughout the system – it must not slip into cosy relationships where schools simply reaffirm each other's views. A number of commentators have argued that schools need a healthy mixture of collaboration and competition to help spur improvement (O'Shaugnessy 2012, Brandenburger and Nalebuff 1997). Canadian reformer Michael Fullan describes this as 'collaborative competition', where schools learn from each other as they try to outdo one another in the same way that players on a sports team have to work together within a competitive environment (Fullan 2010).

1.2.3 An effective regulatory framework

A picture therefore emerges of successful systems giving schools and professionals autonomy and putting them in the driving seat of improvement, while holding them to account through transparent performance data. However, it is also clear that in such a decentralised system, there are some things that schools cannot do. Michael Barber uses the example of the health system to make this point:

> 'While an individual hospital can be responsible for its own performance, it is not in a position to set the objectives of the system, nor to decide how progress will be measured and what data will be published. Nor can it decide who intervenes (or when and how) when the performance of an individual hospital falls below an acceptable standard. Again, the same applies to a school district. Again, only a system-level government can decide these issues.'
> Barber 2011: 10

In a system characterised by state-funded autonomous schools, decisions need to be made about how to regulate the emerging quasi-market. These decisions cannot be made by schools themselves, as there would be many potential conflicts of interest and it requires a more holistic 'bird's-eye view' of the wider system.

A review of countries that have been effective at managing a quasi-market with different school providers shows that 'effective reform requires effective, responsive and tailored regulation' (Lewis and de Botton 2011). On one hand, this regulation has to promote the benefits of diversity and autonomy in the school system, for example by actively promoting new provision where standards are low, by approving new providers with innovative educational models and by preventing monopolies of providers acting in their own self-interest. On the other hand, regulation needs to be attentive to the needs of pupils and parents and robust in addressing underperformance. Where the preferred model of school-led support has failed to help a school to improve, systems need to be in place to intervene. Crucially, evidence from top-performing systems suggests this intervention needs to be transparent and independent.

> 'The process of approving, renewing and closing government-funded, privately provided schools should be independent and transparent. Accountability systems need to be targeted in order to protect school autonomy, but robust enough to intervene when there is real and sustained failure.'
> Lewis and de Botton 2011: 4

This echoes the findings of a major review of successful school systems by the World Bank, which found that regulatory structures need the capacity to intervene where other approaches to school improvement have failed. It also found that the way schools are regulated should be transparent and guided by clear democratic oversight through the political process (Lewis and Patrinos 2011).

1.2.4 Build collective capacity

Michael Fullan, architect of Ontario's successful school system, argues that individual school improvement programmes will never be sufficient to drive up standards over an entire country. Unless school, district and national policy agendas are aligned across the whole system, innovations and improvements will always be piecemeal and short-lived (Fullan 2010). Many government policies make the mistake of focusing on individualistic strategies such as rewarding individual teachers or targeting the worst-performing schools. These may help to tackle isolated problems, but they don't add up to a strategy for improving the whole system.

McKinsey's (2010) review of the world's fastest improving countries describes this with the phrase: 'it's a system thing'. It is necessary to have the different bits of the system aligned so that they all work together to generate improvement. In order to have a widespread impact, interventions should be mutually reinforcing and act together. This helps to make the system 'self-improving' rather than relying on external interventions when things go wrong.

1.2.5 A mediating layer of governance

McKinsey (2010) reviews the international evidence on what is required to move from a good to a great school system and concludes that in order to build collective capacity there needs to be an intermediary layer between central government and individual schools. The mediating layer acts as a buffer between central government and schools, rather like a computer operating system helps to interpret, standardise and communicate different functions and actions. It also acts like a steward of the wider system – helping to ensure the different elements of the system are aligned and working together.

The mediating layer takes on different functions depending on the context, but it is generally used to do three things.

1. Act as a conduit between central government and individual schools: communicate objectives; help implement changes across the country; and feed intelligence and learning back to central government.

2. Build the collective capacity of the school system: ensure schools are collaborating and developing together; brokering horizontal connections between schools; ensuring the local schools market works in the interest of all children; and building leadership capacity.

3. Identify underperformance and intervene early: spot when the normal drivers of improvement are not working effectively, or when elements of the system are not properly aligned; and provide targeted support to specific schools.

The exact form and function of the mediating layer varies across countries. Different functions may be performed by subject groupings, advisory teachers, chains of schools, school boards or local government. But the key principle is that it helps to ensure that a system of school-to-school improvement can be sustained and widespread.

Case study: Ontario

At the turn of the millennium, Ontario's 900 high schools were in a rut. They had low school attainment, with a 60 per cent graduation rate, and considerable unrest among teachers; they faced large budget cuts and constant changes to the curriculum. In response to these challenges the provincial government launched the Ontario Student Success Strategy. This strategy focused on a few key things such as tracking students and intervening when they fell behind, improving daily teaching and learning, and connecting schools to their community.

Most important of all, the strategy was accompanied by a dedicated infrastructure that tried to build the collective capacity of the whole school system. This was a big change from previous policies, which had tended to focus on isolated elements of the system, such as

a handful of failing schools. A team of people were appointed to lead the strategy in each school district, a lead teacher was appointed to champion the programme in each school, a carefully targeted programme of professional development was rolled out, forums for collaboration between schools were created, and there was extensive communication with teachers about the strategy. As Levin (2012) argues, 'improvement does not happen by itself. It must be built and sustained carefully.' The school district and school boards played an important role in ensuring the strategy was embedded in every school, with professional educators leading the change.

Central to the success of the strategy was establishing a sense of professional responsibility and accountability. Data was used to identify schools which needed to raise their game and which groups of students needed targeted support. Teachers held each other to account for raising performance, and the district only intervened once other attempts to support improvement had failed. They also created a commission that involved unions, principals and superintendents to resolve disputes and avoid unproductive confrontation.

By 2010 the province had succeeded in turning its schools around. The graduation rate had risen to 80 per cent, fewer teachers were leaving the profession, the performance of Ontario students on PISA made it one of the best-performing systems in the world, and attainment gaps were substantially reduced.

Source: Levin 2008, Levin 2012, Fullan 2010

This chapter has shown how having the right governance structures in place can help to drive improvement across a wider school system. The five key features of success were derived from studies of countries that have been on a journey from good to great to excellent. While policies must always be adapted to fit the local context, these studies help to paint a picture of what a self-improving school system should look like. They provide a useful framework for assessing England's journey over recent years, and where it should head in the future.

2. WEAKNESSES IN THE ENGLISH SCHOOL SYSTEM

2.1 England's journey

Over the past 25 years there has been a gradual move towards giving schools more autonomy in England. The introduction of Local Management of Schools in the late 1980s saw schools taking on more responsibilities and controlling much bigger budgets. This was built upon by the subsequent Labour government, with the introduction of the Dedicated Schools Grant (which ensured that resources passed into school leaders' hands) and the creation of specialist schools and academies. These moves were accompanied by greater use of inspection and league tables to hold schools to account, as well as investing in teacher pay and leadership development through the work of the National College. In this light, it appeared that England had learned many of the lessons described in the international literature about how school systems develop from fair to good to great.

The direction of travel was not always towards more autonomy for teachers over this period. Central government prescribed particular approaches to teaching literacy and numeracy through the 'national strategies', and the government regularly intervened to force a change of leadership in schools (and occasionally local authorities) that were deemed to be underperforming.

In the latter years of the Labour government this 'top down' approach to school improvement began to weaken, and there was a shift towards schools supporting each other to improve. This approach was most effectively put in place in London and Manchester, with both cities putting considerable effort into developing clusters of schools where strong school leaders could support and challenge weaker schools to improve (Hutchings et al 2012). Ultimately, however, the use of national leaders of education (NLEs), teaching schools and other 'school-led' improvement initiatives remained small-scale and patchy. Perhaps the most obvious development of a school-led system in the last years of the Labour government was a growing number of academy chains that helped to spread particular management and pedagogical approaches across their networks of schools.

Most recently the Coalition government has rapidly increased the number of schools that operate separately from the local authority. It has done this in four main ways. First, it encouraged existing schools to convert to academy status. Second, it required local authorities to have a presumption in favour of any new school being an academy. Third, it required any underperforming maintained school to convert to an academy rather than receive intervention from the local authority. Fourth, it introduced a free school programme which enabled new providers to apply directly to central government to establish an academy, thereby bypassing local planning. It has also protected the funding that flows directly to schools while cutting local authority budgets, further cementing their financial autonomy.

As a result of these changes over half of secondary schools and over 10 per cent of primary schools now operate as academies – outside of local authority structures. The logical conclusion of this policy is a system in which the central Department for Education in Whitehall commissions and oversees thousands of autonomous schools which, over time, may organise themselves into chains, federations or looser

improvement partnerships. Meanwhile, the local authority will have a smaller role, limited to functions such as planning school places and transport.

The Coalition government has given mixed messages over the extent to which it expects schools to collaborate and lead the emerging system, or whether it sees academies and free schools as standalone individual agents. On the one hand, it has increased the number of teaching schools and NLEs, and has actively encouraged schools to join chains and federations. On the other hand, it has ended the successful city challenge initiatives in London and Manchester, failed to enforce requirements for academies to collaborate with weaker schools, and rejected any notion that an intermediary tier of governance is necessary to broker collaboration between individual schools. Despite this confusion it is clear that the locus of school improvement remains with school leaders themselves, with central government only intervening when schools fall below a minimum level of performance.

2.2 The missing middle

England's school improvement journey over the past 25 years has therefore focused heavily on promoting autonomy and accountability within the school system. In some areas this has clearly had a positive impact. The first wave of academy schools, which were created in the mid-2000s, put in place a series of strong institutions, serving communities that did not have access to high-quality school places. Alongside other improvement initiatives, they have helped to transform inner-city neighbourhoods, particularly in London, which were previously mired by sink schools and middle-class flight. Detailed econometric analysis shows that the first wave of academies, established before 2007, saw an improvement in pupil performance (Machin and Verniot 2011) and more balanced intakes (Wilson 2011). It is less clear whether the more recent 'converter academies' have been able to drive improvements in the same way. Unlike the early sponsored academies, these schools have not received a change in leadership or any additional intervention or support. In fact for many of these schools, the only real change in day-to-day practice has been a change in legal status and title, coupled with additional freedoms that most have opted not to use (Bassett et al 2012).

While policymakers in England have concentrated on extending autonomy and accountability for schools, they have paid less attention to the other drivers of 'whole system reform' identified from the international comparisons listed above. This includes the need to build collective capacity, create an effective regulatory structure, and put in place an intermediary tier of governance. This means that while there are pockets of good practice, they tend to be isolated and difficult to sustain. If the government wants excellent teaching to be more widespread and sustainable, it needs to pay more attention to building the collective capacity of thousands of autonomous schools, to ensure that they work together as part of a self-improving system.

A particular challenge that is emerging in England concerns the lack of a transparent regulatory structure and intermediary tier of governance for academies. The academy programme was originally designed to support a small handful of schools in particularly challenging contexts. The schools are directly commissioned and monitored by central government, and they are funded through legal contracts known as 'funding agreements'. This made sense when the number of academies was small and when the programme required almost daily ministerial support to sustain momentum (Adonis 2012). It was possible for a small team of civil servants to identify sponsors to take over failing schools and monitor their improvement. However, the academies programme was not designed to be applied to an entire system of 23,000 schools. Centralised commissioning and monitoring made sense when there were fewer than a hundred academies. But directly commissioning and

monitoring thousands of schools from Whitehall is unsustainable. Put simply, the job is too big for a team of civil servants sat in Whitehall to perform.

The difficulty lies in the fact that there are a number of functions that cannot be devolved directly to schools, either because they require a more holistic view of the system or because there would be a potential conflict of interest if schools were involved in the decision-making process. These include identifying who should provide new schools, brokering a change of provider when a school is consistently failing, identifying which schools should expand or contract to meet local demand, distributing funding, and so on. Following the growth of academies and free schools, these functions are now increasingly being done by central government. As Robert Hill (2012) points out, the Department for Education (DfE) studies spreadsheets to spot which schools should convert to academy status, it decides which sponsors should be awarded contracts to run individual schools, it is involved in forcing changes of leadership and governance, it directly commissions new schools and it intervenes in academies which are underperforming. But central government lacks the capacity and local knowledge to perform these functions adequately. The way it makes decisions is also too opaque and removed to be properly accountable to parents and families. As a result there is a lack of effective oversight of our school system. This poses a big risk to the government's ambition to ensure every child has access to a good quality school.

This issue has been raised by a number of leading figures within the education system, including the leader of a major academy chain, a former advisor to the prime minister, and the head of the schools inspectorate.

> *'There is no way that the current model of accountability can be the long term equilibrium. [...] There is no sensible way for a national organisation – however well-intentioned or resourced – to take responsibility for intervening in every school facing problems – let alone for getting ahead of those problems and catching them before they become crises.'*
> Jon Coles, chief executive of United Learning, speech to Academies Show, 16 May 2012

> *'The academy programme has proved remarkably successful and the programme has been effective in raising standards. But a policy designed for a few hundred schools will not be able to cope with the demands of turning around several thousand.'*
> O'Shaughnessy[2] 2012: 7

> *'We could have a situation where Whitehall is controlling an increasing number of independent and autonomous schools, and finding it very difficult to do so... There needs to be some sort of intermediary layer that finds out what is happening on the ground and intervenes before it is too late.'*
> Michael Wilshaw,[3] Her Majesty's Chief Inspectorate, evidence to education select committee, 29 February 2012

> *'It is folly to believe that as the number of academies surges into the thousands, they can all be overseen by ministers and officials based in Whitehall.'*
> Hill[4] 2012: 12

As well as making it difficult to manage the schools market and drive up standards, the lack of a middle tier also deprives local people of a voice about the way their services are run. Local communities should have some democratic input into

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2   James O'Shaughnessy is former director of policy to prime minister David Cameron.
3   Cited in Hill 2012
4   Robert Hill is former policy adviser to Tony Blair.

decisions about when schools are forced to change provider or close, or are subject to external intervention. These are decisions which will directly affect families and communities, and it is important that they are properly consulted. However, there is a democratic deficit opening up in our school system. When it comes to academies, the body responsible for championing the needs of parents is the Education Funding Agency (on behalf of the secretary of state for education). This means that if parents want to appeal decisions made by an academy, such as admissions or a change of provider at their child's school, they have to direct their complaint to civil servants in the Education Funding Agency. This is both impractical and too distant to represent meaningful engagement by families with their local education system. While it is important not to romanticise the role that local authorities play in this regard, they are at least locally elected bodies who can speak on behalf of communities and are accountable to them – which is a better state of affairs than decisions being taken without consultation by largely unaccountable bureaucrats.

While the rapid expansion of academies has only taken place in the last three years, a number of cracks are already beginning to appear that confirm the fears highlighted above. The next section provides evidence of where the lack of a transparent regulatory framework and intermediary tier of governance are becoming visible.

2.3 Cracks in the current system
The rapid expansion of the academies programme is creating tension in two distinct areas. The first set of problems relate to difficulties with the *commissioning of schools*. The second set of problems relate to difficulties with *school improvement*.

2.3.1 Problems with the commissioning of schools
Poor place planning
A basic function for any government is to ensure a sufficient supply of school places, with catchment areas that do not exacerbate socioeconomic divides. This requires good data analysis of population movements, school capacity and deprivation mapping as well as access to sufficient capital funding where expansion is required. Many local authorities have been caught out by a recent population bulge leading to a serious shortage of primary places (Richardson 2013). This is partly the result of poor planning and a lack of funding under the previous government, but it has been exacerbated by the recent expansion of the free school and academies programme for a number of reasons.

First, a key feature of academy funding agreements is that they are free to set their own admissions numbers. This means that an increasing number of schools can refuse to expand even where that may be in the interest of the families living in that area. As the final report to the ministerial advisory group explained,

> *'there is some evidence that academies are using their freedom to choose not to expand or community schools are looking to academy status as a means of avoiding expansion in the future. Schools have a range of very valid individual reasons for these decisions [...] but in some cases the combined effect of many individual school decisions can lead to a shortfall of places in a particular area.'*
> Parish et al 2012: 6

Therefore even where local authorities have access to sufficient capital funding, it can be difficult for them to plan ahead effectively.

Second, the free school programme has not been well managed. The commissioning process for free schools has bypassed local place planning and as a result several schools have been established in areas where there is already a surplus of places.

According to the National Audit Office, nearly a third (30 per cent) of free schools have opened in areas that do not face a shortage of places, and the DfE has received no applications to open primary free schools in half of all districts that are forecasting a high or severe need for places (NAO 2013). The government has given the green light for schools to open in areas where there is no demand for new places: a quarter of free schools have failed to meet their planned admissions numbers, and a handful of others were delayed or withdrawn entirely because of a lack of demand from families in the area. It is clear that the commissioning process for free schools has not always worked in the interest of the wider education system.

Third, there is a particular problem with the planning of 16–18 provision in sixth forms, further education colleges, and new institutions such as university technical colleges (UTCs) and studio schools. The pattern of demand in this area is changing as a result of the raising of the participation age to 18, rising youth unemployment, economic restructuring and demographics. This comes on top of changes to the mix of institutions working in this space, with the creation of UTCs, studio schools and some further education colleges now recruiting students directly at age 14. By the end of this parliament there will be around 100 institutions in England recruiting students directly at age 14. At the same time there has been a deregulation of the creation of new schools and sixth form places, as free schools are commissioned centrally and academies are free to open their own sixth form. The growth of sixth forms is not just a feature of Coalition government policy – the previous Labour government also enabled the creation of more sixth forms as part of its 'five year plan' published in 2004 – but it has continued apace since 2010.[5] While local authorities maintain a statutory duty to secure sufficient suitable education and training opportunities for all young people in their area, they have relatively few formal powers with which to achieve this. For example, they do not directly commission or fund post-16 provision and they have relatively few powers of intervention when quality is poor. The post-16 market is shaped much more heavily by student choices and EFA regulations.

In this context, it is difficult to ensure a coherent approach to 14–19 education, with the right mix of pathways available for young people (Hodgson and Spours 2013a). This problem is not new to the English system, with high non-completion rates and a lack of adequate provision being a feature in many parts of the country. However, there is a danger that a lack of local partnership and strategic planning is making the situation worse (Corrigan 2013). Graham Stuart, chair of the education select committee, recently expressed his concerns in this area.

> *'Every academy assumes as a badge of honour that it must have a sixth form… but there is a danger we will have small sixth forms, which struggle to survive, focus determinedly on bums on seats to keep it open, who offer a limited range of subjects and who offer far worse outcomes than sixth form colleges in their area which offer greater breadth.'*
> Graham Stuart, interview in *The Times*, 24 October 2013

As well as concerns about the quality of range of pathways available for young people, there are concerns around the use of resources. Students over the age of 16, especially those studying technical and vocational subjects, can require expert staff and equipment. This may be better achieved when resources are pooled in one specialist institution rather than several less sustainable ones.

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5   In a letter to the education select committee dated 23 October 2013, schools minister David Laws confirmed that there were then 1,125 academies with sixth forms – the majority of them, however, already had sixth forms (only 34 had predecessor schools without a sixth form). http://www.parliament.uk/documents/commons-committees/Education/GrahamStuart-ESCschoolplaces.pdf

While local authorities lack many formal levers over the post-16 education system, they remain key players in terms of setting strategic plans for their areas, shaping the market and brokering partnerships between key institutions. There are clear benefits to forming local partnerships between education institutions and employers to ensure the right mix of provision for young people. This planning has to take into account the fact that travel-to-learn areas are larger for this age group – often crossing local authority boundaries – and that some provision (especially vocational education and apprenticeships) needs to link to the subregional economic agenda. Local authorities are well placed to play this coordinating role, but the evidence is mixed on how effective these partnerships have been. A survey of London boroughs revealed that only 16 out of 24 boroughs stated they had a specific 14–19 partnership, and while these were well attended by education institutions, fewer than a third included employers (Hodgson and Spours 2013b).

Fourth, the capacity of local authorities to carry out basic functions such as data analysis has been eroded due to funding cuts. Local authorities have seen their budgets reduced by over a quarter over the course of this parliament, which will inevitably make it difficult for them to effectively administer place planning.

While there are some clear obstacles to effective place planning under the current system, these should not be overplayed. The DfE has recently invested in a comprehensive database of school capacity and population forecasts, which should enable it to make more effective commissioning decisions in the future. Local authorities still have the power to conduct place planning and run competitions for new providers where necessary. Indeed many local authorities have actively embraced their role as a commissioner rather than provider of schools, by identifying sites for new primary schools and then encouraging academy chains to establish a new school at those locations. And for many local areas it is a lack of capital funding – rather than the academies programme – that is the main obstacle to ensuring every child has access to a place at school. In this light, the biggest concerns for policymakers should be the inability to require schools to expand and the inability to plan post-16 provision.

Quality assurance
The growth in the number of different providers has been accompanied by concerns about quality assurance. There is a danger that the government has focused on increasing the quantity of free schools and academies without sufficient regard to their quality. A number of commentators have criticised the government for allowing poor-quality providers to enter the schools market – this has been most visible following the problems at Al-Madinah, Kings Science Academy and the Discovery New School, which hit the headlines for poor provision shortly after receiving government approval to open. Of the first wave of 24 free schools to be inspected, 18 were deemed 'good' or 'outstanding', five were found to require improvement, and one was deemed 'inadequate'. This proportion is roughly in line with the national average, which suggests that these schools have not been the spur to improvement that the government hoped they would be.

There are also concerns about the quality of academy providers. Ofsted (2013: 6) noted that some multi-academy trusts 'are not performing well enough' and the Academies Commission (2013) raised concerns that some chains were expanding too quickly and did not have a coherent approach to school improvement. The government clearly shares these concerns as it has prevented some chains, such as AET, from expanding.

As well as concerns about the quality of new providers entering the market, there are concerns about the process for identifying existing academies and free schools that underperform. Academies which are not part of a chain are heavily

reliant on their school governing body to hold school leaders to account and drive improvement. However, not all governing bodies have the skills or capacity to fulfil this role effectively. Last year Ofsted rated the governance of 400 schools as 'weak', and many schools struggle to fill all their governor posts. This is a particular problem in standalone academies, where governors are the main source of scrutiny and the only body able to change the school leadership.

If school governors are not up to the job then there are very limited additional sources of challenge or support for standalone academies. The next point of call is generally to wait until the school seriously underperforms in inspections or national exams, and then send a government minister to personally broker intervention. This means that intervention arrives too late: schools have to hit serious problems before any concerns are raised or action taken. It is also not sustainable for interventions – which could potentially involve hundreds of schools each year – to be personally brokered by government ministers.

A final problem with quality assurance involves the oversight of academy chains. While individual schools are inspected, there is limited oversight of chains. Despite the fact that academy chains can be responsible for the management of dozens of schools, the government does not publish data on the performance of different academy chains, and they are not inspected by Ofsted. This stands in stark contrast to local authority children's departments which are routinely inspected by Ofsted over the quality of their support for maintained schools. These problems were highlighted recently when the E-ACT chain had 10 schools (a third of its total) removed from its control amid concerns about poor performance. There were no systems in place to pick up and address underperformance before it reached such a serious point.

Opaque process for appointing providers
The academies programme has always suffered from a lack of transparency about how different sponsors or providers are chosen to run schools. When a new provider is required to take over a failing school, they enter into negotiations with government ministers, civil servants and 'academy brokers' who are paid by the government to help find sponsors. However, the decision-making process is not transparent, and was described by one review as a 'beauty parade' that takes place behind closed doors (Academies Commission 2013). This can make it difficult for new providers to enter the market and can lead to claims of cronyism or favouritism towards particular providers. It also means there is a lack of transparency and accountability to local communities about the future of their schools, as new providers can be appointed with very limited scrutiny or input from the local community.

Similar limitations apply to the free school programme, when the government receives applications to set up new schools and has to assess which bids to approve. There were severe limitations with this process in the first years of the programme leading to considerable confusion about how the bids were assessed. While the government has addressed some of these issues by introducing a scoring process, a recent National Audit Office investigation revealed that the department still 'has no formal quantitative quality threshold for approval' (NAO 2013).

Value for money. As well as making decisions about the quality of schools, the government has to consider value for money. This is especially important in a time of tight public spending. A recent report by the National Audit Office was quite clear that the free schools programme has prioritised numbers over value for money:

> *'To date, the primary factor in decision-making has been opening schools at pace, rather than maximising value for money. The Department [for Education] will need to exert more control to contain a rising cost trend.'*
> NAO 2013

School admissions

School admissions are of central importance to both quality and fairness in the education system. School systems which are segregated along social lines tend to have lower overall performance than their competitors (OECD 2013). They also contribute to social divisions as certain families are unable to access the best schools by virtue of where they live (Allen 2012).

Complex and unfair admissions processes are a longstanding problem in England and regularly feature in the news. While all schools have to abide by a nationally agreed admissions code, research has shown that some popular schools use admissions to enhance their performance – either by covertly selecting high-performing students or excluding 'hard to teach' pupils (Allen and West 2009, 2011). There is a particular danger that vulnerable pupils lose out from this process as they are likely to negatively affect a school's performance data (Barnardo's 2010). Schools which act as their own admissions authority have been shown to be more likely to manipulate their admissions (Allen and West 2009, 2011). Community schools currently have their admissions administered by the local authority, whereas voluntary aided schools, foundation schools and academies are responsible for their own admissions.

While this problem is not new to the school system, there is a danger that the growth of academies has made the situation worse. This is because schools are more likely to manipulate admissions when they act as their own admissions authority and administer the system themselves. As academies act as their own admissions authority there has been an increase in the number of schools who control their own admissions, rising from around 6,000 in 2010 to over 7,500 today (OSA 2013).

It is important to note that there is nothing inherent about schools being in charge of their admissions that means they will engage in covert selection. Most academies and voluntary aided schools are committed to the principle of comprehensive intakes and fair admissions, indeed many take more than their share of 'hard to teach' pupils as they see it as part of their social mission. However, the growth in the number of schools acting as their own admissions authority does appear to have increased the risk of bad practice in this area. The Academies Commission (2013), for example, found 'some academies willing to take a "low road" approach to school improvement by manipulating admissions rather than by exercising strong leadership'. Meanwhile, a report to the ministerial advisory group found 'there is a fear among some local authorities that the climate of increased autonomy could lead to individual schools deciding to "opt out" of taking their fair share of students who face multiple challenges and are consequently hard to place' (Parish et al 2012: 10). These concerns are backed up by data on the number of complaints received about the admissions appeal process. In 2013, 29 per cent of all upheld complaints were against academies, despite the fact that academies only made up 17 per cent of schools at the time.[6] Academies also have a higher number of exclusions when compared to similar schools (DfE 2012), prompting claims they are not fulfilling their duty towards vulnerable pupils (Stewart 2012).

The growth in the number of own admissions authority schools has also contributed to a lack of transparency over how admissions are run. This may simply represent teething problems as schools which have converted into academies take on new responsibilities for admissions – for example, these schools may not be familiar with their legal duties or do not have the capacity to comply with them fully. However, the result is that parents are put at a serious disadvantage. The latest annual report of the Office of Schools Adjudicator (OSA) raised a number of concerns around own admissions authority schools not complying with their legal duties including: failing to consult parents on changes to admissions; failing to determine their admissions

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6   Author's calculations based on data from OSA 2013

requirements by 15 April each year; and failing to publish their admissions requirements clearly on the school website (OSA 2013). The OSA was especially critical of admissions arrangements for entry to sixth forms, with many schools asking for additional information on applicants, which is forbidden, failing to set fixed admissions numbers, and having oversubscription criteria that are unlawful.

Another potential problem lies in the lack of accountability over the way admissions are run. Parents have limited recourse if they believe they have been treated unfairly when the school is also the admissions authority. Their first point of call is an independent appeals panel set up by the council or by the school itself. As schools themselves are often in control of the appeals process, it is difficult to monitor how their appeals are dealt with and whether they comply with the School Admission Appeals Code.[7] There are also concerns that many academies lack the necessary experience and capacity to perform the appeals role properly (Academies Commission 2013). The second point of call for a parent, if they want to complain about the appeals process, differs depending on the type of school. Complaints against voluntary aided and community schools are directed to the local government ombudsman. However, complaints about academies are directed to the secretary of state for education through the Education Funding Agency (EFA). Such a centralised system for dealing with complaints at the level of individual families does not make sense in a system of thousands of academies, and is breeding a huge administrative pressure on the EFA. It would be better if the process for dealing with complaints about admissions was unified across all schools and dealt with at a more local level.

The opaque and fragmented system for dealing with appeals about admissions means that parents are disempowered. This problem has been exacerbated in some areas because local authorities have stopped convening admissions forums. Admissions forums were a useful vehicle for parents to log complaints and provide scrutiny of admissions. They helped to resolve any problems locally and in a relatively quick manner. However, funding cuts and a loss of powers over education mean that some local authorities have now ceased to convene these forums, meaning there is less oversight, and more parents are forced to go through the lengthy quasi-judicial appeals process (ibid).

It is important to remember that the admissions process is not just a problem for parents. At popular schools huge amounts of staff and governor time are spent on hearing appeals. This can take up weeks of staff time as parents who are keen to get their child into the school use the appeals process as a means of 'last resort'. When schools have to administer their own admissions and the appeals process, it can distract them from the core business of teaching and learning.

Services for vulnerable children
There is rising demand for services for vulnerable pupils, because of better diagnosis, advances in medical treatment which enable more pupils with disabilities to attend mainstream schools, and greater mobility due to the effect of policy changes on asylum seekers and those on housing benefit.

Schools are now expected to commission these services themselves, but there are strong grounds for believing that they require greater place-based coordination of the kind that only a local authority can provide effectively. These reasons include the following.
• Pupils with special educational needs (SEN) are unevenly distributed across schools, and this requires coordination.

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7   For details of the Code, see http://webarchive.nationalarchives.gov.uk/20130401151715/https://www.
     education.gov.uk/publications/standard/publicationDetail/Page1/DFE-00014-2012

- Children with SEN may need services to be coordinated with the NHS and local authority social care services.
- The specialist nature of some of these services means that schools are not confident about commissioning them, and that funding them may require a pooling of resources across schools.
- Although academies are under similar obligations towards pupils with SEN, parents do not have the same rights of redress as with maintained schools, and local authorities lack powers to make academies take SEN pupils if they are full. Such cases have to be referred to the secretary of state, which is a cumbersome process.

2.3.2 Problems with school improvement
The second set of problems with the current system relate to *school improvement*, although these are more geographically variable.

Schools cut off from networks of support
Variability in performance is a problem that has long plagued England's school system (Ofsted 2013, Leunig and Wyness 2012). As will be explained in chapter 3, the key to reducing this variation in performance is to create a school-led system of improvement, where schools work together to spread good practice and challenge each other to improve. On one hand, the move towards greater school autonomy has created a space for this sort of activity to take place, as schools are free to lead improvement initiatives. Some schools have embraced this freedom by working with organisations such as the Education Endowment Foundation to innovate and spread their learning throughout the system. However, there is also a danger that when some schools become academies they look inwards and are cut off from networks of support. This was first raised as a concern by Ofsted, which found that when schools in London became academies,

> 'the change in designation appears to have separated them from the networks of support that they once enjoyed [...] their commitment to school improvement has become much narrower in its reach, limited – in most of the cases that inspectors encountered directly – to other academies. This risks leading to separate networks of expertise.'
> Ofsted 2010

Creating a truly school-led system of improvement requires systems to be in place that enable schools to collaborate and support each other. This infrastructure will vary depending on the local context, but is likely to consist of academy chains, teaching school alliances (TSAs), national leaders of education (NLEs), national leaders of governance (NLGs) and third sector organisations forming different types of improvement partnership. However, the geographical distribution of this 'collaborative infrastructure' is very uneven indeed. For example, there are very few Teaching Schools in East Anglia and the North West, which means schools in these areas can find it difficult to access improvement support. As Michael Wilshaw has argued: 'some of the areas most in need of inspiring leadership are those least likely to have access to National Leaders of Education. It is essential that the strongest leaders have some incentive to help the weakest areas to move forward' (Wilshaw 2013: 12). Concerns about the extent to which autonomous schools are spreading good practice throughout the system were also raised by the Academies Commission, which found that

> 'Not all these "converter academies" are fulfilling their commitment to supporting other schools to improve. This is significant given that they already represent over three quarters of all academies. So, in an academised system, where will capacity and support for improvement be found?'
> Academies Commission 2013

There is therefore a risk of creating a two-tier system of school improvement, where some schools are well connected to each other and thriving in an era of autonomy, while others remain isolated from these potential sources of support. More needs to be done to encourage the systematic partnering of strong schools with their weaker counterparts.

Limited oversight of school performance
The final area where cracks are beginning to appear is in the oversight of school performance. Even good schools need regular checks and challenges to help spot problems early and drive improvement. When these checks and challenges are not in place there is a danger that schools become complacent and 'coast' with mediocre results (Francis 2012). The world's leading school systems all have a process for monitoring school performance and addressing any cause for concern before it reaches crisis point. In Ontario, for example, school districts conduct regular data monitoring and use local intelligence to inform them of any emerging issues. They initially intervene in a 'non-judgmental' manner to help the school address these problems, before resorting to tougher external interventions (Fullan 2012).

There is a danger that many schools – especially those that are standalone academies or part of a poorly performing chain or local authority – are not subject to this level of oversight. This was seen recently as the government asked E-ACT to give up control of a third of its schools amid fears of poor performance – there was clearly insufficient oversight of these schools and problems were not spotted early enough. This is a particular problem for standalone academies, which have even less scrutiny of their performance. For these schools there is no oversight of performance between the school governing body and central government. The government relies heavily on GCSE data and episodic, high-stakes Ofsted inspections to assess these schools, both of which only reveal problems once they have occurred (often several years down the line). In the worst-case scenarios schools can actively use their autonomy to resist attempts by outside bodies to provide support and challenge. This problem was highlighted last year by the inspectorate.

> *'HMI have raised concerns about whether there is sufficient monitoring of, and intervention in, declining schools across the system.'*
> Ofsted 2013: 30

The lack of a middle tier of governance between standalone academies and central government means there is limited oversight of school performance. Performance monitoring becomes very dependent on exam results for 16 year olds with less 'soft' intelligence about a school's performance in other areas. Similarly, intervention arrives late in the day – once serious problems with exam results have shown up in the data, or following Ofsted inspections. This is a far cry from the approach to accountability in the world's best-performing systems, which focuses on spotting problems early and intervening in a non-judgmental manner to help build the capacity of schools to respond (Fullan 2012).

2.4 An emerging middle tier?
Section 2.3 highlighted a number of tensions that are beginning to emerge as a result of the rapid expansion of the academies and free school programme. While the move towards greater school autonomy has brought considerable benefits, it has not been accompanied by effective oversight or regulation. This will hamper the government's ambition to improve standards across the whole system.

Until recently, the government's response has been to adopt a 'wait and see' approach to the question of the middle tier for academies, preferring to leave the school system to develop organically rather than mandating the creation of a new bureaucracy. As Michael Barber has argued,

'The government may choose to take the view, for both philosophical and practical reasons, that this problem should be left for the system to sort out for itself. If so, it will be a radical experiment and the risk to the government's ability to deliver high performance in the short and medium term will be substantial.'
(Barber 2011: 20)

The government has been content to let a number of different structures emerge to fill the functions of a middle tier. The main way this has been done is for schools to form into chains or federations. Chains are groups of schools that work together under shared governance structures. Some of these are quite loose formations, with schools simply committing to collaborate with each other, while others are more formal and include shared governing bodies, centrally commissioned services and a shared approach to pedagogy (Hill 2012). Chains bring a number of benefits including creating economies of scale, providing opportunities for joint professional development between schools and ensuring regular oversight of school performance (Hill 2012, O'Shaughnessy 2012). Meanwhile, a number of other structures have grown up to take on some of the functions of a middle tier, including teaching school alliances, the use of outstanding headteachers as national leaders of education, and third sector organisations such as Teaching Leaders and Challenge Partners which help to broker collaboration, spread good practice and build professional capacity.

These emerging structures provide much-needed dynamism, innovation and support for schools. They are an important step in the creation of a genuinely 'school-led system', where schools themselves are responsible for challenging and supporting each other to improve. This new school improvement landscape will inevitably be messier than in the past, as schools develop partnerships that reflect their individual contexts. These collaborative partnerships should be welcomed as a positive way to build collective capacity and drive improvement. However, it is questionable whether these sort of 'school improvement partnerships' can effectively address all of the problems identified above.

First, there are some functions that require a level of neutrality and 'system oversight' that these emerging structures cannot provide. For example, it would be difficult for chains or groups of schools to serve the functions of commissioning and place planning, since there would be a clear conflict of interest when deciding which schools are required to expand or contract. Similar tensions may revolve around provision for vulnerable pupils. It can also be difficult to ensure that all schools are covered by school improvement partnerships when these are essentially organised on a voluntary 'opt-in' basis – some weaker schools may be reluctant to accept outside support, while some stronger schools may be reluctant to share their expertise. Such decisions require a structure that is able to take a rational overview of the needs of children in the local area and make decisions accordingly. This is something that emerging middle-tier structures are not able to provide.

Second, there is the question of scale and capacity. Academy chains have been relatively slow to expand – at the end of 2012 less than a third of academies were in a chain and the size of these chains was very small, with the vast majority having fewer than four schools (Academies Commission 2013). What's more many of these chains have taken the form of weaker federations, which have proven to be less effective at driving improvement than chains with stronger governance arrangements. While it is sensible to encourage the creation of more chains, this should be done with a careful eye on quality – those chains that have expanded very fast, such as AET, have often run into difficulty. There is therefore limited capacity for chains to provide a comprehensive middle-tier function, at least in the short term. This argument also applies to teaching school alliances (TLAs). Even if the government achieves its aim of establishing 500 TLAs each working with 25 schools, they will only reach half of the schools in England (Hill 2012: 11).

Third, the emerging middle-tier structures are very fragmented. There are numerous organisations focusing on their own functions without considering the impact on the wider system. This means some schools are well served while others remain cut off from networks of support. It also means that the different parts of the system are not aligned in a way to generate 'whole system reform'. If we are going to maximise the value of these initiatives, they need to be woven together in a more coherent strategy. As Robert Hill argues,

> 'So we have local authorities, the DfE, teaching school alliances, federations, chains and partnerships, the National College, private and other school improvement initiatives all exercising what, in the broad sense of the term, might be called middle tier functions. Does this fragmentation matter? Yes, because although the creation of a diverse range of school improvement providers is a positive development, their impact is likely to be greater by knitting together their efforts so as to reduce duplication, share intelligence and learning and ensure schools don't fall between the cracks and get left behind.'
> (ibid: 22)

The government has belatedly recognised that the lack of a middle tier is creating problems in the school system that chains and other school-to-school partnerships will not be able to fill. It has now appointed eight 'regional school commissioners' who from September 2014 will have oversight of the academies programme in their areas. The regional commissioners will have a number of powers delegated to them by the secretary of state, as well as being supported by a board of local headteachers. They will be primarily responsible for addressing underperformance in academies that fall below the floor target, recruiting and approving new academy sponsors, brokering academy conversions, and commissioning new schools (where local authorities have identified a need for additional provision and run a competition). It appears that they will not have powers over the free schools programme, forced conversion of maintained schools or school improvement.[8]

There are a number of weaknesses with this approach:
- It maintains a distinction between maintained schools and academies – each having their own parallel bureaucracy and commissioning process. This makes it difficult to manage a coherent school system and risks duplicating a number of functions.
- The regional commissioners will be poorly supported with a very small team of civil servants. This means they will not have the capacity to undertake robust performance monitoring and data analysis.
- Academies will remain on rolling seven-year contracts, which makes it very difficult to effect any change in the system that requires a change of contract. For example, the regional commissioners will have no power to ensure that academies expand – which means the problems around place planning will not be addressed.
- It is unclear what role the regional commissioners will play in relation to free schools and forced academy conversions. This means the problems that have plagued these programmes (such as placing free schools in areas that do not face a shortage of places, and opaque procurement processes) will not be addressed.
- The commissioners will have no role in school improvement unless an academy is deemed to be failing. This means there is no mechanism for identifying or intervening in schools before it gets to this point (other than relying on the school governing body). It also means there is a danger

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8   The exact role that regional school commissioners will play is not yet clear. This section is based on media reports and conversations and is therefore a 'best guess' as to their precise role and responsibilities.

that school improvement services will continue to be poorly coordinated, and some schools will be cut off from networks of support.

- The regional commissioners will cover an entire region. This scale is too large for them to keep a handle on the nature of the local schools market, especially if the number of primary academies begins to increase.

- The regions that the commissioners will cover bear no relation to other administrative units. This will make it difficult to coordinate school provision with other services such as apprenticeships, post-16 institutions and the wider regional economic agenda.

- There is a potential conflict of interest if the regional school commissioner has to make a decision that affects a school run by a member of their 'headteacher board'. They may face pressure from members of the headteacher board over decisions that affect their own schools.

- There is no process for parents or schools to appeal decisions made by the regional school commissioner. This disempowers parents and communities in the education of their children.

It can therefore be argued that the government's proposed regional school commissioners will not be sufficient to address the problems identified in this chapter. A new governance arrangement will be required to ensure these problems are overcome. The final chapter of this report sets out what this governance arrangement should look like.

3. TOWARDS WHOLE SYSTEM REFORM

This report has argued that a more effective governance arrangement is required to ensure England has a truly world-class school system. What should this governance arrangement look like? Table 3.1 suggests a suitable division of labour (a more detailed explanation of the role of each actor is included below table 3.1).

Table 3.1
New governance arrangement for whole system reform

Schools	Schools continue to be the engines of improvement and innovation in the system
	Schools would retain their existing freedoms over teaching, learning and funding.
	School improvement would largely come from teaching school alliances, national leaders of education, chains and other school-led programmes of joint professional development.
	High-performing schools (or groups of schools) could bid to expand their provision, open new schools, or take over failing ones. This would apply to any school regardless of their legal status.
Local authorities	**Local authorities have strategic oversight for place planning, admissions and specialist provision**
	Local authorities should retain their statutory duties over schools. Some of these will be delivered directly, while others will be achieved working in tandem with local school commissioners.
	Local authorities should analyse the demand for school places and advise the school commissioner when a competition for a new school should be run, or when an existing school should be required to expand.
	Local authorities should administer admissions for all schools in their area.
	Local authorities should have responsibility for ensuring the needs of vulnerable pupils are met.
	Local authorities could continue to be providers of maintained schools, although they would be seen as one provider among many. They would be free to compete on the basis of quality just like any other provider.
City-/county-region (school commissioners)	**A public advocate for raising education standards and managing the local schools market**
	City-regions and county-regions (partnerships between local authorities or combined authorities) would appoint a school commissioner who would be responsible for the strategic oversight of local schools provision – including maintained, voluntary aided, academies and free schools.
	The school commissioner would commission and decommission schools; ensure a suitable range of school improvement support is available; use soft powers to challenge schools to improve; and, where other measures have failed, broker a change of provider in underperforming schools.
	The school commissioner would have to operate under national guidelines and make all decisions in a transparent way. They could have their decisions reviewed by a national regulator.
National regulator	**Sets transparent procurement process**
	The Office of School Adjudicator would become a national regulator in case school leaders, parents or central government want to appeal a decision by a school commissioner.
	City- and county-regional school commissioners would have to operate within a transparent framework set out in statute and comply with the national regulator.

Central government	Sets overarching framework for school system
	This would include setting the core curriculum, the level of public funding available, the accountability system for assessing performance, and the minimum entitlements that all children should receive.
	Central government would primarily monitor standards for the school system as a whole, for example through greater use of international benchmarking and regional performance measures, rather than monitoring and intervening in individual schools.
	The DfE would cease to be involved with policy implementation or operational matters such as the commissioning of new schools, brokering changes of provider or intervening in failing schools, as this would be done at a local level.

3.1 Schools

The international evidence presented in chapter 1 showed that schools are well placed to drive improvement in the system. Ultimately, improvement will only take place if there is better teaching and learning in the classroom. The ambition should be to create a system of autonomous schools that work together to spread good practice and challenge each other to improve. This was the model behind the highly successful London Challenge programme, where rigorous data analysis identified schools which were in need of improvement, and interventions were delivered by headteachers and middle leaders of other schools in similar circumstances. This meant that school leaders and the wider teaching staff subscribed to a shared moral purpose and committed to a model of joint professional development which helped to drive improvement across the whole system.

As highlighted in chapter 2, this vision of a 'school-led system' is not yet a reality in many parts of England. Some schools have found themselves cut off from networks of support after converting to academy status, and they can face weak scrutiny from their governing bodies. Meanwhile some strong schools are not fulfilling their duty to collaborate with weaker schools and there is a limited infrastructure in place to facilitate collaboration and joint professional development. It is clear that school leaders and policymakers need to do more to build the capacity of schools to work together. This was one of the main recommendations of the Academies Commission, which argued that the government should play an active role in developing a *community* of autonomous schools.

> '*The evidence considered by the Commission suggests a more intensive drive to develop professional connections, collaborative activity and learning – both within and across schools – will generate fundamental change across the school system.*'
> Academies Commission 2013

There are a number of steps that could be taken to build the capacity of schools to lead the system. First, the government should help foster a 'collaborative infrastructure' that enables schools and teachers to spread good practice and develop together. This could include the following.

- Ensuring a better geographic spread of teaching schools, NLEs, chains and third sector programmes such as Teaching Leaders.
- Use the inspection system to ensure schools fulfil their responsibility to support improvement beyond their own four walls. For example, no school should be rated 'outstanding' by Ofsted unless they are involved in collaborative partnerships which support improvement in all local schools.
- Make greater use of regional 'challenge' programmes. These could be based on the successful London Challenge and targeted to areas of the country characterised by low performance.

Second, the government should support the development of school governing bodies so they can be more effective in scrutinising performance and driving improvement.

Governors are the first point of call for spotting issues and addressing them before they become critical. If governors were able to do their job more effectively it would relieve a lot of pressure on the rest of the system. The following steps are among those that should be taken to this end.

- A large expansion in the number of national leaders of governance.
- More training for school governors.
- The DfE should give governors the information they need to hold schools to account in a more accessible format. This could be in the form of a termly 'report card' which contains a broad range of indicators and compares them to schools in comparable circumstances.
- Schools which face a shortage of high-quality governors should consider combining under shared boards of governors. This would be particularly appropriate for small primary schools.

3.2 Local authorities

While schools are well placed to lead improvement, there are a number of functions that they are not able to fulfil. For example, decisions about when to intervene in a failing school or when to establish a new school cannot be taken by schools themselves, because there would be a conflict of interest and because they require a more holistic view of the wider system. Such decisions therefore need to be taken at a larger scale of governance.

These functions can broadly be split into two groups. The first set of functions are micro-level activities that require detailed local knowledge. They include place planning, identifying land that can be used for new schools, coordinating school admissions and meeting the needs of vulnerable pupils. It is our contention that these functions should be the preserve of local authorities. This is because local authorities have the detailed local knowledge and levers over other areas (such as allocating land) to perform these functions effectively.

The second set of functions are macro-level activities that require oversight at a larger scale, either because they are a relatively rare occurrence, require some distance from local politics, or because they have implications for the schools market across a city-region. This includes commissioning new school providers, decommissioning schools with low or falling rolls, brokering collaboration between schools, and commissioning post-16 provision. It is our contention that these functions cannot be done by local authorities. This is either because there would be a potential conflict of interest with their role as a provider of schools because they operate at too small a scale, or because there is a danger that they become 'captured' by local interest groups. These functions should therefore be the preserve of combined authorities. The next section gives a detailed discussion of the role that combined authorities should play.

Local authorities play a very important role in the education system. They are the democratic representatives of local families and are therefore well placed to stand up for the needs of parents and children, as opposed to the needs of providers. As a result they rightly have a number of statutory duties over education, including the duty to ensure a sufficient supply of high-quality places, as well as an important scrutiny function over the performance of schools in their area. They are also uniquely placed to make a holistic assessment about the broader wellbeing of children encompassing health, mental health and youth unemployment, and have recently had their responsibilities in these areas enhanced.

So while on one hand local authorities have had their power as a provider and funder of schools reduced over the last 20 years, on the other hand they retain an important strategic function to stand up for families and ensure good outcomes for all children. However, the move towards a 'school-led' system with a greater diversity of providers means that local authorities have to adapt the way they fulfil this role. They increasingly have to rely on using 'soft powers' to help coordinate different players in the system. As the report to the ministerial advisory group explained,

> *'a consistent reflection of local authorities taking part in this research is that in the new world, "relationships are king". They recognize that without the power to direct schools over particular issues, their ability to carry out certain functions is likely to depend on their capacity to motivate, persuade and exercise principled leadership?'*
> Parish et al 2012: 5

The extent to which local authorities have embraced this new role varies across the country. While some have stepped back from their involvement in education, others have been very effective in the way they support and shape the growth of a 'school-led' system. The following case study demonstrates how the local authority in Wigan has adapted its role.

Case study: Wigan
Wigan has embraced its new role as a 'steward' of the local school system. The borough has radically changed its school improvement model. It has moved away from having centrally funded improvement advisors, and opted instead to give this responsibility and funding to school-led clusters. The clusters are responsible for improving the performance of their schools and are led by an outstanding headteacher. Although the local authority has distributed these functions to schools, it still plays an important role. This includes:

- categorising schools according to their performance (and using this information to identify appropriate clusters)
- contracting and funding clusters to deliver improvement services
- identifying outstanding headteachers to lead the clusters
- holding the clusters to account for their work
- intervening in seriously underperforming schools (when this is requested by the cluster lead).

The benefits of this approach are that schools take ownership and responsibility for supporting and challenging each other to improve. They have built a collective moral purpose to raise standards and can develop together. It has required the local authority to rely less on its formal statutory powers and more on influencing, persuading, commissioning and building relationships with school leaders. Wigan has been singled out by Ofsted as a highly effective local authority, where young people have twice the chance of attending a school rated good or better, compared with the least effective local authorities.

Source: Aston et al 2013

While some local authorities have adapted well to their more strategic role, there are four areas where they do not always have the right levers or powers to do the job effectively. The first area is the ability to influence school size in order to assist with place planning. Local authorities are the most appropriate organisation to conduct place planning – they have the local knowledge around population flows, new housing developments and the requirements of particular neighbourhoods to determine where the number of school places should be increased or decreased. In most cases local authorities are able to negotiate with school leaders to expand their provision in order to meet the needs of families in the area. However, voluntary controlled schools and academies are free to set their own admissions

numbers, and, as outlined in chapter 2, there is a danger that some schools are refusing to add an additional form of entry even where this would be in the interest of the wider community.

The local authority should therefore have additional powers in this area. This could take the following form.

- Local authorities should try and negotiate with schools to expand their intake when this is deemed to be in the interest of families in the area. Where possible they should actively involve local school leaders in place planning. However, if a school refuses to expand, the local authority should be able to refer the case to the school commissioner to arbitrate. The burden of proof should be on the school to prove that expanding their intake would be a risk to education standards or the wellbeing of their pupils. If they are unable to demonstrate this, the school commissioner should have the power to force the school to expand – regardless of its legal status.[9]
- The DfE has recently invested in a major database of school capacity to assist them with the commissioning of free schools and academies. The department should share this database with local authorities and school commissioners. This would be a useful tool to help them with place planning.

Second, local authorities are currently able to identify where a new school should be opened, but there is a presumption that the new school has to be an academy or free school. In many cases this is a reasonable requirement, as the local authority shifts away from being a provider of schools towards acting more as a strategic commissioner. However, the presumption in favour of academies can also mean that the pool of potential applicants to open a new school is reduced. This is because only academies or free schools can bid to open a new school, while high-performing local authorities and maintained schools are prevented from entering the competition. A more rational approach would be for maintained schools and local authorities to be eligible to enter the competition to open a new school (or take over a failing one) just like everyone else. This means that all providers would be placed on a level playing field – free to compete with each other on the basis of quality.

Clearly if local authorities were able to enter the competition to open a new school (or take over a failing one) then they could not be responsible for administering that competition. This could be addressed in the following way.

- Local authorities should still be responsible for place planning and identifying where there is a need for a new school. However, the competition for a new provider should be run by the school commissioner. Commissioners would be the most effective place to run a competition because a) they would be an independent office, and b) they would have more expertise in effective commissioning. If providers believe the procurement process has not been fair they could appeal to the national regulator.

Third, local authorities are best placed to administer school admissions. As explained in chapter 2, when schools are responsible for administering admissions it is inefficient, distracts them from teaching, and presents schools with conflicting incentives. What's more, a school's admissions process can have an impact on neighbouring schools in the area. There is therefore a strong case for an independent body to administer admissions collectively for all schools in the area. This would have the added advantage of increasing

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9   This change would require primary legislation and may generate resistance from some academies or church diocese. A number of safeguards may need to be put in place to reassure academies and diocese that schools will not expand beyond a certain size. For example, schools above a certain size could be exempt in order to prevent the growth of very large schools.

transparency over how admissions decisions are made and how appeals are handled. This could be done in the following way.

- Local authorities should administer admissions for all schools in their area. Schools could still have the freedom to set their own criteria (for example in the case of religious belief) provided this was consistent with the national admissions code. However, the applications would be administered centrally by the local authority.
- If a parent wants to appeal an admissions decision then this should be done using an initial hearing by an independent appeals panel established by the local authority, with ultimate recourse being through a complaint to the local government ombudsman. This means the appeals process would be harmonised for all schools regardless of their legal status.
- Local authorities should be able to direct all schools – regardless of legal status – to admit a particular vulnerable pupil (for example, by naming a school on a child's statement). The process for a school to appeal against a local authority direction should be harmonised for all schools including academies. This could be done by requiring all appeals to be heard by the Office of the School Adjudicator.

Fourth, local authorities are best placed to coordinate specialist services for vulnerable children. This means that they should be responsible for commissioning this support across their area, and that, as stated above, they should have the same powers to force academies to take an SEN pupil as they do in relation to maintained schools.

3.3 School commissioners
This report has made the case for school commissioners to play a 'system stewardship' role in the school system. The school commissioner would be responsible for functions that need to be conducted at a larger scale than the local authority but that do not make sense to be housed by the DfE. This section sets out how this role should be designed.

3.3.1 The role of school commissioners
Who should fill the role?
The role of school commissioner should be filled by an expert with a track record in education or public service commissioning. The most likely individuals would include the leaders of academy chains, teaching school alliances, local authority children's departments, regional HMIs, or experienced civil servants. They could also be former headteachers from outstanding schools. This level of education expertise is necessary given the specialist nature of the job. It should also help to ensure the commissioner gains the confidence of school leaders, and could be seen as a possible career progression route for experienced education leaders.

Who should appoint them?
The school commissioner should be appointed by combined authorities, groups of local authorities where there is no combined authority or, in the case of London, by the mayor. However, given the education secretary will be delegating a number of powers to this individual, the secretary of state should have the power to dismiss a commissioner *in extremis*. This should be seen as a back-stop power to avoid the risk of local party political considerations influencing the decision-making process, and to ensure a degree of accountability for how the powers delegated by the secretary of state are being used. The secretary of state would have to make any decision to dismiss against clear competence criteria.

What should be the nature of their appointment?
School commissioners should be appointed on a fixed-term basis, similar to other public officials. This could be on a five- or seven-year term. Combined authorities should have the option to renew the appointment when the commissioner's term in office expires.

What is the most appropriate scale for a school commissioner?
In order to be successful, the school commissioner will need to have a comprehensive knowledge of their local schools market, and the ability to build professional relationships with headteachers and governing bodies. They also need to make decisions in conjunction with other public services and the skills needs of the local economy. Given that local authorities remain significant providers of schools it is not possible for them to be responsible for many of the commissioning functions as this would represent a clear conflict of interest. They are also sometimes too small a unit to coordinate local economic needs. It is therefore necessary for the commissioning functions to be conducted at a larger scale so that they are distinct from local authorities and can take decisions based on the needs of the wider area. This suggests that a combined authority would be the most appropriate scale for a school commissioner. In the first instance a school commissioner could be appointed in London by the mayor and the four existing combined authorities (see below for more detail). Over time, other local authorities could group together and apply to the DfE to have the power to appoint a school commissioner. The precise scale will vary across the country, and could be agreed between the DfE and individual local authorities on a case-by-case basis.

Who are they accountable to?
Given the school commissioner is discharging a number of local duties, they should be appointed by the combined authority and held to account by them. However, they should operate at arm's length from the combined authority – in order to prevent them from being 'captured' by certain interest groups and ensure there is no conflict of interest. This could be achieved by having a clear list of duties laid down in statute which all school commissioners must adhere to, regardless of where they are appointed.

This could include a duty to:
- run competitions for new schools where a need has been identified by local authorities
- follow a nationally agreed and transparent procurement process for appointing new providers
- allow schools to expand with parental demand
- ensure a diversity of providers
- intervene in schools falling below a national floor target
- support academies to join or form chains and federations
- federate or decommission schools which are unviable due to a lack of parental demand.

School commissioners would have to follow nationally agreed and transparent processes for certain tasks such as brokering a change of provider at a failing school and running competitions for a new school. This combination of statutory duties and transparent procurement processes would ensure that school commissioners are sufficiently at arm's length from the combined authority and have to work in the interest of all schools – regardless of their legal status. If any group wanted to appeal the decision of a school commissioner they could refer

it to the national independent regulator.[10] The secretary of state would also have a back-stop power to remove a school commissioner that was not fulfilling their duties to an acceptable standard.

3.3.2 The key responsibilities of school commissioners
School commissioners could have a range of responsibilities. We suggest nine key responsibilities that should be given to commissioners.

1. **Run competitions for new providers:** When a local authority identifies the need for a new school to be built, the school commissioner would be responsible for running a competition to appoint a new provider. Any existing provider – academy chain, local authority or maintained school – would be eligible to apply. All providers would therefore be placed on an equal footing and would be competing on merit. The competition should be judged according to a transparent procurement process.

2. **Broker a change of provider:** If a school consistently falls below the national floor target the school commissioner would be responsible for brokering a change of provider. They would have a duty to consult local parents and follow a transparent appointment process.

3. **Adjudicate free school applications:** The school commissioner would be responsible for receiving and judging free school applications. These applications would have to meet a stricter quality threshold in order to avoid poor-quality providers entering the system (as has happened in the case of the Al-Madinah and Discovery free schools). They will also have to meet a stricter criteria relating to demand for school places, in order to prevent free schools opening in areas with a surplus of good quality places.

4. **Renew funding agreements:** The school commissioner should be delegated the power to renew the funding agreements in their area, and should be able to advise whether the secretary of state should issue notice on an academy school's funding agreement, which means it would come up for renewal in seven years' time. (A more fundamental overhaul of the system of funding agreements is required, but this is beyond the scope of this report.[11])

5. **Force schools to expand:** Local authorities could refer schools which are not complying with their process for place planning. The school commissioner should arbitrate in these cases and have the power to force a school to expand if necessary.[12]

6. **Decommission schools:** The commissioner should identify how to manage schools that are unviable due to a lack of parental demand. This could include brokering federations, downsizing or decommissioning schools in a way that does not harm the interests of the children already enrolled there. The commissioner would have a statutory duty to intervene where schools are becoming unviable, in order to mitigate the risk of lobbying from local political interest groups.

7. **Commission 16–18 provision:** School commissioners would be well placed to help address some of the problems with the commissioning of 16–18 education set out in chapter 2. By operating across the city-region they could tie their decisions to the wider subregional economic and skills agenda; they could tie

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10   Clearly a suitable process would have to be designed to ensure the system does not become 'clogged up' with appeals.

11   Funding agreements currently operate on a rolling seven-year basis. There are a number of potential problems with this approach, including: if the government issues notice on a funding contract it has to wait seven years for it to expire; it is very difficult for the government to effect change in the school system – as schools are only required to comply with the terms set out in their funding agreement; it makes it very difficult for a school to switch to a different chain; and it opens up the education system to a litany of potential legal actions – as the service is run essentially by legal contract rather than by acts of parliament and democratic process. While these issues are beyond the scope of this report they are worthy of separate consideration.

12   This may require primary legislation as it is a change to the terms of academy funding agreements.

their decisions to the needs of 16–18 year olds who often have larger travel-to-learn areas; and they could coordinate decisions about the creation of sixth forms and colleges with the needs of the local schools market.

This could be achieved in the following way.

- Many local authorities already convene 14–19 partnerships to help them with strategic planning of upper secondary education and training. These partnerships should expand to operate at the same scale as the school commissioner (that is, involving the same group of local authorities). These partnerships could be convened and chaired by the schools commissioner, and should be a vehicle for providers to coordinate their course provision and learner numbers.

- School commissioners should be responsible for commissioning new upper secondary institutions including UTCs, studio schools, and 14+ free schools. This should be done in consultation with local authorities and the 14–19 partnership.

- More radically, school commissioners could take on a wider 'education commissioner' role, with responsibility for commissioning post-16 provision in their area. IPPR is currently undertaking a major review of post-16 provision, and one of the areas this will look at will be devolving the budgets for FE colleges and apprenticeships to the city- or county-regional level. If this were done then the school commissioner role could be expanded to assume responsibility for these budgets and to commission provision, working in partnership with local authorities and LEPs.

8. **Broker collaboration:** The school commissioner could use 'soft powers' to encourage school improvement, for example by: brokering partnerships, fostering collaboration, ensuring every school is part of a school-led improvement partnership, and encouraging schools to join chains.

9. **Track performance:** The school commissioner will also review performance data, monitor Ofsted results, and gather local intelligence in order to identify and challenge schools to improve. They would be required to report on performance to central government, as well as local authority scrutiny boards.

Combined authorities

Combined authorities are a distinct legal structure established by two or more local authorities. They take on functions that are best run at the level of the city-region, including transport and economic development. On the back of the formation of the Greater Manchester Combined Authority as a statutory body in 2011 – the so-called 'Manchester model' – government approved the formation of combined authorities for West Yorkshire, Sheffield, Liverpool and the North East region in April 2014.

- Greater Manchester Combined Authority (made up of 10 local authorities)
- North East Combined Authority (made up of five unitary and two county councils)
- Sheffield City-region Combined Authority (made up of four local authorities)
- West Yorkshire Combined Authority (made up of five unitary authorities)
- Merseyside Combined Authority (made up of six local authorities).

Combined authorities have evolved out of the need to coordinate some services, such as transport, at the level of the city-region. They therefore present a good vehicle for appointing school commissioners. There are five main arguments in favour of appointing school commissioners at this scale.

- They are an existing governance structure (and therefore do not require the creation of a new level of bureaucracy).
- They are democratically accountable to elected councils.
- They operate at a larger scale than local authorities, which is important to reduce any potential conflict of interest with local authorities in their role as a provider of schools.

- They are a suitable scale to take an overview of the wider schools market and make specialist decisions around commissioning and decommissioning schools.
- They are a good scale for coordinating 16–18 education as they reflect the larger travel-to-learn areas of this age group and are able to tie their decision-making into the wider subregional economic agenda. In this light, the combined authority could also be given more responsibilities over apprenticeships and skills.

London and the above five combined authorities would make an appropriate scale for a first wave of school commissioners to be appointed. There are currently around 900 academies open in these city-regions, so the appointment of school commissioners in these areas would immediately relieve some of the pressure on central government. It would also ensure more effective local accountability and oversight in these places – with all schools put on an equal footing in over 60 local authority areas.

Over time it would be expected that more local authorities could group together to appoint a school commissioner. This could be determined on an ad hoc basis as local authorities group together and apply to the DfE to have this power. The government should take a pragmatic approach to rolling out school commissioners across the country, as the exact scale may vary depending on the specific context. For example, in London it may make sense for the mayor to appoint a school commissioner, while in large rural areas such as Cornwall it may make sense for this to be done at the level of the county. Similarly, if some areas are unable or unwilling to take on this responsibility it could continue to be performed by the DfE. Central government should only devolve these responsibilities when it is satisfied that a robust local structure is in place to handle them.

3.3.3 Benefits of the proposed school commissioner model
The school commissioner model proposed above would represent a considerable improvement on the new regional school commissioners being created by the Coalition government. There are six main advantages to our proposed model.

First, all schools would fall under a common framework, rather than maintaining an artificial divide between schools based on their legal status. It does not make sense to maintain different structures for commissioning and intervening in academies and maintained schools. Decisions about opening, closing and intervening in schools should be taken with an eye on the local schools market as a whole, rather than being kept in distinct silos. It will also help to ensure schools operate as part of a coherent system across the city-region, rather than acting in isolation from one another.

A second benefit of our proposed model is that it puts maintained schools and academies on a level playing field to compete with each other to open new schools or take over underperforming ones. It will ensure that local authorities and academy chains are free to compete with each other on the basis of quality – as opposed to the current system which excludes potentially talented providers from competing.

Third, it provides local democratic oversight of decisions about the school system, with the school commissioner held to account by city mayors or combined authorities and serving a fixed term. Under the government's proposed model of regional school commissioners, decisions about commissioning academies are taken by civil servants who are unaccountable to local communities and who will continue to operate in an opaque manner. Under our model, decisions will be taken in a more transparent and accountable way: school commissioners would run local hearings before making decisions about new providers opening up.

Fourth, our proposed school commissioners will operate at a more appropriate scale. By being based at the level of the city-region, they will be able to build relationships with key stakeholders as well as a detailed local knowledge of their schools market – something that will not be possible at the larger regional scale proposed by the government. As they are appointed by combined authorities and city mayors, they will also be able to tie their decisions in to the subregional agenda, meaning that

they link up with decisions about early years, skills, post-16 education and transport. Under the government's model, regional school commissioners will take decisions that are divorced from these other agendas (indeed their boundaries will not reflect any other administrative unit, making it very difficult for them to coordinate their decisions with other services).

Fifth, our model will help to address a number of problems that require local planning and coordination. For example local authorities will gain greater powers over place planning and school admissions.

Sixth, our proposed model ensures that mechanisms are in place to identify underperformance and intervene in schools that are struggling before they get to crisis point. Unlike the government's proposed school commissioners, our model would enable school commissioners to monitor performance and use soft powers to broker support before schools drop below the minimum floor target. It also gives school commissioners a role in ensuring a sufficient supply of improvement services in their city-region.

3.4 A national regulator

The previous section set out proposals for school commissioners to be appointed by groups of local authorities. While this should help to address the lack of oversight and strategic planning in our school system, it is important that school commissioners operate within a transparent nationally agreed framework. One of the biggest problems with the current system is that decisions about who runs schools are taken behind closed doors with very opaque criteria – this problem must not be replicated with the creation of school commissioners. It is also important that school commissioners are not prevented from addressing controversial issues, such as brokering a change of provider or closing an unpopular school, because of local party political considerations.

In order to facilitate the creation of school commissioners, it is therefore necessary to establish an independent regulator. The independent regulator would be responsible for setting out the procurement process that commissioners should follow when creating new schools or appointing providers to take over existing ones. They would also be responsible for ensuring school commissioners operate according to their statutory duties: for example, that they run competitions according to agreed rules; that they ensure a diversity of providers in a particular area; and that they intervene in failing schools.

Having an independent regulator would be important to reassure the different stakeholders in the school system (including families, headteachers, school workforce unions, local authorities and central government) that school commissioners cannot be 'captured' by particular interest groups or run as a closed shop. The stakeholders should be able to appeal to the national regulator if they believe the school commissioner has not operated within the national framework.[13]

The national schools regulator would not require a large bureaucracy. The remit of the existing Office of the School Adjudicator could potentially be expanded to fill this role.

3.5 Central government

Central government would still have a very important role in the education system as proposed in this report. There are many functions that are best handled by the elected government of the day. This includes setting the core curriculum, the level of public funding available, the accountability system for assessing performance, the minimum entitlements that all children should receive, and the minimum-quality

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13   Clearly a suitable process would have to be put in place to ensure that the appeals system does not become 'clogged up' and that appeals can be dealt with quickly.

threshold that all providers should meet. These are decisions that require the input of elected politicians and that should apply across the whole country.

Central government should also play a role in monitoring standards in the education system. However, it should primarily be responsible for monitoring standards for the school system as a whole, for example through greater use of international benchmarking and regional performance measures, rather than monitoring and intervening in individual schools. It could do this by conducting its own data analysis and drawing on performance reports submitted by the school commissioners.

In this role, the DfE would cease to be involved with operational matters such as the commissioning of new schools, brokering changes of provider or intervening in failing schools, as this would be done at a local level. As a result the DfE would be slimmed down, with many of its commissioning functions conducted at a local level.

CONCLUSION

England's school system has come a long way over the last 20 years, but it still has a long way to go before it reaches the standards of the world's best systems. Matching the education standards of our international competitors will require spreading good practice throughout the whole system, so that it reaches into every school and classroom, rather than remaining patchy across the country.

Reforms to England's school system over the past 25 years have tended to focus on expanding school autonomy and introducing new providers into the school system. Most recently, the Coalition government has embarked on a major reform with the rapid expansion of the academy and free school programmes. By the next election the majority of secondary schools, and a significant number of primary schools, will operate outside of local authority structures.

Extending autonomy and diversity in the school system has the potential to be a force for good. It can give schools the freedom to innovate and tailor their provision to meet local needs, as well as putting schools and teachers themselves in the driving seat of improvement. However, if the government wants excellent teaching to be more widespread, it needs to pay more attention to building the collective capacity of thousands of autonomous schools, to ensure they work together as part of a self-improving system.

A particular challenge surrounds the governance and regulation of schools in this new landscape. The academies programme was originally designed for a small number of schools in very challenging contexts – it was not designed to be applied to a system with over 23,000 schools. Central government does not have the capacity or knowledge required to commission and oversee the performance of so many individual schools. A number of cracks are already beginning to appear in the system, including an acute shortage of places in some areas of the country, poor-quality providers being allowed to set up new schools, and underperformance not being picked up early enough in some cases.

The government should address these problems using the principles of 'whole system reform' that have been applied successfully in countries such as Canada. This includes: building the capacity of schools to lead the system; improving the regulatory environment in which school providers operate; and developing an effective intermediary tier of governance to take on some of the functions that cannot be done effectively by schools themselves or by central government. This could be done by creating locally accountable school commissioners, appointed by combined authorities or city mayors, to take over many of the functions currently carried out by the secretary of state – including opening new schools, changing providers at failing schools and acting as stewards for the emerging system of autonomous schools.

Having the right governance structures in place will be essential to ensure our education system is equipped to deal with the challenges of the future. Our education system will face considerable challenges over the next 10 years, including the need to find places for children of the recent baby boom; the need to create better pathways from education into work in order to reduce youth unemployment; the need to link skills to the needs of local employers as the economy restructures; the need for more efficient use of resources in order to reduce public spending; the need to reduce social divisions in our cities; and the need to raise education standards to respond to improvements among our international competitors. Addressing all these issues

will require decisions to be made about the creation, expansion, management and improvement of schools. It is vital that England has the right governance structures in place to meet these challenges.

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