



A guide to school choice reforms



Daisy Meyland-Smith and Natalie Evans

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Executive Summary

School choice reform will be a key issue at the next General Election, yet the debate so far has focused on the theoretical arguments for and against creating a ‘schools market’ by bringing more independent providers into the state system. The purpose of this report is to learn the lessons of existing school reforms in England (the academies programme), Sweden (free schools) and the US (charter schools).

The first three chapters assess the success of reforms in all three countries against seven criteria which we believe a schools market should meet in order to find the right balance between promoting innovation, choice and diversity while maintaining accountability and quality control. It should be:

1. Demand-led
2. Easy to Enter
3. Accountable
4. Genuinely free
5. Financially consistent and stable
6. Politically stable
7. Fair

None of the countries studied have achieved this balance yet, though in each case the introduction of new providers to the system has brought benefits. The chart below shows a summary of our findings:

The Ten Key Lessons

We believe that it is possible to develop a programme that adopts the best aspects of all three systems and could be implemented in this country. We draw ten key lessons from our research:

1. Once established ISFS (Independent State-Funded School) systems grow steadily and reforms are difficult to reverse:

In the US there are now 4,568 charter schools educating 1,341,687 children. In Sweden, where there are fewer barriers to setting up new schools, approximately 11.9% of children are educated in 3,302 free schools and pre-schools.

2. Most studies of attainment in ISFS show a positive effect

3. A system based on independent state-funded schools moves naturally towards federation:

In Sweden, where there are few barriers to the creation of federations, the majority of schools are now run by for-profit companies and the vast majority of new applications are for this type of school. In the US there are much stronger barriers but still as many as 30% of charter schools are involved with management organisations in some capacity.

	Demand-led	Easy to enter	Accountable	Genuinely free	Financially consistent	Politically stable	Fair
UK	X	X	✧	✧	✓	✓	✓
USA	✧/✓*	✧	✧/✓*	✓	X	X	✓
Sweden	✓	✓	X	✓	X	✓	X

✧ indicates that the evidence on whether a system passes the given test is mixed

* These categories have been given two ratings because of the huge difference between states that have multiple-authorisers and are, therefore, more demand-led and accountable, and states that only allow school districts to authorise.

4. ISFS in federations seem to perform better than one-offs

5. Allowing commercial companies to set-up ISFS significantly boosts the potential for federations to develop:

For-profit groups are much more likely to have the scale and ambition necessary to create multi-school federations.

6. The authorising/commissioning process is crucial for the success of ISFS reform:

The best approach, we argue, is that taken by US states which have multiple authorisers. This is because schools can approach more than one authoriser, so reducing the risk to diversity, but authorisers themselves are in competition and so typically take a more rigorous approach to accountability and oversight.

7. Existing local government providers should not be able to veto provision but also should not be prevented from participating in reforms:

In all three countries, most local authorities (or municipalities or school districts) have initially been hostile towards ISFS reforms.

8. Accountability is difficult to manage at a national level:

The problem of entirely ignoring local government is that it is very difficult to authorise and oversee schools from central government.

9. Funding needs to be fair and consistent

10. Choice does not necessarily lead to segregation but admissions policies have to be set carefully:

In particular, policies must remove any ‘early bird’ advantage which would favour the better-informed middle classes and should, ideally, incentivise providers to start schools in deprived communities.

Our Recommendations

Our first recommendation is that it makes sense to think of school choice reform as a series of stages rather than a ‘big bang’. That way the system can be developed in a coherent fashion rather than reactively in the face of unexpected difficulties.

Stage 1) Immediately reform the academies programme by removing barriers to entry and developing a transparent commissioning process. The DCSF would identify, in a transparent manner, those schools it wishes to become academies and initiate a public bidding process for sponsors. Clear criteria for bidders should be stated, with preference given to those already running successful academies. For-profit companies should be allowed to bid to boost supply.

Stage 2) Transfer the oversight of academies to a variety of local and regional authorisers. As the academies programme expands it will become impossible for the DCSF, or any national agency, to manage. Instead the DCSF should look to approve a range of ‘authorisers’ such as Local Authorities, elected mayors, universities and educational charities.

Stage 3) Introduce a national funding formula. A clear and transparent national funding formula should be introduced as recommended in our report *School Funding and Social Justice* published last year. All schools would receive per-pupil funding direct from the government.

Stage 4) Allow the network of authorisers to start commissioning new schools. Authorisers would be able to approve an unlimited number of schools from providers whose educational model had already proved successful. For entirely new providers an annual cap would be in place to regulate supply.

Introduction

Arguments over school choice are likely to feature strongly at the next General Election. The current Government's academy programme remains a key plank of their education reforms. The Conservative Party and Liberal Democrats have promised to go much further, allowing parents or charities to set up 'free schools' wherever there is demand, though in both cases there remains plenty of detail to fill in. It is, therefore, an opportune moment to review the performance of the academies programme in the UK and independent state-funded schools in the two countries that will feature most in the election debates: Sweden and the United States. Our goal is to refigure the debate towards evidence rather than theory and, given that all three main parties support alternative provision in one form or another, discuss the practicalities of how a schools market should operate rather than whether we should have one at all.

Over the past fifty years the argument for developing a market between state-funded schools has revolved around the ideas of choice and competition. Supporters have insisted that giving parents the freedom to choose provision from a variety of different suppliers, rather than enforcing a state monopoly, would force standards up over time. Opponents have tirelessly fought to maintain state control by raising fears that the creeping privatisation of a school system would detract attention from the core duties of a school, benefit the wealthy and would work to the detriment of the teaching profession.

Continuing these arguments, though, doesn't get us very far. After all, both are right to some extent. There seems little question that monopoly state provision can, without an unrealistically constant supply of self-motivated senior management, lead to a complacent system with

no incentive to improve. Likewise a completely free market would undoubtedly increase inequality in an already segregated school system. The answer is, rather obviously, to find the right balance – a model in which alternative providers have a route into a market, so as to keep it dynamic and innovative, but one that is designed and regulated to prevent negative outcomes.

The policymakers who introduced the three reforms analysed in this report – the academies programme, 'free schools' to Sweden, and 'charter schools' to most US states – have each tried to find this balance. None of them has quite managed it, though in each case the introduction of new providers to the system has brought significant benefits. In England the academies programme was introduced by the Blair government in 2000 to allow new sponsors to take over failing schools, but remains tightly controlled by government and difficult for potential providers to access. In Sweden the reforms have led to a much more open system that allows companies and charities to set up schools wherever they feel there is demand, with few conditions to entry. Even so, there are problems with trying to run the reforms from the centre and the accountability of free schools is relatively weak. In the US it can be difficult for providers to gain permission to set up charters and many states impose unnecessary limits and regulations. Furthermore, charter schools typically receive less funding than public schools.

From our analysis of the academies, free schools and charter schools we have created a typology of seven key tests that a schools market should meet in order to find the right balance between promoting innovation, choice and diversity while maintaining accountability and quality control. We argue that such a market should be:

1. Demand-led

Entry to the system and ongoing presence should be based on the level of demand amongst consumers (i.e. parents and pupils) rather than patronage from local or central government.

2. Easy to Enter

It is essential that the supply-side not be restricted by overly complex and expensive rules or regulations for entry. If government (central or local) can *arbitrarily* block entry or expansion then a market cannot function properly.

3. Accountable

While government should not intervene in markets arbitrarily, there has to be quality control for new entrants to prevent the misuse of public money. This necessarily requires subjective judgements, meaning that an organisation at central or local level will have to effectively commission or authorise schools. The same organisation will have to hold schools accountable if they fail to perform once established.

4. Genuinely free

Schools in the market must have the freedom to innovate while being held accountable for their performance. Any unnecessary limits on freedoms will reduce the amount of choice in the market.

5. Financially consistent and stable

Per-pupil revenue funding should be consistent across the market and the formula for allocating should be kept stable over time. Funding should be at a high enough level to support ongoing capital and revenue costs.

6. Politically stable

Contracts should be designed to provide some protection for providers from changes in the political weather.

7. Fair

The market should be designed so that it

does not increase segregation in the school system. Ideally it should be designed to reduce existing segregation.

Each of the three markets we looked at met some of these criteria, but none met all of them. Academies were the most financially stable of the three. They are also politically stable (because contracts are permanent) and fair. They are, however, neither demand-led or completely free, and the market is certainly not easy to enter. The Swedish model has almost the exact opposite benefits and disadvantages, being almost entirely free and demand-led but lacking financial stability and risking segregation. American charter schools are harder to generalise about because laws and regulations differ across states, but precisely because of this there is extreme financial and political inconsistency for groups trying to set up inter-state federations of schools. The extent to which the market is demand-led and free depends on the state, but charter schools have proved more successful where these features are strong.

In the first three chapters we take academies and the two international models in turn, first looking at the background to reform and its impact on performance, and then scrutinising them against our seven tests to help explain the importance of the factors we have highlighted. In the final chapter we suggest the ten key lessons that can be learnt by comparing the efforts of reformers in all three countries. We go on to offer a series of recommendations suggesting how the English schools market could be further developed in the light of these lessons. Obviously this requires some careful balancing (between, for example, accountability and freedom) but we believe it is possible to design a system combining the best features of the academies programme with those of the US and Swedish models.

Before we begin our detailed analysis it is worth highlighting three key themes that reoccur throughout this report. The first

is whether independent schools providers should be able to make a profit given that funding comes directly from taxpayers. Only in Sweden are there no constraints on this, which explains why their market is considerably bigger than those in England or the US. Even in Sweden, though, profit remains a contentious issue, with the centre-left Social Democrats threatening a review if and when they return to power. In the US for-profit companies are allowed to operate but usually with local partners, seriously restricting their ability to grow. In England, despite opposition from the 'Blairite' faction within the government, academies are unable to make a profit, thereby restricting the market. We argue that there is no basis in evidence to support this restriction, especially given the role private companies play in the provision of other public services, and that commercial organisations should be allowed into the market as long as appropriate accountability measures are in place.

The second key theme is the difficulty of developing an accountability structure that balances thorough oversight with the freedom to innovate. None of the countries analysed here have found this balance yet. The academies programme lacks a transparent commissioning process. Furthermore, as it has grown, it has become too unwieldy for the Department for Children, Schools and Families (DCSF) to manage – civil servants in Whitehall have proven unable to effectively support sponsors spread across the country. In Sweden it is even harder to support schools from the centre because of the lack of attainment data. In the US many states require that local school districts 'authorise' and oversee charter schools. There is a conflict of interest here, as school districts also run the public school system, and this has held back the development of the market. Those states, like Ohio and New York, which have multiple authorisers (including universities and educational charities) who

can approve and oversee charter schools, have perhaps found the best balance.

The third theme is 'scalability', a concept that has been underplayed in both the academies programme and the Conservative Party's proposed reforms. There has been too much focus on the idea of parents, community groups, independent schools and local businesses running schools and not enough on the potential for networks of federations run by educational companies and charities. We have observed the same pattern in the run-up to reform in Sweden and the US, where it was assumed that local co-operatives rather than national or regional federations would take advantage of the new opportunities. Yet in both countries federations have become increasingly important, dominating the Swedish market and representing up to 30% of charter schools. There is also evidence that schools in independent federations outperform 'one-off' free and charter schools.

This makes complete sense. It is far more efficient to enter a market if you develop a network of schools that can exploit economies of scale. Running curriculum development, teacher training and professional development, leadership programmes and behaviour management across networks is both economically and educationally efficient. It achieves what politicians cannot: scalability of successful practices across networks. Having these clusters compete with each other for further business then magnifies the levels of efficiency. If a market is designed so as to only, or predominantly, include isolated 'one-off' entrants then it will be only a little more effective than monopoly provision, and far more disruptive as individual schools continually try to reinvent the wheel. It also risks more regular market failure. We strongly believe that future reforms should be designed to maximise the potential for successful, proven, independent providers to develop federated networks of schools.

1

Academies

Background

While the idea of using markets to provide state-funded education has been around for over fifty years the argument was only really joined in the UK in the 1980s, when the Conservative government seriously considered introducing a schools voucher that parents could ‘spend’ at any school with available places (independent or state). In the end this was too contentious even for the Thatcher government, although other reforms were introduced in the 1988 Education Reform Act that created a quasi-market. The majority of the annual schools budget was delegated directly to schools,¹ parents were given the right to choose up to six schools by preference and information about school performance was published in the form of league tables. In addition, a small number of City Technology Colleges (CTCs) - independent state-funded schools sponsored by businesses - were set up and existing schools were encouraged to go ‘grant-maintained’ which gave them freedom from local authority control. Unfortunately, few schools initially applied for grant-maintained status so the government introduced an ever-juicier series of carrots (e.g. extra capital funding and the ability to select). These actually created perverse incentives for failing schools to go independent and distorted the market. The grant-maintained system was also not designed to attract new providers to run schools and so did not dramatically increase innovation.

Labour immediately abolished grant-maintained status when they entered government in 1997, replacing it with Foundation status. This still gives the governors ownership of the school but does not come with extra money, freedom to select or the same level of autonomy from the local authority. Blair and his education advisors, though, quickly became frustrated by the lack of innovation in the state sector and the apparent acceptance of permanent institutional failure by some local authorities. After some initial experiments with privatising local authorities and one school (King’s Manor in Guildford)² they settled on effectively resurrecting the CTC idea (only a few CTCs had been built by the Conservative Party – the programme was a victim of public sector cuts in the 1990s).

In 2000, schools secretary David Blunkett (directed by Blair’s education guru Andrew Adonis) announced that the government would be seeking to replace failing schools with new-build ‘city academies’ - independent state-funded schools sponsored by businesses and charities. The ‘city’ was soon dropped as the government realised there was no reason to restrict the programme to urban areas. The first three academies opened in 2002 and there were 17 open by September 2004. The *Five Year Strategy for Children and Learners* published in July 2004 set a target of 200 academies by 2010,³ which was superseded in November 2006 when Tony Blair announced a new target (with no timescale) of 400 academies.⁴ As of January

1 Though it is not and never has been delegated on per capita basis, as is sometimes stated

2 BBC News, *Private funding of schools under scrutiny*, 23 October 1999, see news.bbc.co.uk/1/hi/education/482840.stm

3 Department for Education and Skills, *Department for Education and Skills: Five Year Strategy for Children and Learners*, HM Government, 2004, see www.dcsf.gov.uk/publications/5yearstrategy/docs/DfES5Yearstrategy.pdf

4 BBC News, *Blair wants another 200 academies*, 30 November 2006, see news.bbc.co.uk/1/hi/education/6157435.stm

2009 there were 133 open academies, with a further 80 planned to open in September 2009.⁵

Although academies have only been running for seven years their role and purpose has shifted significantly. Initially the programme was designed to deal with a small number of badly failing schools in deprived areas. The sponsoring organisations were given wide-ranging freedoms over curriculum, design of new buildings, and staff pay and conditions. At the beginning staff didn't even need to be qualified teachers. Furthermore, the government was very explicit that the programme was designed as an alternative to local authority control. When announcing the original proposals David Blunkett explained that where a local authority was failing to provide a good quality education: "we have an obligation to do something for those children and for the community, because a school is part of a community."⁶

As the programme grew into a cornerstone of Tony Blair's 'legacy' it changed from providing boutique solutions for the most troubled schools into a race to identify enough schools to meet the target of 200 and then 400. Less money and time could be spent on each school. To cut costs, and provide a more uniform roll-out, new academy buildings were incorporated into the Building Schools for the Future programme, giving sponsors less control over design. The first academies had been built in the few authorities receptive to the idea but as the plan expanded more hostile authorities had to be involved. This meant concessions, like allowing them to 'co-sponsor' academies. The number of sponsors also had to be increased, which led to unedifying offers of honours to potential backers (kicking off the 'cash for honours' scandal) and a shift away from projects supported by individual millionaires towards multi-academy groups, universities, independent schools and even other state schools. In other words the

programme developed into a fully-fledged, target-driven, core activity for the DCSF. This had some positive effects (e.g. the model became more efficient and more scalable) and some negative ones (e.g. less design freedom and the greater involvement of often hostile local authorities). There is no question that Lord Adonis (in 2005 he was ennobled so that he could take up a ministerial post in DCSF) and his officials realised that a model appropriate for a small number of schools was being stretched into something it was not designed for.

Between 2004 and 2006 Adonis and Blair worked to develop additional reforms that would free all secondary schools from local authority control, allowing the academies team to focus on replacing failing schools in the most deprived areas. Had these reforms gone ahead it would not have been necessary to expand the academies programme since another route to freedom for schools would have been available. As one senior DCSF official explained to a recent Blair biographer: "Blair and Adonis wanted autonomous schools everywhere. Neither wanted local authorities to have any real control."⁷ At one point officials seriously considered unilaterally switching all schools to Foundation status simultaneously, even going as far as asking the churches (who run most Voluntary-Aided schools) for their support.⁸

Unfortunately, under intense pressure from the teacher unions and the Parliamentary Labour Party, the eventual 2006 Education Act was significantly watered down from Blair and Adonis' original plans.⁹ A new 'Trust' status was developed that was broadly similar to Foundation status but incorporated, from academies, the idea of partnering with local charities, institutions or businesses. Trust schools, however, do not have the same freedoms over their curriculum and teachers' conditions as academies, nor does the partner have the same level of control as an

5 DCSF. Currently the website shows 86 academies in feasibility or implementation, including several planned to open in 2010 and later. www.standards.dfes.gov.uk/academies/projects/?version=1

6 BBC News, *Anger at scheme for failing schools*, 15 March 2000, see news.bbc.co.uk/1/hi/education/677996.stm

7 Seldon A, *Blair Unbound*, Simon and Schuster, 2007, p 420

8 Private information

9 Seldon, pp 419-427

academy sponsor. In addition, the school is still regulated by the local authority. Hence the academies programme remains the key mechanism for introducing alternative provision and competition to the English school system.

Though Blair made continuing support for academies a condition of his retirement in favour of Gordon Brown,¹⁰ there was a widespread expectation following the latter's coronation that the programme was in jeopardy. It was well known that Brown had always been sceptical about academies and that the Treasury had tried to block the Blair speech in which the target had been raised to 400.¹¹ The Brown government was never likely to scrap the programme completely, but the early signs were not encouraging for supporters of academies. Brown's closest advisor, Ed Balls, was made schools secretary, and in his first speech he reduced the curricular freedoms of future academies.¹² At the 2007 Labour Party conference Balls reportedly spoke about bringing academies back into the local family of schools – a line used often by opponents of the programme. There has certainly been a significant increase in the involvement of local authorities in the programme since Brown took over (discussed in more detail on p.17). While Lord Adonis initially kept his job he has since been moved to the Department of Transport. Two other fervent supporters of academies within the government – Sir Cyril Taylor, formerly Chair of the Specialist Schools and Academies Trust and Sir Bruce Liddington, formerly Schools Commissioner – have also left their jobs, triggering academy sponsor worries that there are no 'champions' left to fight their cause.¹³

The cumulative effect of these changes has been to create real uncertainty among current and potential sponsors. Their concern is that the unplanned expansion of the programme under Blair, combined with a increasingly institutional and occa-

sionally hostile approach from the DCSF, will incrementally reduce the difference between future academies and other types of schools. The opposition parties have been quick to seize on this, offering more radical plans that are closer to the spirit of Blair and Adonis's initial intentions than current government policy. The Conservative Party have promised to give academy-style freedoms to 400 of the top performing schools in the country¹⁴ while providing capital funding for 220,000 places at new 'academies' and revenue funding for *any* school set up by charities or voluntary groups in response to local demand.¹⁵ The Liberal Democrats have come up with similar proposals, though they would not provide any capital funding for new schools.

Thus there seems to be a growing divide between the Labour model of alternative provision (used only to replace existing failing schools according to central government direction) and the opposition model of a looser, demand-led system. We will return to the issue of further reform in England in the final chapter. In the remainder of this chapter we will give a brief overview of the relatively scant data on how academies are performing and then look at how well the existing academies programme performs against the seven tests identified in the introduction.

Performance

There is not yet enough evidence to draw firm conclusions about the long-term impact of the academies programme, as there are only 47 academies with two or more years of GCSE results. However, it is clear that the short-term impact is almost always positive. Most of the data we do have comes from the five annual evaluations undertaken for the government by PricewaterhouseCoopers (PwC). Their final report, which provides trend data on the first 27 academies opened by 2005, was published in November 2008. The data

10 Private information

11 Seldon, p 507

12 Hansard, 10 July 2007: Column 1321

13 Garner R, *Resignation casts doubt on academies*, The Independent, 8 November 2008, see www.independent.co.uk/news/education/education-news/resignation-casts-doubt-on-academies-1001068.html

14 As long as they agree to partner with a failing school, see Prince R, *Tory party conference: Schools to get budget freedom under Conservative plans*, The Daily Telegraph, 30th September 2008 www.telegraph.co.uk/news/newstopping/politics/conservative/3108378/Tory-party-conference-Schools-to-get-budget-freedom-under-Conservative-plans.html

15 The Conservative Party, *Raising the Bar – Closing the Gap*, November 2007, pp 36–41

shows that the number of students achieving 5 A*-C GCSEs at these academies is increasing, on average, at 8% a year.¹⁶ This is *four* times as fast as the average rate of improvement for English schools and twice as fast as schools with a similar profile.¹⁷ There has also been an average annual increase of 5% in the number of students achieving 5 A*-C including English and Maths, the Government's preferred measurement. This is *five* times faster than the national average and over twice as fast as schools with a similar profile.¹⁸ Figures for results at Key Stage 3 (14 year olds) show similar rates of improvement.¹⁹

Academies have also proved much more popular with parents than their predecessor schools and are now nearly all oversubscribed. The 27 schools in the PwC study have an average of 2.6 applications for every available place and just two are undersubscribed.²⁰ The most oversubscribed has 7.1 applications for every place (1281 applications for 180 places). Some of the most successful academies opened after 2005 have shared similar success. Mossbourne in Hackney, for example, is more oversubscribed than most grammar schools, with 7.8 applications for every place.²¹

Because of this popularity academies have become more comprehensive, taking children from a wider range of social categories when, typically, their predecessor school took a disproportionate number of children from the lowest social-economic groups. Data from the PwC study shows a drop in the number of children on Free School Meals (FSM) from 42% in 2002 to 35% in 2008 (which is still considerably higher than the national average of 13%).²² Opponents of market-based reforms have argued that this proves academies are covertly selecting. This is nonsense, as the data is merely showing they are becoming more attractive to the middle-classes, which leads to more socio-economically balanced classrooms and can encourage underachieving children to flourish as classroom

behaviour improves. Such changes could, though, explain some of the improvement in academic results. There have been no published studies, as yet, looking at whether academies boost attainment for children once other factors, like income and ethnicity, have been taken into account.

While there is nowhere near enough information yet to draw any firm conclusions, the early data suggests that multi-academy groups might be outperforming individual academies, highlighting the key importance of efficiency and scalability that such groups offer (see p.18 below). Of those academies in groups that have at least two years of GCSE data, the number of children achieving five good GCSEs has increased 23% since two years before it became an academy. The equivalent figure for academies not in groups is 17%.²³

The Seven Tests

1. Demand-led

The process of setting up an academy is controlled by central and local government and rarely involves anything more than desultory consultation with parents. Thus the system is only very indirectly demand-led in that it seeks to replace schools that are failing (according to a very crude definition), which one might assume would be unpopular with local parents. There is no other assessment of demand.

The process of developing a new academy starts at the DCSF with a list of all the secondary schools in England considered to be failing (i.e. those with fewer than 30% of students achieving 5 A*-C including English and Maths at GCSE).²⁴ These schools were only publicly identified in 2008 – as the 638 participants in the slightly Orwellian 'National Challenge' – but the list has been used as the starting point for academies since the inception of the programme. This definition of failure²⁵ is of course woefully simplistic as it assumes, for example, that an inner-city

16 This data excludes 3 three schools from the sample of 27 because they were previously CTCs

17 PricewaterhouseCoopers, *Academies Evaluation – 5th Annual Report*, Department for Children Schools and Families, November 2008, p 211

18 Ibid

19 Ibid. p 202

20 Ibid. pp 40-41

21 www.mossbourne.hackney.sch.uk/folders/our_academy/jobs.cfm

22 PricewaterhouseCoopers, *ibid.* p 45-6

23 We excluded CTCs as their conversion to academy status is purely semantic – they have had the relevant freedoms since the early 90s. Our definition of a group is a organisation running two or more academies with a stated purpose of providing central support for their schools

24 This description is based on conversations with current and former civil servants at the department

25 The department is now very careful not to use that word following the outcry over the handling of the National Challenge announcement

school achieving 25% good GCSEs is performing worse than a suburban school scoring 35%, which is debatable to say the least.²⁶ Parents will have more localised definitions of success and failure that are entirely ignored when one metric alone is used to decide the dynamics of a local market. One hopes that the ‘school report cards’ that the DCSF is considering introducing (following a recommendation by Policy Exchange in 2008) will bring a new level of nuance to school improvement policy, but for now it is based on a crude and arbitrary cut-off point.²⁷

The next step for the DCSF is to persuade the local authorities containing the schools identified as underperforming to participate. While, under academies legislation, the DCSF has the freedom to take over a school without local

authority consent they have never sought to do this. Instead they try to cajole authorities into participating using a variety of carrots (e.g. extra capital funding through Building Schools for the Future or National Challenge money) and sticks (e.g. the threat of privatising all or part of the authority).

These methods do not always work against determined ideological opposition. A number of authorities that contain a considerable number of National Challenge schools do not have a single academy, either running or planned including Hull (containing seven National Challenge schools), Stoke-on-Trent (with six) and Northamptonshire (with five) each – see Table 1 for a full list of authorities with no academies opened or planned and how many eligible schools they contain.²⁸

Table 1: Local Authorities with no existing or planned academies

Local Authority	Number of Secondary Schools (2008) excluding special schools	Number of National Challenge schools (2008)	Percentage of National Challenge Schools
Hull	16	7	44%
Stoke-on-Trent	17	6	35%
Northamptonshire	49	5	10%
Blackpool	9	4	44%
Durham	39	4	10%
East Sussex	38	4	11%
Kirklees	33	4	12%
Knowsley	11	4	36%
Plymouth	18	4	22%
Sefton	25	4	16%
Cambridgeshire	44	3	7%
Hampshire	94	3	3%
Somerset	41	3	7%
Stockton-on-Tees	17	3	18%
Suffolk	52	3	6%
Warwickshire	41	3	7%
Worcestershire	45	3	7%
Bournemouth	12	2	17%
Cornwall	38	2	5%

²⁶ The department occasionally criticises higher performing schools that are “coasting” but all available sanctions, including replacement by an academy, are targeted at National Challenge schools

²⁷ Lim C and Davies C, *Helping Schools Succeed: A Framework for English Education*, Policy Exchange, 2008, pp 58-72 ; DCSF, *A School Report Card: consultation document*, 2008, see publications.teachernet.gov.uk/eOrderingDownload/DCSF-01045-2008.pdf

²⁸ Figures from the Department for Children Schools and Families website, see www.dcsf.gov.uk

Dorset	29	2	7%
Hartlepool	6	2	33%
North Yorkshire	53	2	4%
Redcar and Cleveland	11	2	18%
Southend	14	2	14%
Torbay	10	2	20%
East Riding	21	1	5%
Gateshead	13	1	8%
Halton	8	1	13%
Leicestershire	28	1	4%
North Somerset	12	1	8%
North Tyneside	12	1	8%
Northumberland	16	1	6%
South Tyneside	9	1	11%
Warrington	12	1	8%
West Berkshire	15	1	7%
York	13	1	8%

Meanwhile other, more co-operative, authorities have benefited from huge amounts of investment. Parents have no control over this process and cannot force the hand of their local authority. They are not even made aware when discussions between local and central government take place. The 2006 Education Act introduced a new duty for authorities to respond to parents who asked for a new school in their area (which would not have to be an academy), but there is no duty to act; the response can be a simple “no”.²⁹

Once an authority has agreed to participate in the programme a sponsor has to be found. Until 2007 Lord Adonis and his team would personally offer sponsorship opportunities to individuals or groups they thought might be interested; the local authority involved had little say. This ‘matchmaking’ service worked well when the programme was in its infancy as there were few sponsors prepared to risk participating in an experimental new scheme. Furthermore, it was in no sense demand-led as the choice of sponsor was not related to any measure of parental consultation.

As the programme grew larger such a personalised service was no longer feasible. Moreover, as we have seen, when Ed Balls became Education Secretary he insisted that local authorities be given a greater role in the process, leading to the introduction of a system of local authority commissioning that has now been running for a couple of years. Since 2007, once an authority has agreed to allow one of its schools to be rebuilt as an academy it is given a list of potential sponsors sounded out by the DCSF. This is still a restrictive process as the DCSF will only discuss sponsorship with individuals or organisations it thinks are interested (there is no public call for bids). Sometimes the authority involved will alert local groups and schools to the possibility of bidding and in the last few years there has been a spate of bids from consortia of local schools and further education colleges.

Local authority officers and councillors then debate the merits of the bids before choosing. Again there is no public consultation. The DCSF will not even

²⁹ Department for Children Schools and Families, *Duty to Respond to Parental Representations about the Provision of Schools: A Guide for Local Authorities*, see www.dcsf.gov.uk/schoolorg/data/guidance_Documents/duty%20to%20respond%20to%20parental%20representations%202008-03.25.pdf

release details of schools being considered for academy status or potential sponsors for that academy until the authority have made their decision and the sponsor has signed an 'expression of interest'. This is done to protect the sponsor until they have decided to commit, but it is unquestionably anti-competitive.³⁰ Authorities do not even have to retrospectively publish reasons for their decisions. Durham is the only authority to publish a (non-binding) independent evaluation of bids.³¹ This opacity also means that decisions could be made on sponsors for entirely arbitrary (and potentially political) reasons.

Involving the local authority in this way is a serious structural flaw given that the new academy will be competing against authority-run schools. From the start an authority has an incentive to reduce potential competition by choosing a compliant sponsor. Given that the purpose of the programme is to allow innovative and dynamic new providers to compete with the monopoly system controlled by authorities, it seems strange to let the very same authorities decide the criteria for participation. One academy group who recently expressed interest in bidding for an academy were sent a list of authority priorities which their bid had to meet. Improving achievement for children was listed fourth after (a) reducing health inequalities; (b) improving sexual health and reducing unplanned teenage pregnancies and (c) improving provision for children with SEN.³² This is exactly the kind of absurd process the academies programme was supposed to circumvent. The 2008 PwC evaluation of the programme noted tactfully that this method of commissioning has led to "a lack of clarity about the respective roles and responsibilities of Local Authorities and Academies".³³

Only after a bid has been successful and an expression of interest has been signed is the deal made public, at which point there is usually a consultation exercise of vary-

ing degrees of sincerity. A few authorities, such as Sheffield, have balloted parents (though always retaining the final say).³⁴ At this point, though, local parents can only reject the new school along with the promise of millions in new investment, or accept. This is especially problematic if the sponsor is particularly controversial (for example a religious group or a charity endorsing an experimental pedagogical approach) school. Most authorities have not even gone this far, preferring the usual round of public meetings which tend to be dominated by a combustible mix of supporters and ideologically driven anti-academy protestors.

In short, under the academies model parents have virtually no means to instigate the development of alternative provision in their area. If they are lucky enough to be living in an authority that has decided to participate in the programme they have no say over the nature of the academy (big or small, single sex or mixed, all-through or 11-16/18 etc) or the sponsor. It is a process tightly controlled by government and not at all responsive to demand.

2. Easy to Enter

There are a huge number of barriers for potential alternative providers in the UK schools market to overcome.³⁵ Outside of the academies programme the market is almost impenetrable. Technically authorities have to initiate a competition open to any bidder if they wish to develop a new school, theoretically offering another route for potential providers. However, there are plenty of methods authorities can use to avoid doing this. For a start very few authorities would even think of opening a new school unless forced to through a significant rise in the local population; they would rarely if ever add surplus places in an attempt to develop competition for existing failing schools.

Even if additional places are required, authorities have a number of alternatives

30 Anti-academy campaigners have taken the DCSF and Camden council to judicial review over the Swiss Cottage academy (co-sponsored by Camden and UCL) on the grounds that, by not putting the sponsorship contract out to tender, the government have broken EU competition law. The government argue that because the sponsors do not make a profit competition law doesn't apply. See Curtis P, *Academy expansion under threat*, 5th November 2008, www.guardian.co.uk/education/2008/nov/05/camden-school-case

31 Smith MJ, *Independent Evaluation of Bids From Potential Sponsors of Durham Academies*, Department for Children Schools and Families, February 2008

32 Private information

33 PwC report, p 12

34 Sheffield Telegraph, *Third City Academy plan a step closer after vote*, 12 December 2008 see: www.sheffieldtelegraph.co.uk/news2/Third-City-Academy-plan-a.4784672.jp

35 These barriers were the focus of Policy Exchange's report *Choice? What Choice?* published in November 2007

to initiating a competition. First, they can opt for an academy – and there is evidence of authorities preferring this route because they can co-sponsor an academy and choose the other sponsor, effectively keeping the school under their control.³⁶ Secondly, they can expand or replace an existing school, which usually means an exemption from competition. Since September 2006 the DCSF has received 100 applications to publish new school proposals without a competition of which 84 were approved – mostly because they were replacement schools.³⁷ The £45 billion Building Schools for the Future programme – which seeks to rebuild or renovate all secondary schools in the country by 2020 – has provided authorities with hundreds of millions of pounds each to redevelop their school estate on the basis of projected pupil numbers, meaning that (if they get their calculations right) most of them can avoid competitions for years to come.

On the rare occasions when a competition does become necessary, authorities are allowed to bid to run the school themselves. The School's Adjudicator is then responsible for deciding the winner but the authority is responsible for the consultation process – a glaring design flaw. The story of the 2006 competition in Haringey, which was won by the authority, is given in Policy Exchange's report *Choice? What Choice?* published in 2007.³⁸ Suffice it to say that even the Adjudicator who awarded Haringey the contract complained that they had more or less rigged the consultation. Other educational organisations, like Haberdashers and CfBT, who bid for the contract found the process pointless and expensive and stated that they were unlikely to participate in further competitions in which the relevant authority was a bidder.³⁹

The failure of the competition mechanism means that sponsoring an academy is the only realistic way for alternative

providers to get access to the market. Unfortunately, potential sponsors face another intimidating set of barriers. For a start they are not allowed to make a profit, thereby excluding all organisations that are not charities (or do not have a charitable wing). It is important to note that there is no legislative reason why they should not be allowed to make a profit – under the law they are simply defined as independent schools.⁴⁰ There is also no reason why a commercial company could not bid to run a school in a local authority run competition and, if they won, take a profit (though they would be highly unlikely to win). Curiously, for-profit firms are allowed into other parts of the education sector running nurseries (73% of which are for-profit),⁴¹ special schools and pupil referral units for children unable to participate in mainstream education. Academies are different because each contract is structured so that the sponsor has to be a charity. This is for purely political reasons; the government does not want to be accused of privatising education or get caught up in an emotive argument over whether organisations should be allowed to profit from children.

Tony Blair and his advisors were well aware when deciding on their educational reforms that there was no logical reason to exclude for-profit companies. Indeed, in Blair's first term, when his political capital was high, they were far more adventurous, fully privatising a number of failing local authorities and even one school, King's Manor in Guildford.⁴² Moreover, there is plenty of evidence that this was working. A recent analysis of the local authorities privatised during Blair's first term from the CBI shows that they have improved significantly faster than other authorities. In the nine privatised authorities, Key Stage 2 results in English, maths and science improved by 25% between 2001 and 2008. In England as a whole, the average level of improvement over the same period was only 14 per cent.⁴³ Of course, other

36 Sturdy E and Freedman S, *Choice? What Choice?* Policy Exchange, 2007, p 30

37 Department for Children Schools and Families, *Outcome of Exemption (s10) Requests for New Schools* – last updated 2 December 2008. HM Government, 2008, see www.dcsf.gov.uk/schoolorg/guidance.cfm?id=2

38 *Choice? What Choice?* Ibid. p 33

39 Private information

40 The City Technology Colleges, upon which the academies programme is founded, were introduced in the 1996 Education Act. Under the provisions of this act state funding for these independent schools is reliant upon education being free to all but allows for "other conditions and requirements in relation to the school as are specified in the agreement" (c.482 City technology colleges and city colleges for the technology of the arts). For examples of these funding agreements see www.dcsf.gov.uk/foischeme/subPage.cfm?action=collections.displayCollection&i_collectionID=190

41 National Day Nurseries Association, "Childcare: a sustainable mixed economy – achieving the vision for children and families", *Policy Paper*, September 2007, see [www.ndna.org.uk/Resources/NDNA/Advice%20and%20info/Policy%20Paper%20\(September%202007\).pdf](http://www.ndna.org.uk/Resources/NDNA/Advice%20and%20info/Policy%20Paper%20(September%202007).pdf)

42 BBC News, *The Guildford Experiment*, 4th May 1999, see news.bbc.co.uk/1/hi/education/specials/private/271718.stm. The school has now been renamed King's college and is going from strength to strength: www.kingscollegeguildford.com/?p=about_us

43 Information from the CBI

parts of the public sector have also been opened to private contractors in recent years: prisons, hospitals and welfare-to-work. The evidence in these sectors is also positive. For example, in his highly influential report on welfare reform David Freud noted that private brokers operating programmes through the new deal for disabled people have been more successful at getting people back to work than voluntary or charitable providers.⁴⁴

However, in 2000 the academies programme was considered small-scale and it was assumed that enough charitable sponsors would be found to avoid the tricky issue of profit. By the time further reforms for the 2006 Education Act were being discussed (which led to the creation of Trust schools – see p.10 above) Blair was under much more pressure from the left-wing of the Labour party. Officials and the most radical ministers (including Lord Adonis and John Hutton) knew that allowing profit would provide a significant boost to the market but the politics were considered unworkable. As one Number 10 aide put it: “Intellectually, Tony Blair saw that we were artificially limiting the supply of schools by not letting private companies into education to make a profit. But politically he realised it was going too far.”⁴⁵

Not only are sponsors barred from making a profit, they also have to raise a £2 million sponsorship fee that they cannot recoup. Some sponsors, particularly multi-academy sponsors, have cut individual deals with the DCSF to reduce the cost (which is a spectacularly anti-competitive practice), but most have to pay. This limits the range of sponsors to three broad groups: religious organisations with an established philanthropic approach to education, independent schools and universities (who are exempt from paying the fee) and a small number of rich individuals or companies with a specific interest in education. It would be extremely difficult for a new organisation to develop an interesting

pedagogy and then go about raising the money to sponsor without any prospect of future profits.

There is some evidence that these blocks to entry are causing real problems for the DCSF in trying to reach their artificially limited target of 400 academies (the 2008 PwC evaluation notes “the planned expansion to 400 academies will create challenges for the DCSF in securing sufficient numbers of high quality sponsors”⁴⁶). As of January 2009 there are 133 academies open and, in October 2008, Schools Minister Jim Knight said that he anticipated a further 80 opening in 2009 and 100 in 2010,⁴⁷ yet according to current DCSF figures just 86 are slated to open in *total*.⁴⁸ Future expansion has now become worryingly dependent on the sponsorship of higher and further education institutions, local authorities and the church.

In the past two years, as existing groups have started to reach capacity and paid sponsorship has dropped off following the cash for honours scandal, there has been a sharp shift towards sponsorship by universities and local authorities (often with a compliant ‘lead’ sponsor who is happy to take a back seat) and away from multi-academy groups and individuals. Just 8 out of the 133 academies already opened were sponsored by universities (6%) compared to 20 of the 86 now in feasibility or implementation (23%). For local authorities the figures are 10 out of 133 (7.5%) and 19 out of 86 (22%) respectively.⁴⁹ The shift in sponsorship type is illustrated by Graph 1.

This shift – forced by the unnecessary imposition of barriers to entry – risks changing the entire nature of the academies programme. As previously discussed, for local authorities to be sponsors completely distorts the original purpose of the programme: to break their monopoly on education provision. Involving universities as sponsors is less perverse but still risks diluting the programme as they cannot

44 Freud D, *Reducing dependency, increasing opportunity: options for the future of welfare-to-work*, Department of Work and Pensions, 2007, p. 54

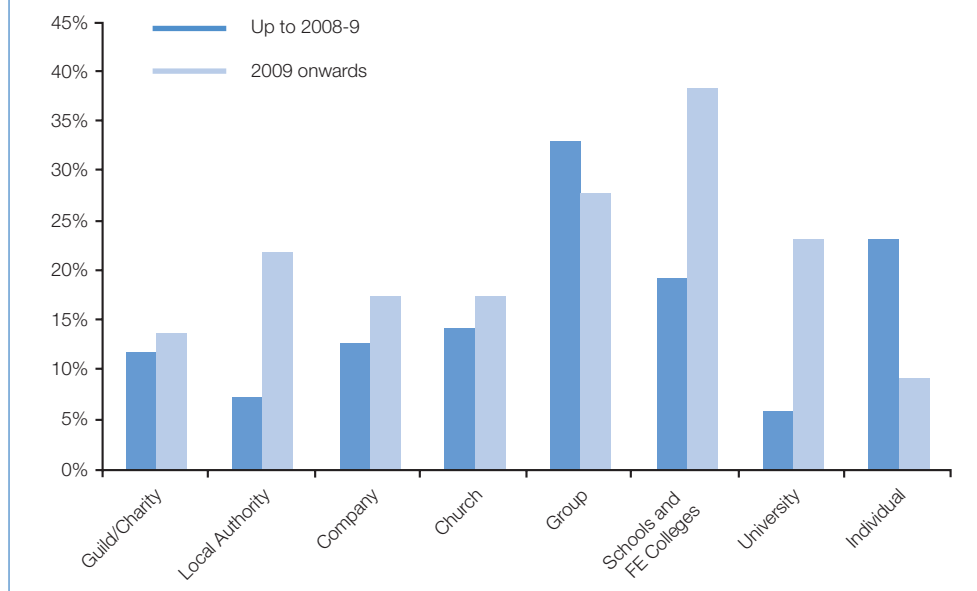
45 Seldon, p 421

46 PwC, p 12

47 www.theyworkforyou.com/wrans/?id=2008-10-09a.225415.h&s=speaker%3A11036+section%3Awrans#g225415.q0

48 www.standards.dfes.gov.uk/academies/projects/?version=1

49 Under our categories it is possible for an academy to be sponsored by more than one type of sponsor (see below)

Graph 1: Change in type of sponsor over time⁵⁰

provide the scalability that organisations founded for the specific purpose of running schools can (the same goes for independent schools).

Multi-academy groups i.e. federations running more than one school have always been the ideal sponsor for academies as they can provide this scalability and back-office efficiency. PwC note that multi-academy sponsors offer “educational experience and established infrastructure support, efficiencies and opportunities for shared resources”, they are “particularly good for leadership succession as leaders can be grown and developed within the wider network” and they provide “opportunities for learning and sharing across the community of schools”.⁵¹ Nevertheless, there are only five groups with five or more academies opened or planned: United Learning Trust, ARK, OASIS, Harris Federation and British Edutrust. Between them these five groups run 35 of the 133 academies currently open and have a further eighteen in feasibility or implementation.⁵²

Some of these organisations are already close to operating at full capacity and there is little sign of new groups appearing. A number of sponsors operating one or two

academies who could conceivably expand (e.g. the RSA, Edge and CfBT) have made it clear that they do not wish to open any more. A significant number of potential multi-academy sponsors, like SERCO and the Swedish company Kunskapsskolan,⁵³ are put off by the inability to make a profit or the need to pay a fee.

Others are held back by the restrictions of the academy model and specifically the need, in most cases, to replace an existing large comprehensive secondary school. For example, Steiner have one academy, converted from a fee-paying independent school in Herefordshire, but they would like more. Unfortunately their model requires all-through single form entry schools so they cannot easily takeover existing state secondary schools. Some of the multi-group sponsors, notably ARK, have stretched the one-size-fits-all model to its limits (by, for example, developing a group of small schools on the same site), but the need to replace an existing school rather than open a new one is a significant restriction.

Such hurdles are worsened by a lack of standardisation across local authorities. Sponsors have told us about the different information required of them in the

⁵⁰ Data is taken from the most up-to-date DCSF academies spreadsheet. Each project was then codified by sponsor type: schools can each have more than one sponsor and sponsor-type. For example, there were 171 separate entries for sponsor type in the data from academies already open (133 schools), and 146 entries in the 2009 onwards data (86 schools). The latter data set included many more multiple sponsor academies. The Guild/Charity category includes both livery companies and charities that are not primarily academy focused.

⁵¹ PwC, p 106

⁵² www.standards.dfes.gov.uk/academies/projects/?version=1

⁵³ Kunskapsskolan are in negotiations to open two academies in Richmond as a global “shop window” for their educational model. They would open many more if they could make a profit.

bidding process. While some authorities work with selected bidders to develop suitable approaches, others demand large amounts of material in incredibly short periods of time and the subject matter covered also varies enormously.⁵⁴ This situation is bad for all parties: local authorities are liable to lose potentially good bids when sponsors walk away in bewilderment, large group sponsors are unable to realise the economies of scale that underpin their model and smaller, diverse pedagogy or parent-run groups are unable to cope with the complexity.

These severe supply-side restrictions for alternative providers in England have caused serious problems for the roll-out of the academies programme and have held back the development of efficient scalable models.

3. Accountable

As we have seen, the process of setting up an academy is shrouded in secrecy. The public do not get to know about a new proposal until a sponsor has been selected. They are not told who the other bidders were (if there were any), or the justification for why the winner was chosen. Moreover, there are no clear criteria for sponsors beyond having to be charitable. There are no published guidelines on the extent to which a sponsor can seek to impose an external religious or political agenda on a school. This lack of clarity has led to controversy over a number of academies, especially those run by the Emmanuel Schools Foundation set up by the evangelical Christian philanthropist Sir Peter Vardy, which have been accused (falsely) of teaching creationism.⁵⁵

If the process of appointing sponsors was less secretive and more demand-led then controversies such as this would be far less likely to arise. Currently there is no public assessment of the pedagogical approach of individual sponsors (if they have a specific approach at all) and there remains a ques-

tion mark over whether sponsors with no educational experience should be allowed to participate in the programme.⁵⁶

Once an academy is up and running they are accountable to central government in the same way as other schools: through Ofsted and assessment data (they have to participate in Key Stage 2 tests and GCSEs). The sponsor is also held accountable through their contract or 'funding agreement'. The DCSF can cancel the contract if the academy is put into 'special measures' by Ofsted, if the sponsor is at risk of going bankrupt or if the sponsor does not fulfil the duties outlined in the agreement. If the academy has not infringed on any of these requirements the DCSF must give seven years notice if it wishes to cancel the contract (as must the sponsor). Of course this responsibility becomes increasingly difficult for the DCSF to manage with every new academy. While it is possible to have a close relationship with twenty or fifty schools, the systems of accountability become mechanistic and it is harder to spot when sponsors might be getting into difficulty when the number of academies far exceeds this. Regrettably, this has become increasingly apparent in recent months with several academies such as the Richard Rose Central Academy in Carlisle and the OASIS academy in Southampton running into trouble.⁵⁷

Though academies are commissioned by local authorities they are not, thereafter, accountable to them (unless the authority is a co-sponsor), which just shows how illogical the 2007 changes to the commissioning process are. It is right to protect academies from local authority regulation for the same reason that it is wrong to allow authorities to act as commissioners: they are direct competitors. However, this does leave academies entirely unaccountable to their local population. Again, parents are dependent on the DCSF and Ofsted's definition of failure rather than their own, more nuanced impressions.

54 Private information

55 BBC News, *Creationism 'no place in schools'*, 11 April 2006, see news.bbc.co.uk/1/hi/education/4896652.stm

56 PwC, p 13

57 <http://www.telegraph.co.uk/education/secondary-education/3727195/Emergency-inspection-launched-at-academy-following-gang-fights-and-bullying.html>; <http://www.tes.co.uk/article.aspx?storycode=6004180>; <http://news.bbc.co.uk/1/hi/education/7856985.stm>

4. *Genuine freedom*

Academies have considerably greater autonomy than other state-funded schools. However, they are still more constrained than (most) charter schools in the US and Swedish free schools, particularly since the Government has chipped away at some of their initial freedoms over the last few years. As PwC put it, “the reining back of the flexibilities originally granted to academies is an important policy shift”.⁵⁸

Initially they had complete freedom over the curriculum (those set up before 2007 still do). However, in his first speech as Education Secretary Ed Balls announced that new academies would have to follow the National Curriculum in English, Maths, Science and Information Technology.⁵⁹ This is not a problem for most sponsors, who do this anyway,⁶⁰ but it is for a few such as Steiner who have a radically different pedagogy which does not fit at all with the National Curriculum.⁶¹

Sponsors also have freedom over teacher pay and conditions for new staff but usually have to transfer existing staff to the new school with their previous terms and conditions.⁶² They also have to offer the Teacher Pension Scheme which restricts their freedom to significantly alter the salary structure (for example, by paying a higher salary to young staff in return for a reduced pension contribution). Interestingly few sponsors have made extensive use of their freedoms over pay to-date (except with headteachers who are paid considerably more than other state school principals), which may be because the majority of their staff are still holdovers from the previous management and thus have to be paid according to the national pay agreement. There are signs, though, that some of the multi-academy sponsors are increasingly seeing this freedom as way to differentiate themselves and attract high-quality staff. The Harris Federation pays staff an annual ‘Harris allowance’ on top of standard pay scales, the United Learning Trust has

developed their own pay structure and ARK are looking into developing one as well. Many academies have used their freedoms to increase the length of the school day, and most of them pay extra to compensate for this.

The first few sponsors also had considerable freedoms over the design of their academy. They were allocated a specified amount of money and then allowed to employ their own project managers and architects under the ‘Design and Build’ framework. In mid-2006, however, academy construction was integrated with the Building Schools for the Future programme and control was handed to the Partnership for Schools (PFS) quango. As the DCSF put it at the time: “academies will now be included in local authorities’ estate planning [which] will allow more integrated implementation of their strategic vision for secondary education provision across the local authority” – another example of the illogical fudging of academy independence.⁶³ Sponsors were informed that they would now “have a limited role during the academy construction, but will be informed of progress and will be consulted when required.”⁶⁴ New builds are now assigned a project manager by PFS and architects have to be selected from an approved list. While some of the bigger multi-academy sponsors have been able to use their muscle to stretch the rules on project management, most have not. As one sponsor put it: “The BSF programme is locking the door on any genuine diversity for decades to come. It is completely top-down.”⁶⁵

5. *Financially consistent and stable*

Each academy receives a General Annual Grant (GAG) made up of the following elements: (a) school budget share which is equivalent, per-pupil, to the amount that other secondary schools receive in that local authority; (b) local authority ‘hold back’ grant which is equivalent to

58 PwC, p 12

59 Hansard, Col 1322, 10 July 2007

60 The biggest problem with the curriculum is not the subject content but the vast array of add-ons – like financial literacy – which ordinary schools have to do but from which academies are exempt.

61 Steiner would also rather not use GCSEs in their academy, but have to do so for assessment purposes.

62 The Department’s policy is that Academy projects which involve the closure of an existing school or the merger of two or more schools should be conducted on the basis that the TUPE (Transfer of Undertakings, Protection of Employment) Regulations apply, unless there are exceptional circumstances which render this inappropriate. www.standards.dfes.gov.uk/academies/faq/?version=1

63 *Choice? What Choice?* p 21

64 Guidance to Academy Sponsors on PFS, DCSF, 2006

65 *Choice? What Choice?* p 21

the top-slice authorities take from most schools (usually around 10%) to pay for central services; (c) some Standards Fund and Standards Grant funding that is paid to all maintained schools from central government; (d) additional money to cover higher insurance and VAT costs (as independent schools academies are liable for VAT, unlike maintained schools); and (e) extra start-up funding in the first year(s) of operation to cover new equipment and over-staffing if the academy is new and therefore opening with fewer pupils than the planned total.⁶⁶

All of this adds up to an amount greater than state secondary schools in their authority because of item (b) the hold back grant.⁶⁷ For a reasonably sized secondary school this means an extra £500,000 or so a year. While, technically, this money is supposed to cover services that other schools would receive from their authority (like SEN support), there is usually enough left over to top-up staff salaries and to pay for other amenities. Some multi-academy sponsors get their schools to pay some money annually to a central back-office to provide support on curriculum, human resources, IT and so on, but it is rarely as much as the authority 'hold-back' (and is usually better value for money).

Academies also receive funding to cover maintenance (exactly how much depends on their building contract and whether it is funded through PFI) and, crucially, implementation funding that covers transition management and staffing (new headteachers are often hired up to a year before the new academy opens to develop new strategies on curriculum, behaviour etc.) The amount of funding available to support implementation decreased after Tony Blair increased the academy target from 200 to 400 (the Treasury would only support a cost neutral proposal). Nonetheless, it still gives sponsors a huge advantage over not-for-profit providers in Sweden and the

US who, in most cases, have no funding until pupils arrive at the school.

The level of financial support for academies means that there is little risk of sponsors running into difficulties unless they are spectacularly badly managed. To date only one sponsor has negotiated to end their contract, the building company Amey who set up the Unity City Academy in Middlesbrough in 2002 (the first academy to open), who claim this has nothing to do with finances, although they have not given any other explanation.⁶⁸

6. *Politically stable*

Academy contracts do not come up for automatic renewal, meaning that sponsors are protected to some extent from changes in the political climate. Furthermore, it means that a future government could not change the contractual basis for existing academies. The current government have actually tried to retroactively alter contracts, but if sponsors refuse the DCSF have no legal recourse. If a future government was extremely hostile to academies they could legislate them out of existence altogether. That said, this would be a risky course of action, especially if (like grammar schools) they continue to be very popular with parents. The security of the contracts makes incrementally weakening existing academies very hard.

However, as we have seen, new academies have fewer and fewer freedoms each year and there is a real risk that, because the programme's expansion is tightly controlled by central government and is not demand-led, academy status will cease to mean anything over time.

7. *Fair*

One of the central arguments of opponents to academies has always been that they will increase segregation in the school system because sponsors will be eager to manipulate their intake to boost results. However, academies have to follow the

⁶⁶ www.lgfl.net/igfl/leas/islington/web/Schools%20Circular/2007-05-21/21iapd1respondefesredsg.doc

⁶⁷ Freedman S and Horner S, *School Funding and Social Justice*, Policy Exchange. 2008, p 30

⁶⁸ news.bbc.co.uk/1/hi/education/7663484.stm

same admissions code as all other schools (since 2007) and have never been able to select academically.⁶⁹ Moreover, the available data shows that there is absolutely no evidence of ‘cream-skimming’.

In the 27 academies looked at by PwC the percentage of children eligible for free school meals (FSM – a standard proxy for disadvantaged students) had decreased from 42% to 35% since they took over from the predecessor school. But this is still much higher than the national average of 13%. More significantly it is still a higher percentage than the average for their catchment areas. Indeed, the total *number* of students on FSM at these academies has increased from 6,581 to 7,995 as the academies are typically bigger and fuller than predecessor schools. The average number in each academy has increased from 313 to 333 while the average number in local schools with overlapping intakes has decreased from 257 to 241. So academies have actually had the effect of reducing the number of children from poorer families in other local schools – the exact opposite of cream-skimming.⁷⁰ Moreover, the average pupil intake for academies have lower scores in their Key Stage 2 assessments from primary schools than those going to other local schools.⁷¹ They also have many more children with special education needs than other local schools (33% to 23%).⁷²

The only concern raised by PwC is that in 2007 the academies in their study permanently excluded a higher percentage of their population than the national average of 0.22% (PwC do not give the percentage excluded from academies). However, there were considerable differences between academies, with six excluding far more than the national average and the rest much closer to the average. In addition, as the authors of the report explain, “they may be applying low threshold approaches to misbehaviour in their early days in order to establish a culture of excellent behaviour and achieve rapid improvement in learning and attainment: if so, this may well be a positive approach in the longer term, but with the short term consequences of higher than average rates of exclusions”.⁷³ This is certainly the main explanation given by academy sponsors, who also cite a higher initial number of students who have previously been excluded from other schools in the area. In any case the government have recently altered the funding agreements for new academies so that they have to make a payment to the local authority if they exclude a child (assuming that the authority is prepared to make an equivalent payment the other way if the academy accept a child excluded from another local school).⁷⁴ This means that from now on it will be in the financial interest of academies to avoid exclusion unless absolutely necessary.

69 The government created unnecessary confusion by allowing academies (and, in fact, all specialist schools – 90% of state comprehensives are now specialist schools) to select 10% of their intake on *aptitude* in their specialism. We are not aware of any academies which use this power and it should be scrapped for avoidance of doubt.

70 PwC, pp 41-43

71 Ibid, p 51

72 Ibid, p 53

73 Ibid, p 62

74 Ibid, p 89

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Sweden

The 1992 Swedish school reforms have become something of a totem for the centre-right in the UK. Pretty much every centre-right think-tank has published something on Sweden over the past eight years.⁷⁵ This has built to a crescendo in the past 18 months with two more think-tank reports,⁷⁶ a whole series of newspaper articles⁷⁷ and the decision by the Conservative Party and the Liberal Democrats to use ‘the Swedish model’ as a shorthand for describing their programmes of reform (even though, as we shall see, there are significant differences).⁷⁸ Even so, the introduction of the reforms, their history and impacts are not well understood in the UK. The commentary from the centre-right has focused on the theoretical underpinnings of the reform and selective statistical evidence of its impact on performance.⁷⁹

Those on the Left, meanwhile, have focused solely on evidence that segregation in Swedish schools has increased over the past few years.⁸⁰ In recent months the Government have weighed into the debate, disingenuously pretending that the Swedish reforms are a dangerous new idea recently discovered by the Conservative Party.⁸¹ As the introduction to the Government White Paper that led to the 2006 Education Act makes clear, Sweden was a direct inspiration to Tony Blair and Andrew Adonis and, as we saw in the previous chapter, their original conception of Trust Schools was quite close in spirit to the 1992 Swedish reforms.⁸²

Given that it seems the role played by the market reforms in Sweden will

be a contentious issue in the run up to a General Election and the potential implementation of Conservative Party and Liberal Democrat reforms, it is worth exploring the reforms in some detail.

Background

In 1992 the Conservative government in Sweden introduced legislation to allow providers who wished to set up independent (or ‘free’) schools to receive state funding as long as they did not select academically. Initially free schools received 85% of the per-pupil funding that went to state schools, although this was decreased to 75% in 1995. The assumption was that free schools would be run more efficiently than state schools so could survive on less money, reducing costs for the whole system and (unlike state schools) they were not expected to admit children with serious special needs.⁸³ They were, however, allowed to request top-up fees from parents.⁸⁴

Much of the impetus for reform came from parents in rural areas who wished to run state schools threatened with closure by their local authority, and from organisations with radical pedagogies like Waldorf Steiner and Montessori. It was expected that these groups would dominate the new independent sector and at first they did. However, in the mid-90s there was a significant shift towards ‘general profile’ schools whose curriculum approach was broadly similar to public schools but innovative enough to attract parents. Some of these schools were founded by teachers and headteachers from the state sector

⁷⁵ For example, Pollard S, *A Class Act: World Lessons for UK Education*, Adam Smith Institute, 2001; *School Choice For All*, Reform, 2004; Hockley T and Nieto D, *Hands up for School Choice*, Policy Exchange, 2005

⁷⁶ Hlavec M, *Open Access for UK Schools: What Britain can Learn from Swedish School Reform*, Adam Smith Institute, 2007; Cowan N, *Swedish Lessons: How Schools With More Freedom Can Deliver Better Education*, Civitas, 2008

⁷⁷ For example: Freedman S, *They’ve given us Ulrika, saunas and Ikea. Now, socialist Sweden is about to give us David Cameron’s BIG idea for schools*, Daily Mail, 12 July 2008, see www.dailymail.co.uk/news/article-1034603/They-8217-ve-given-Ulrika-saunas-Ikea-Now-socialist-Sweden-David-Camerons-BIG-idea-schools.html; Garner R, *Free School: Conservatives eye the Swedish model*, Independent, 1 December 2008, see www.independent.co.uk/news/education/education-news/free-school-conservatives-eye-the-swedish-model-1042734.html

⁷⁸ Gove M, *We need a Swedish education system*, Independent, 3 December 2008, see www.independent.co.uk/opinion/commentators/michael-gove-we-need-a-swedish-education-system-1048755.html

⁷⁹ An partial exception should be made for Cowan (2008) which is considerably more detailed than any other contribution to the discussion so far.

⁸⁰ See, for example, Toynbee P, *Beware the lesson of the Tory wolf in liberal clothing*, The Guardian, 8 April 2008, see www.guardian.co.uk/commentis-free/2008/apr/08/conservatives-guardiancolumnists and any statement on the Swedish system from the NUT.

81 See, for example, Knight J, The Tories still stand for privilege, *Times Education Supplement*, 24th October 2008, see www.tes.co.uk/article.aspx?storycode=6004229

82 Department for Education and Skills, *Higher Standards, Better Schools for All*, HM Government, 2005, p 4

83 Böhlmark A and Lindahl M, *Does School Privatization Improve Educational Achievement? Evidence from Sweden's Voucher Reform*, IZA Discussion Paper No. 3691, September 2008, p 4

84 Apparently few did. Interview with Maria Rankka (President, Timbro, 25 November 2008)

85 Böhlmark A and Lindahl M, p 6

86 Telephone conversation with the Swedish Schools Inspectorate (December 2008)

87 The Green Party's support is due to their fondness for special pedagogies, such as Waldorf Steiner, that emphasise play and discovery over formal learning.

88 Interview with Anders Morin (Senior policy manager, welfare policy at Confederation of Swedish Enterprise, 25 November 2008)

89 Data kindly provided by Skolverket.

90 Interviews with Anders Hvarfner (CEO, Vittra, 26 November 2008) and Bertil Östberg (State Secretary to Minister for Education Jan Björklund, 26 November 2008)

91 www.skolverket.se

92 Data kindly provided by Skolverket

93 For full tables of school numbers see Appendix A

94 Interviews with Anders Morin (Senior policy manager, welfare policy at Confederation of Swedish Enterprise, 25 November 2008) and Carl-Gustaf Stawström (Permanent Secretary, Swedish Association on Independent Schools, 25 November 2008)

95 Renstig M, Women's Business Research Institute, *Utveckling och lönsamhet för privata utförare* Presentation given to the Confederation of Swedish Enterprise, 2008

who were unhappy with the restrictions placed on them while others were set up by entrepreneurs attracted by the ability to make profits.⁸⁵ According to the Swedish Schools Inspectorate 10% of free schools are 'confessional' and 6% are run by Steiner Waldorf. The vast majority of the remainder are general profile schools.⁸⁶

In 1994 the Social Democrats (the centre-left party in Sweden) returned to power. They were opposed to the fledgling free school movement but were constrained by their popularity with parents and support for the schools by their coalition partners, the Green Party.⁸⁷ Rather than eliminate free schools altogether they passed a law in 1996 which meant that the National Education Agency, the body which approved free schools, had to take representations from local authorities when deciding whether or not to allow a new school. This has had little effect in practice as free school operators have tended to seek local political support before making a bid (for reasons explored below – see p.29).⁸⁸ They also banned top-up fees but raised per-pupil funding for free schools to 100% of that received by state schools in the local authority.

The legislation has been left more or less unchanged since then, and there are now 3,302 free schools, or 21.5% of all Swedish schools and pre-schools. 209,410 children (approximately 12% of all children) attended free schools in 2007. The tables in Appendix A show the number and percentage of free schools and students attending free schools at each of the three levels of Swedish education: Forskola (pre-school), Grundskola (compulsory schools for ages 7-15), and Gymnasium (high schools for ages 16-18). It is notable that free schools are typically much smaller than state schools (and these are, in turn, much smaller than their English counterparts).⁸⁹ The average size of a compulsory-level free school is 132 pupils (207 for state schools) and for gymnasium 188 pupils (638 for state schools). It is also notable that in

the last five or so years than has been a significant increase in the number of free gymnasium from 200 to 300 (50%) since 2003; the number of pupils has more than doubled in the same time. The Swedish high school curriculum is designed around seventeen programmes, only two of which are academic. This means it is relatively easy to set up a small high school to teach just one or two of these programmes. The market at this level has grown so quickly that some are worried it is overheating and that many of the schools will have to close in the next few years.⁹⁰

For-profit operators now dominate the free school market, especially at the compulsory and high school level. According to the Swedish schools agency website, 1,671 licenses have been awarded to run schools at this level (more than are actually open at the moment as operators have two years to open after their application has been approved).⁹¹ Of these exactly two-thirds (1,114) have been awarded to for-profit operators. In the last few years for-profit operators have submitted the vast majority of new applications. At the pre-school level fewer schools (25% or 595 schools) are for-profit but this percentage has grown considerably in the last few years (from 18.4% in 2003).⁹² There is an ongoing process of consolidation as they buy up smaller groups or one-off schools.⁹³

The core principles of reform have now been accepted by all political parties (bar the Communists) but debate continues on whether school operators should be allowed to make a profit or, more specifically, whether they should be allowed to pay dividends to shareholders, especially foreign shareholders.⁹⁴ While profit margins are relatively low for companies running schools at the moment (at around 2% on average⁹⁵) they are growing as operators become larger and develop further economies of scale. Some of the bigger companies are now quite profitable. Alongside standard ideological (and illogical) concerns about state

money ending up in the hands of investors there are more specific worries that schools are maximising profits by turning away students with special needs or learning difficulties.⁹⁶ There are also concerns, albeit with no supporting evidence, that some unscrupulous operators are entering the market for just a short period before getting out with quick profits.

At the moment the Conservative Party (in coalition with the centre-right Liberal Party) are in power, but before they lost the election the Social Democrats had set up an enquiry into for-profit free schools, and they are likely to resurrect this whenever they return to office, with potential outcomes including limits on dividend payouts. That said, the free school sector is now so dominated by for-profit providers that it is unlikely this could be achieved without fatally undermining the whole system.

The current government, while continuing to support free schools, have moved their attention towards increasing central oversight of all Swedish schools. They are planning to introduce national testing in primary schools, expand their very minimal national curriculum and boost the capacity and scope of the national inspection agency.⁹⁷ If this sounds familiar it is because they are using England as a model for some of their changes. As we shall see these changes do threaten some of the free schools' very broad freedoms but most of the free schools – especially the general profile ones – are supportive of the changes as they will provide (they believe) an unbiased illustration of their value to parents.⁹⁸

Performance

One of the reasons that the current Swedish government are so keen to introduce more national testing is that there is very little data available at the moment that can be used to evaluate the relative performance of individual schools. At the moment there are no primary level tests so it is impossible to say how free schools at this level are per-

forming. There are national published tests in all subjects at the end of the ninth grade (15 year olds), but these are not standardised (i.e. marked externally). Standardised tests in Maths, English and Swedish are also taken at the end of the ninth grade, although it is only since 2004 that these tests been taken by all students rather than just a sample. In 2007 the average non-standardised grade point average (GPA) for pupils in free schools was considerably higher than in state schools (227.2 versus 207.5).⁹⁹ One explanation offered for this difference has been that free schools have a more favourable pupil profile. Unfortunately, there have been no studies that attempt to compare scores while controlling for factors such as parental income and education. Similarly in high school tests, where free schools outperform state schools by 14.3 grade points out of 20 to 14.0, the same caveat applies.¹⁰⁰

A number of studies have attempted to measure the relationship between the number of free schools in a given local authority and performance, on the assumption that increased competition should drive up overall results. Two studies based on data from 1997/8, when the reforms had only been active for a few years, suggested a significant boost to performance in local authorities with more free schools for all students. Åsa Ahlin found that a ten percent increase in the number of children attending free schools led to a six percentile increase in performance in standardised ninth-grade maths tests.¹⁰¹ This result was more or less replicated by Mikael Sandström and Fredrik Bergström.¹⁰² Ahlin found no impact on standardised Swedish and English tests (Sandström and Bergström did not test for this). Sandström and Bergström also found a significant positive effect for the non-standardised ninth-grade GPA – something that Ahlin did not test for. The GPA covers all the subjects taken by ninth grade students but because it is not standardised there is a risk

96 Skolfront, *Skolor sager nej*, SVT2, 23 October 2008

97 Interview with Bertil Östberg (State Secretary to Minister for Education Jan Björklund, 26 November 2008)

98 Interview with Per Ledin (President and CEO, Kunskapsskolan, 25 November 2008)

99 Skolinspektionen / Swedish School Inspection Agency, 2008, see www3.skolverket.se/friskola03/friskola.aspx

100 Ibid.

101 Ahlin Å, *Does School Competition Matter? Effects of Large-Scale School Choice Reform on Student Performance*, Uppsala University, 2003; Björklund A et al, *The Market Comes to Education in Sweden: An Evaluation of Sweden's Surprising School Reforms*, 2004, see www.nek.uu.se/StaffPages/Publ/P374.pdf, p 112

102 Ahlin found an increase of 0.17 standard deviations in Maths test scores associated with a 10% increase in free school enrolment, Sandström and Bergström found a increase of 0.19 standard deviations. Sandström M and Bergström F, *School Vouchers in Practice: Competition Won't Hurt You!*, Working Paper No.528, The Research Institute of Industrial Economics, 2002. Dietrichson J, *Introducing Competition in Public Services – The Case of the Swedish Compulsory School*, School of Economics and Management at Lund University, 2005, p 33

that results will be affected by differences in grading between types of schools and municipalities.¹⁰³ Using data from 1998-2001 Björklund et al found a significant effect on GPA (a four percentile increase for a ten percent increase in the number of children attending free schools). They argue that this is more significant than test data because it can be measured across the entire Swedish population whereas standardised test data was (until 2004) only collected for a small sample of students.¹⁰⁴

More recently these results have been challenged by Anders Böhlmark and Mikael Lindahl, who found a much smaller (though still significant) impact on GPA of one percentile increase for a 10% increase in free school enrolment.¹⁰⁵ The main reason for the difference seems to be the time period under investigation (Böhlmark and Lindahl's dataset goes up to 2003) and, more importantly, the measure of free school share in a municipality used. Previous studies looked at the number of free school students in all compulsory grades (1-9) in a municipality and correlated this against performance data at ninth-grade level. Böhlmark and Lindahl only looked at the share of students in free schools in the ninth grade. They argue that including earlier grades (which doubles the impact to two percentile points in their study) is inaccurate: "we find it difficult to believe that there would be such a large causal effect from the amount of private schooling in early grades....on the grades received by those leaving grade 9 in the same year."¹⁰⁶ One could counter-argue that a higher level of free school share at earlier grades could indicate that the students taking the ninth grade exams are more likely to have benefitted from being at a free school throughout their education. Either way all analyses to date have found evidence of a statistically positive impact at ninth-grade level. None has suggested a negative impact on attainment.

In a follow-up study Böhlmark and Lindahl found that the impact of free school enrolment at ninth-grade level wears off over time and that it has no significant effect on high school GPA (equivalent to A-levels).¹⁰⁷ Their results are questionable for a number of reasons. First, in the second year of high school (which lasts three years) they find a 2.5% percent boost to GPA from a 10% increase in ninth-grade free school enrolment, which is higher than the impact they find on ninth-grade GPA for the same students. This effect then seems to disappear in the third year of high school when no positive effect is found. The authors can find no convincing explanation for this.¹⁰⁸ Moreover, the authors have again used the ninth-grade share as a measure of free school enrolment. If the share in all compulsory grades had been used it is likely that they would have found a significant impact on high-school performance.

Despite the generally positive picture painted by these analyses, many policymakers in Sweden are concerned that free schools have not had a greater impact on performance. There is considerable unhappiness that Sweden is currently ranked lower in international comparative studies like TIMSS and PISA than in previous years¹⁰⁹ (though still outperforming England in PISA).¹¹⁰ There are a number of possible explanations for this. First, the number of children in Sweden has been increasing for almost the entire time that the free school reforms have been in place.¹¹¹ This has meant that few state schools have had to close as a result of competition. Effectively, free schools have been absorbing new demand in many municipalities. Barring any major immigration, high school populations are expected to fall for the next few years (see Graph 2) and many schools - both state and free - will have to close. As competition increases its impact on performance is likely to become significantly more pronounced.

103 There is some dispute over whether free schools inflate non-standardised grades compared to state schools. Christina and Magnus Wikström claim they do, by about 15% at high school level when compared with performance achieved on the externally marked Swedish Scholastic Assessment Test. Böhlmark and Lindahl, however, find that free schools *deflate* grades at ninth-grade level compared to state schools. As the latter study is looking at compulsory schools and the former at post-compulsory high schools they could both be right, though that would be counter-intuitive. See Wikström C and Wikström M, *Grade inflation and school competition: an empirical analysis based on the Swedish upper secondary schools*, Economics of Education Review, Vol. 24, No. 3, 2005, pp 309-322; Böhlmark A and Lindahl M, *The Impact of School Choice on Pupil Achievement, Segregation and Costs: Swedish Evidence*, IZA Discussion Paper No. 2786, May 2007, p 29

104 Björklund et al, p 116

105 Böhlmark and Lindahl, 2007, pp 25-26

106 Ibid, p 32

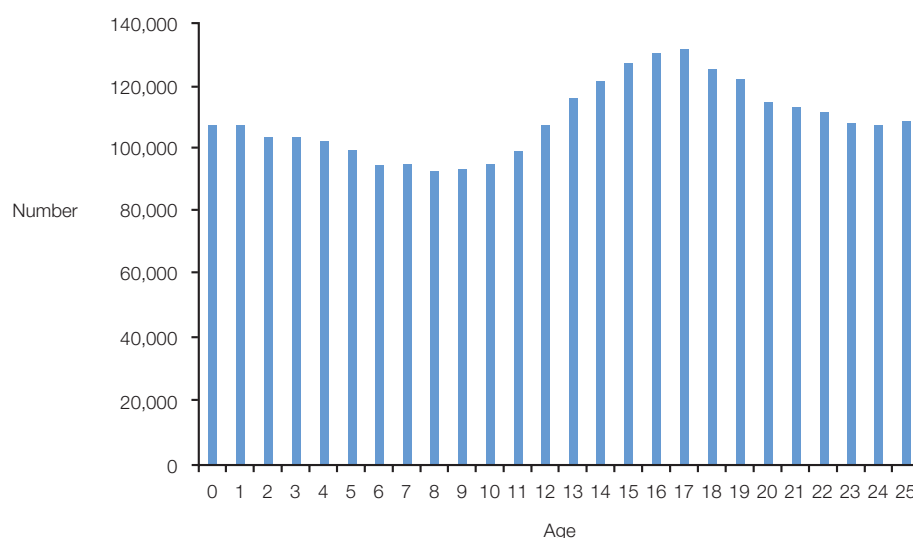
107 Böhlmark and Lindahl 2008, pp 17-18

108 Ibid, pp 20-22

109 *Highlights From the Trends in International Mathematics and Science Study (TIMSS) 2003*, National Center for Education Statistics, 2004, see nces.ed.gov/pubs2005/2005005.pdf, p 7; and www.pisa.oecd.org/dataoecd/31/0/39704446.xls

110 And there are any number of methodological flaws in international studies. See, for example, Smithers A, *England's Education: what can be learned by comparing countries?* Sutton Trust, 2004

111 Lim C and Davies C, *Helping Schools Succeed: Lessons from Abroad*, Policy Exchange, p 75

Graph 2: Number of children of each age in Sweden¹¹²

Secondly, although the reforms have been in place since 1992, only in the last few years have the benefits of scalability really started to kick in.¹¹³ The free school groups have now reached a size at which they can collect comparative performance data; translate best practice from one school to another; provide additional training and professional development for their own teachers; and develop their own internal leadership programmes. They have also now had the experience to fine-tune their curriculum and teaching methodologies. Thus it is likely that, at least for the bigger groups (which are nearly all for-profit), performance will start to improve over the next few years. Graph 3 shows how this is happening in Kunskapsskolan schools. For the first years of operation, performance has been steadily above average, albeit not dramatically. Last year, results improved dramatically and are forecast (on the basis of internal assessment) to do so again this year.

Of course another important way of measuring the success of free schools is their popularity. The expansion of the free schools market from zero to around twelve percent of the available pupils in the last fifteen years is testament to a growing popularity amongst parents. Moreover, the

market is still growing. In the application period 2008-9, there were 441 applications to open new schools (59 pre-schools, 137 compulsory schools, 237 high schools and 8 special schools), despite the falling number of children.¹¹⁴ Polls also show that free schools are more popular. Appendix B contains data taken from polling by the Confederation of Swedish Businesses in 2006 of parents, students, and teachers. They show that free school parents are happier with their choice than state school parents in every single category. In a number of categories like “the school is good at taking care of skilled and talented students” and “as a parent I can influence how the rules in school are followed” free school parents are three times more satisfied than their counterparts in the state sector. Looking at the overall measure of satisfaction, 9 out of 10 free school parents give their school a positive grade compared with 6 out of 10 state school parents.

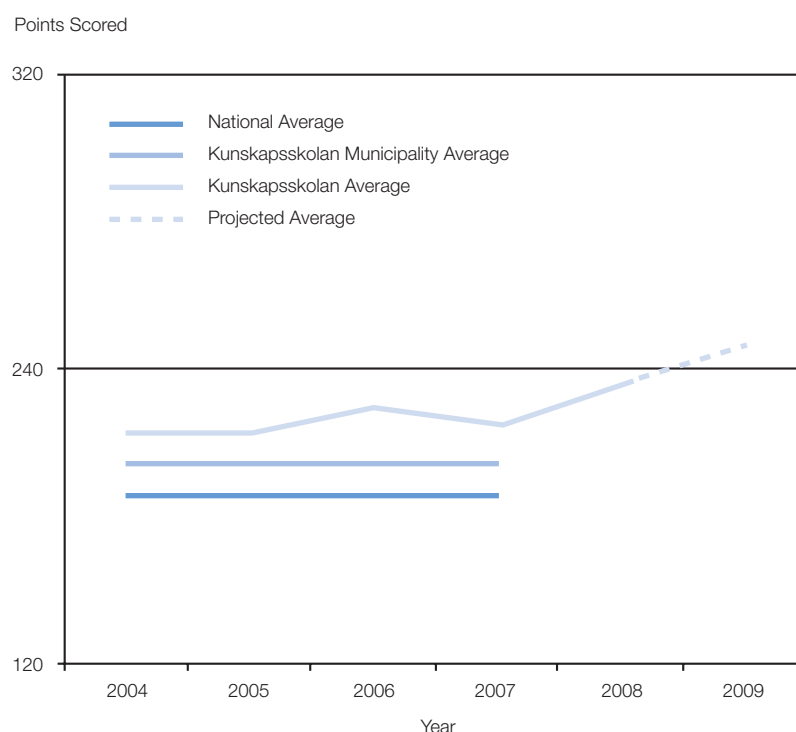
The difference in student satisfaction is less clear cut (perhaps for the same reasons their parents are happy – discipline is tougher and they are expected to work harder). Nevertheless free school students still rate their school higher in 21 out of 25 categories including big leads for questions measuring

¹¹² Figures from Statistics Sweden, see www.scb.se/templates/tableOrChart___159285.asp

¹¹³ Even groups already in existence will have taken time to reach scale, but it must also be understood that not all groups and companies in the marketplace came into being at the birth of the reform. For example Vittra was founded in 1993, while Kunskapsskolan is a new-comer, started in 1999.

¹¹⁴ Data from the Swedish School Ministry: www3.skolverket.se/friskola03/friskola.aspx (9 February 2009)

Graph 3: Kunskapsskolan average grades, compared with the other schools in their school district and the national average



a positive work environment. Interestingly, despite free school students being happier with their school, under almost all of the measures both sets of students rate their schools more or less the same overall (any difference less than 5% is not statistically significant) and are equally happy with their choices. The authors of the report speculated that this is because free school students are more likely to have been actively involved in choosing their school so will be more aware that alternatives are available to them.

Crucially free school teachers are more positive in 11 out of 13 categories. This is important as the main opponents of market reforms in every country in which they are mooted are the teacher unions, presumably because of the belief that working conditions will be harmed and they will lose some of the control they enjoy in a centralised system. Nonetheless, teachers at free schools take more pride and enjoyment from their work, receive more inter-

esting tasks, feel that they are expanding their professional competence and believe that they are learning new things. There are no categories in which state school teachers are more content to a statistically significant level. Interestingly the pollsters did not ask a question about salary and there is no available evidence on differences in working conditions but any problems with pay or conditions would surely have been picked up in the questions on camaraderie and feeling appreciated.¹¹⁵

It is also worth noting a more subtle effect of the reforms. Swedish education has traditionally been highly progressive. Very few schools expect their pupils to wear uniforms, for example, and reading is not taught until children are seven years old. The curriculum is minimal, there are very few national tests and parents rely on teacher assessment. The status of teachers has always been very low (even lower than in England).¹¹⁶

¹¹⁵ All polling taken from Laurent B, *Friskolorna är bäst i klassen*, Swedish Confederation of Business, 2006, translated for the authors by Jonathan Giertha.

¹¹⁶ Which suggests the standard union argument in England that teacher status is low because of a lack of autonomy is probably not correct. They have much more autonomy in Sweden.

As discussed earlier, the current Conservative government are looking to change this by expanding the national curriculum, increasing tests and introducing a tougher inspection regime. It is questionable whether they would be able to do this if free schools had not been introduced. While there are no studies of parental demand (an important gap in the research), anecdotal evidence suggests that parents have been attracted to more rigorous educational models. The Internationella Engelska Skolan offer a traditional English education (tough behaviour management included) and are probably the most popular free school group in Sweden. Even groups like Kunskapsskolan, which look progressive to the English eye as their curriculum is based on personalised learning, are far more attainment-oriented than Swedish state schools and have been pushing for more national testing. In other words it seems as if Swedish parents have different views on what is best for their children than generations of Swedish educationalists, and entrepreneurs have been able to take advantage of this. This, in turn, has had a significant impact on the whole nature of the education policy debate.

The Seven Tests

Demand-Led

The Swedish system is the most demand-led of the three examined in this report. Unlike the academies programme entry to the market is decided by the provider rather than initiated by the government. Unlike America there are no set caps on the number of entrants. There is not, however, an entirely free market. If a provider wishes to set up a school they have to apply to the school inspectorate (the Swedish equivalent of Ofsted). Until October 2008 they applied to the Skolverket or School Board (roughly equivalent to the QCA). The inspectorate have a list of criteria that applicants have to meet. They must: be

prepared to follow the (very slim) national curriculum; be able to show demand for their schools in the municipality proposed; show that they have the financial capacity to set up the schools; show that they will not be narrowly faith-based (schools can be run by religious organisations but the curriculum offered must be secular) and so on. Since 1996 the municipalities (local authorities) affected have been able to make a submission regarding the impact of the proposed school on local state schools, and the central agency have had to take this into account in their judgement.

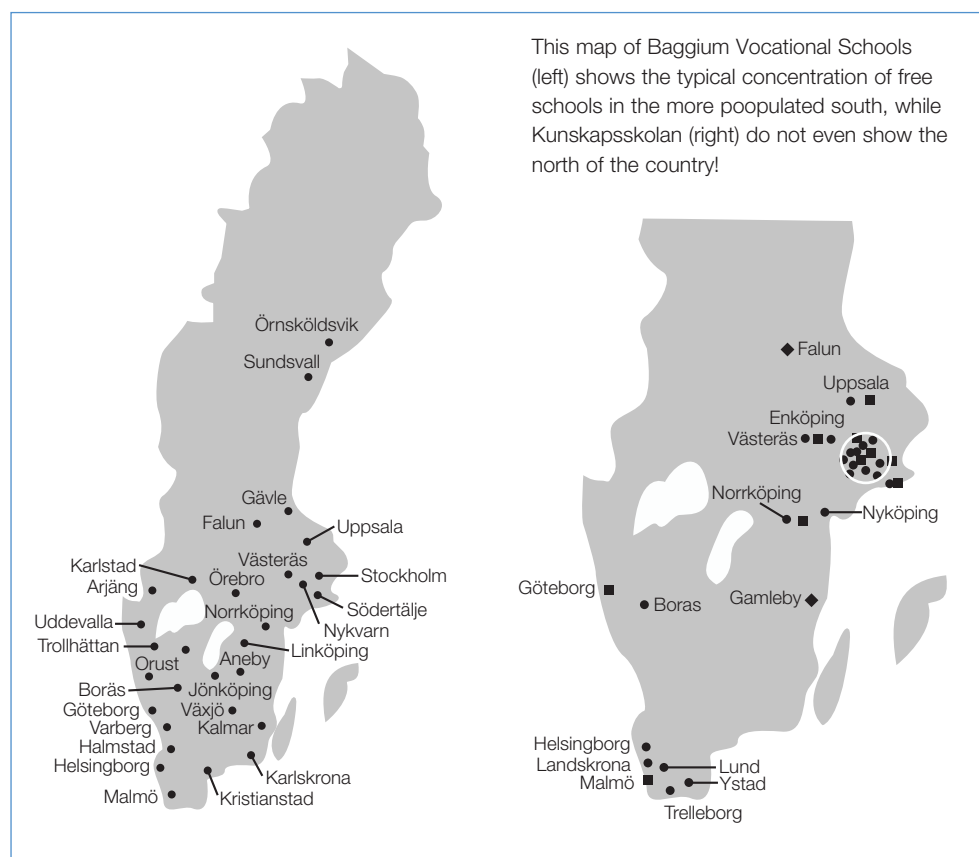
In practice, even though going through this process can be time-consuming and bureaucratic, it is not overly restrictive. Very few, if any, applications have been blocked because of a municipality submission (perhaps because prospective operators usually spend some time warming up local politicians before making their application).¹¹⁷ Some are rejected due to problems with their application. About 36% were rejected last year, and anecdotal evidence suggests slightly more are now being rejected than in the past.¹¹⁸ However, there seems to be a general consensus that the process is fair and a good application will nearly always succeed. Certainly the established groups have no problems getting permission to set up new schools.¹¹⁹ However, there are question marks over whether this process accurately filters out poor applications, given the ease with which a system based on paper applications can be ‘gamed’ by operators who know what the inspectorate are looking for.

Naturally, potential market share in any given municipality is the driving force behind the majority of new applications, which come from for-profit companies. This is usually determined by surveying demand for free schools and competition from other groups, as well as the size and demographic composition of the pupil population. Alongside market demand the other key issue for providers before sub-

117 Interview with Anders Morin (Senior policy manager, welfare policy at Confederation of Swedish Enterprise, 25 November 2008)

118 Information provided by the Skolverket; Interview with Carl-Gustaf Stawström (Permanent Secretary, Swedish Association on Independent Schools, 25 November 2008)

119 Interviews with Per Ledin (President and CEO, Kunskapsskolan, 25 November 2008) and Claus Forum (Manager of Education, Baggium Vocational Schools, 26 November 2008)



mitting an application is the politics of municipality involved. An unfriendly local administration cannot prevent a school being built but it can be extremely obstructive. As we will see (p.33) they may set artificially low per-pupil funding, they can also obstruct planning permission for new or converted school buildings and appeal against approved applications as a delaying tactic (though such appeals rarely succeed).¹²⁰ The relative performance of state schools is not an important factor for the larger school providers, but it may be for one-off free schools set up by teachers or parent co-operatives.¹²¹

These factors have meant that the market is heavily focused on more populated and more conservative towns and cities in Southern Sweden, especially Stockholm where between 20% and 30% of children attend free schools depending on the age group. In northern areas, where voters tend to be more left-wing and pupils are more dispersed, the market is less developed.

Easy to Enter

There are very few restrictions on the type of organisation that can enter the market as long as they are able to fulfil the criteria required for a successful application. The inclusion of for-profit companies has been crucial to ensuring the swift expansion of the market and has also meant that the majority of new providers offer a general education rather than special pedagogies or faith-based programmes. Mikael Sandström, a senior advisor to the Swedish Prime Minister and author of one of the free school performance studies discussed earlier, has argued on a number of occasions that their system would not function properly without profit, as good schools would not have the incentive to expand and access would remain limited: "The profit motive is good for making schools less selective... If a school cannot make a profit, it is not a smart system...It allows them to expand and they can take more pupils in, definitely from more disadvantaged parents."¹²²

¹²⁰ Böhlmark and Lindahl (2008), p 7-8; Interviews with Per Ledin (President and CEO, Kunskapsskolan, 25 November 2008) and Anders Hvarfner (CEO, Vittra, 26 November 2008)

¹²¹ Ibid.

¹²² Garber R, *You're not going far enough*, Swedish expert tell Cameron, The Independent, 1 December 2008, see www.independent.co.uk/news/education/education-news/youre-not-going-far-enough-swedish-expert-tells-cameron-1042733.html

The costs of entering the system are also low. Although providers do not get capital upfront with which to build the school there are far fewer restrictions on the type of building that can be used than in England. Typically operators lease buildings rather than buy them outright and cover their rent from their annual per pupil allocation (which, in most municipalities, includes money for capital costs). Some money will then be spent re-fitting the hired building which could have been anything from an office block to a warehouse to an astronomy lab in a previous life. Even the most ambitious groups, though, will only spend a fraction of the funds spent on new school buildings in England. To take one example, Kunskapsskolan, an established chain for whom design is a crucial aspect of the curriculum offering, spend about £1 million on a school for 350 students compared to between £30 and £40 million for a new academy for 1,500 students.¹²³ The disproportionate costs of setting up a new school in England is one reason why the government has to control the academies programme so tightly and ration the money to replace only failing schools rather than allowing new school entrants.

Accountable

Once open, free schools are accountable to the School Inspectorate and are inspected every three years.¹²⁴ Municipalities often run their own annual inspections but do not have the formal power to impose sanctions. Very few schools have been closed down and there are relatively widespread concerns that the national inspection regime is too light with insufficient emphasis on attainment; so much so that the more successful chains have set up their own reporting mechanisms to quality control their schools. Even this level of accountability is relatively new to Sweden (there is no Swedish word for accountability). Until 2003 there was no regular programme of national inspections and

the cycle was only moved from six to three year inspections in 2008.¹²⁵ The current government is proposing to push the system further in this direction by toughening up inspections and increasing the scope of the national curriculum while bringing more regular national testing so as to provide more data for inspectors to work with.¹²⁶

Until these changes are implemented there is probably not enough information made available about schools, free or state, for the market to operate optimally. At the moment, the primary mechanism for enabling parents and students to make decisions about schools are 'recruitment fairs'. There is an obvious problem that schools which spend a lot on marketing or, at high school level, offer exciting looking courses of little actual worth, may attract business without offering a valuable service. While this kind of market failure might be acceptable when making small purchases at a supermarket it is not when a child's life chances are involved. One municipality, Nacka, has tried to solve this problem by forcing parents to make a compulsory choice aided by a brochure with information about all schools.¹²⁷

While this process theoretically puts all parents in the same position, it cannot deal with the basic problem: a lack of data on which to make a decision. While a list of compulsory age secondary schools with ninth-grade results are available on the school board website, we could find no information at individual school level about primary or high schools. This is a real problem and may explain why free schools have not boosted performance by as much as has been originally hoped – especially at high school level. It is worth emphasising, though, that this is a problem for all schools – not just free schools. In fact, free schools are presently more accountable than state schools because the School Inspectorate can withdraw funding from the former if they are not performing

¹²³ Private information

¹²⁴ Interview with Claus Forum (Manager of Education, Baggiun Vocational Schools, 26 November 2008)

¹²⁵ Lim C and Davies C, *Helping Schools Succeed: Lessons from Abroad*, Policy Exchange, pp 84-85

¹²⁶ Interview with Bertil Östberg (State Secretary to Minister for Education Jan Björklund, 26 November 2008)

¹²⁷ Cowan, pp 35-36

well but has no formal powers over the latter (they can only request that the school develop an improvement plan).¹²⁸

Genuinely Free

All schools in Sweden – free and state – have considerable pedagogical freedom. The national curriculum, followed in every school, is a very slim document of 17 pages that sets outcomes but does not specify content or pedagogy. This freedom is a key driver of the success of the Swedish system as school groups with general profiles still develop innovative ways of delivering the curriculum. Kunskapsskolan, who run 32 schools, use a personalised learning model in which all students work at their own pace with one daily fixed lesson, occasional lectures and 15 minutes each week with a personal tutor.¹²⁹ The school group Vittra chose to timetable subjects into three-hour blocks to allow for multi-stage lessons and deep absorption in topics through case- and problem-based learning.¹³⁰ Baggium, a group of vocational schools at high school level, have set up workshop-based schools in industrial areas and then developed their own apprenticeship programmes with local businesses.¹³¹

As illustrated in the previous section this level of freedom can be problematic in the absence of suitable accountability structures. The fact that schools do not have to participate in national testing before 15 is seen by many as a beneficial freedom, but it means there is not enough available information with which to assess the various curriculum offerings. While some of the groups using more progressive methods like Waldorf Steiner are worried that any new tests will not be appropriate for their students,¹³² most of the more successful general profile schools are happy that they will have unbiased information to compare themselves to competitors.

All schools in Sweden have more or less complete freedom over pay, making it

one of the few countries in the developed world not to have centralised pay bargaining for teachers. The relevant changes were pushed through, with support from the teaching unions, in the mid-90s when Sweden was recovering from a severe recession triggered by a collapse in the banking system and local government would only discuss increasing pay in the context of moving to a individualised pay scheme.¹³³ Severe shortages in the number of good qualified teachers (due to the low status of teaching as a profession) meant that the primary effect of these reforms was to increase starting wages for new teachers.¹³⁴ However, some free school operators have used this freedom to develop performance-based pay models. Kunskapsskolan, for example, allocates salary budgets to its schools depending on test results, financial management and the results of an annual survey of pupils and parents. Teachers can also negotiate individual pay rises with their headteachers.¹³⁵ Teachers remain unionised in all schools so it is not easy to remove bad teachers. Even so, because free schools are new entrants rather than replacements for failing institutions they do not have the problem of taking over schools full of failing staff. It is nevertheless problematic for operators who have to deal with poor teachers and puts greater emphasis on successful recruitment policies.

Finally, as we have seen, free school operators have almost complete control over the design of their buildings. Because there are no major upfront capital costs there is no need for the complex, bureaucratic and centralised procurement structures we have in England, though the downside is that there tend to be fewer specialist facilities for practical science, art and music.

Financially Consistent and Stable

Per-pupil costs for free schools are decided at the municipal (local) level, which means

128 Lim and Davies, p 85

129 Interview with Per Ledin (President and CEO, Kunskapsskolan, 25 November 2008)

130 Interview with Anders Hvarfner (CEO, Vittra, 26 November 2008)

131 Interview with Claus Forum (Manager of Education, Baggium Vocational Schools, 26 November 2008)

132 Interview with Göran Fant (Chairman, Swedish Federation of Waldorf Schools, 25 November 2008)

133 Lim and Davies, p 86; Strath A, *Teacher Policy Reforms in Sweden: The case of individualised pay*, UNESCO, 2004

134 Ibid.

135 Freedman S, Lipson B and Hargreaves D, *More Good Teachers*, Policy Exchange, 2008, p 64; Interview with Per Ledin (President and CEO, Kunskapsskolan, 25 November 2008)

that the system is not financially consistent. Even though the variation is not nearly as dramatic as in the US, it has skewed the market away from certain areas. The existing law states that free schools must be given the same as state schools in the same municipality. Establishing how much state schools get per pupil, though, is neither an easy nor entirely objective exercise. Capital costs pose a significant problem in that state schools may not require annual payments from the municipality if they already own their building, yet some municipalities include these costs in the free school 'voucher' while others do not. The current government have set up an enquiry to look at this problem and is likely to recommend a change to the law requiring all municipalities to include these costs, but until this happens the market will remain skewed towards those that already do.¹³⁶ The difference between including capital costs or not is about 10% to 20% of the value of a voucher, which translates for the majority of providers, who are limited liability companies, into the difference between making a profit and going bankrupt. Unsurprisingly it is *the* major factor for groups when they are deciding where to open new schools.¹³⁷

Although capital costs make up the bulk of the difference between authorities, which could be solved through simple changes in legislation, there is a wider issue that is more intractable. The principle that municipalities should decide how much to spend on local schools means that the market is not funded consistently across Sweden.¹³⁸ Some municipalities consider education a greater priority than others (as opposed to, for example, local transport infrastructure or healthcare) and set their voucher accordingly higher. This variation causes two problems. Firstly, free school operators are more attracted to areas that place higher importance on education, which typically contain better educated, middle-class families. Secondly, because

the voucher is pupil-led and pupils can attend schools in different municipalities to the one in which they live, there are discrepancies in the funding of students attending the same school. In one municipality, Lund, where the education voucher is set at a high level, this has become a subject of political debate as residents feel they are subsidising neighbouring areas.¹³⁹

This is a bigger problem at high school than compulsory level because different rates are set in each municipality for each of the seventeen programmes available to students. Two of these programmes are academic (natural or social sciences) and the other fifteen are vocational. While the costs for the academic programmes do not vary that much between municipalities, funding for vocational courses is often used as a lever for local politicians to solve labour market shortages. For example, current funding levels in and around Stockholm are 30-40% higher for plumbing courses than students training to become electricians while trainee car mechanics in Göteborg are funded between SEK 70,000 and 120,000 depending on their home municipality. This creates some bewildering budgetary complications for school leaders, especially for schools offering a range of programmes (say plumbing and car mechanics) to children from a range of municipalities. Operators running a number of free schools typically have to cross subsidise, leading to equity issues.¹⁴⁰ Interestingly, this cross-subsidisation is prevented in the English system: academy groups are not allowed to move money between schools, despite variations of up to £1400 per child per year between the different local authorities.¹⁴¹

These issues would be relatively easy to solve if funding was set through a national formula. A potentially more serious problem, highlighted by critics of reform before they were enacted, is that the whole education system could become more expensive because of the inefficiencies created by allow-

136 Interview with Carl-Gustaf Stawström (Permanent Secretary, Swedish Association on Independent Schools, 25 November 2008)

137 Interviews with Per Ledin (President and CEO, Kunskapsskolan, 25 November 2008) and Anders Hvarfner (CEO, Vittra, 26 November 2008)

138 Spending on public services, in general, is far more devolved in Sweden than in England and the majority of taxes are collected at the local level. To avoid inequalities between the value of services provided between rich and poor municipalities these local taxes are nationally equalised, so, for example, a significant proportion of Stockholm's taxes are distributed elsewhere. Nevertheless the principle that these are local taxes and that, therefore, spending should be directed at a local level is an important one.

139 Interviews with Per Ledin (President and CEO, Kunskapsskolan, 25 November 2008) and Bertil Östberg (State Secretary to Minister for Education Jan Björklund, 26 November 2008)

140 Interview with Claus Forum (Manager of Education, Baggiun Vocational Schools, 26 November 2008)

141 Interview with Dan Moynihan (CEO, Harris Federation of South London Schools, 11 December 2008)

ing new entrants to provide surplus places for students that could have been placed in local state schools. This is one of the main arguments used by the UK government against those who have suggested introducing a Swedish-style system to England. In a lecture to the Cass Business School in 2008 Education Secretary Ed Balls, referring to the Swedish model, insisted that “this alternative approach has huge costs – because of the huge expense of creating all the surplus places that this model relies upon – as well as the new buildings”.¹⁴²

The evidence from Sweden indicates that there is no basis whatsoever for this assertion (Mr. Balls provided no evidence in his speech). Of the five studies we have been able to find investigating the impact of free schools on costs only one shows a significant effect. This study by Anna Fransson and Irene Wennemo, funded by the Swedish Trade Unions Congress, found that in 2001 a one percent increase in the number of free schools increased costs by 250 krona (about £20) for each student in the municipality.¹⁴³ However, these findings have been pretty thoroughly debunked by other researchers who have pointed out that Fransson and Wennemo’s results do not show a causal link as they simply measure the relationship between the number of free schools and cost. As we have seen free school operators aim for more expensive areas so costs in municipalities with more free schools would be higher whether they were there or not.

It is more useful to ask if an increase in free schools leads directly to an increase in costs. Björklund et al, Böhlmark and Lindahl, and Dietrichson have all tried to measure this effect and have found it to be either nonexistent (Dietrichson) or minimal.¹⁴⁴ In their own study the Swedish School Board confirmed that there was no clear, causal effect.¹⁴⁵ Björklund et al and Böhlmark and Lindahl did find a positive relationship between an increase in free schools over time and municipality costs,

though in the case of Björklund et al it was not statistically significant. Böhlmark and Lindahl’s results (using slightly more recent data – which goes up to 2003) indicate a two percent increase in costs for a ten percent increase in private school share, which, as they note “compared with most estimates of resource effects in the literature...seems like a very high return” given the positive impact on attainment.¹⁴⁶

Politically Stable

At a national level the free school system has survived for sixteen years, and for all but four of these years the left-wing Social Democrats have been in power. There is widespread feeling that free schools have become so embedded in the system, and they are so popular with the parents that use them, that it would be impossible for a future government to scrap the reforms. As we have seen the Social Democrats might seek to curb the powers of free schools to make profit but given that the majority of free schools are now operated by commercial organisations it is hard to see how this could be done without undermining the whole system.

We have also seen that municipalities hostile to free schools have some tools at their disposal to prevent entry in the market, including the right to appeal and the ability to set the value of the voucher. Free school operators have typically worked hard to develop good relations with local politicians before opening, but because the municipalities have no formal control over free schools a change in the local administration does not lead to forced closures (as is the case in the United States).

Fair

Free schools are not allowed to select academically or charge top-up fees (though they were from 1992-1996). They are obliged to take pupils from anywhere in the country on a ‘first come first served’ basis. In practice this means that most schools have ‘open lists’. Technically it would be possible for parents

142 Ed Balls, *Guaranteeing a Good School For All: how incentives and intervention must work together*, Lecture to the Cass Business Schools, Thursday 13 November 2008, p 15

143 The authors did not find any effect from 1995-2000. Anna Fransson and Irene Wennemo, *Valfrihetens pris – En analys av grundskolan 1995-2001*, Landorganisationen i Sverige, 2003; summarised in Dietrichson, p 40

144 Dietrichson, p 40; Björklund et al, pp 109-111; Böhlmark and Lindahl, 2007, pp 28-41

145 Summarised in Dietrichson, pp 41-42

146 Böhlmark and Lindahl (2007), p 40

to put their children's name on the list from birth, but this does not seem to happen (as it does at fee-paying schools in the UK). Most parents add their names to several lists a year or two before their child is due to start or move school, meaning that popular schools can still fill their spaces relatively early. This causes some problems for operators as they cannot be sure what percentage of their list will accept an offer – in areas with a mature school market the figure can be as low as 20%.¹⁴⁷ Offers are only made in the June before the school year starts which leaves little time for schools caught with few acceptances. If parents have not added their name to any list in time to win a place then the municipality is responsible for finding them a place at a local state school.

All of the evidence suggests that, unsurprisingly, this system favours those parents who are prepared to spend more time making an active choice.¹⁴⁸ The studies that have looked at the question of whether an increase in the number of free schools increases segregation in the school system agree that it does, but in quite a specific way. There is no evidence that parents who earn more are more likely to choose free schools (usually termed a 'sorting effect' in the literature). However, parents with higher levels of education or who are second generation immigrants are more likely to go for free schools.¹⁴⁹ This effect is relatively small – Björklund et al suggest that, in any given municipality, parents with university degrees are 4.5% more likely to choose a free school than parents with just a compulsory school education and immi-

grants 3.3% more likely than Swedish born parents.¹⁵⁰ This effect is then exacerbated by the fact that most free schools are set up in urban areas that have higher proportions of educated and immigrant families. Björklund et al also found that if the sample is limited to general profile schools then the effect amongst immigrant parents disappears and amongst educated parents is reduced to just 1.4%, suggesting that "much of the relationship between private school enrollment and student background comes from schools with a particular profile, be it a subject, pedagogical, confessional or ethnic profile."¹⁵¹

The rights and wrongs of this kind of 'aspirational segregation' are more ambiguous than for sorting based on income (which occurs in school systems with significant numbers of fee-paying schools). After all, aspiration is freely available to anyone and one could argue that allowing highly aspirational families from poorer communities to educate their children at schools based in wealthier areas is preferable to an admissions system based on catchment areas that indirectly segregates on income (via house prices).¹⁵² Nevertheless, on balance, we would argue that future market reforms should be designed to avoid segregation of any kind, given that sorting by parental education could pass low aspiration on from one generation to the next. In Sweden's case, avoiding this would be relatively easy to do by changing the admissions system and allocating extra funding for pupils from deprived areas to encourage free school operators to set up there.

147 Interviews with Per Ledin (President and CEO, Kunskapsskolan, 25th November 2008) and Anders Hvarfner (CEO, Vittra, 26 November 2008)

148 None of our interviewees disagreed that this was the case.

149 Sandström and Bergström, p 28; Böhlmark and Lindahl, pp 40-41; Björklund et al, pp 107-109

150 Björklund et al do not separate first and second generation immigrants. Böhlmark and Lindahl do and find the sorting effect is limited to the second generation. Böhlmark and Lindahl, p 41

151 Björklund et al, p 108

152 Many of our interviewees made this case including Maria Rankka, Bertil Östberg, and Anders Hvarfner.

3

USA

In recent years the US has been somewhat eclipsed as the primary international comparator for UK school reform by Sweden.¹⁵³ There are several reasons for this. For a start, the Swedish reforms are much easier to follow. There is one national programme which has changed little since 1996 and, because the Swedish system currently produces so little data, there are only a small number of evidence-based analyses of the performance effects of the reforms (though, as we saw in the previous chapter, these are not necessarily that easy to interpret). In the US the picture is much more complicated. First, each state is responsible for the structure of their school system so there are fifty-one (the states plus Washington D.C.) systems. Secondly, there are two different types of reforms that are often discussed interchangeably and sometimes operate simultaneously in the same state: charter schools and vouchers. The former are independent state-funded schools set up by non-governmental bodies. Voucher programmes, on the other hand, typically allow children (usually a select group of deprived children but occasionally all of them) to spend a designated amount on any non-state schooling, which usually involves co-opting much of the capacity of the existing fee-paying sector. In this chapter we will focus entirely on charter schools for the sake of simplicity and because they are more comparable with academies and free schools.¹⁵⁴

The other reason for the concentration on Sweden is politics. Most people associ-

ate the US with an extreme laissez-faire attitude towards public services that has led to considerable social division as opposed to Sweden's socialistic welfare state and a happy, homogenous society. It is, therefore, in the interests of those trying to push school reform in England to refer to the Swedish example when counteracting negative connotations of the word 'markets'. In fact, as discussed previously, the Swedish government were able to introduce a wide-ranging and extremely liberal reform without much fuss whereas reformers in the US have had to fight a state-by-state battle against entrenched supporters of the status quo in state education. Furthermore, the Swedish free school system is dominated by for-profit providers whereas in the States they control only a small proportion of the market.¹⁵⁵

This shift in focus away from the US is unfortunate as the variation in state reforms offers a fertile test-bed for researchers who wish to search for the common grounds of success. In addition, there is far more data available due to a national accountability framework even more comprehensive than our own (but far better designed). Moreover, US reformers have succeeded in areas where the Swedish model is poor, specifically accountability and fairness, and less well in areas where the Swedes seem to have got it right, such as specifically supply-side entry and political consistency, making the models complementary.

Background

Ironically, although school choice had been a rallying cry of the right since

¹⁵³ This was not always the case. Most international school choice reports before 2005 gave space to both countries. See, for example, Pollard (2001); Nieto and Hockley (2005)

¹⁵⁴ For a digest of all currently operating voucher schemes see: Lips D, *School Choice: Policy Developments and National Participation Estimates in 2007-2008*, Heritage Foundation, January 2008, pp 2-6. For a balanced overview of performance studies of voucher schemes see Gill B et al., *Rhetoric vs. Reality: what we know and what we need to know about charter schools*, RAND, 2007, pp 79-94

¹⁵⁵ For more on the gap between perceptions of the US and Sweden and the reality of school reform see Baggesen Klitgaard M, *School Vouchers and Political Institutions: A Comparative Analysis of the United States and Sweden*, University of Southern Denmark, 2007

Milton Friedman introduced the concept of vouchers in 1955, the ‘charter school’ was introduced to America in 1988 by Albert Shanker, who was the head of the AFT union (American Federation of Teachers).¹⁵⁶ Though hardly a typical union leader (he also spearheaded moves to increase public accountability of schools – something vociferously opposed by other unions) Shanker was still a man of the left and saw charters as way of counteracting calls from the right for private school vouchers with a choice programme driven by teachers and parents.¹⁵⁷ His vision was of groups of teachers being given a ‘charter’ to run a state school for up to five years (at which point it could be renewed) that would enable them to try out new and innovative ideas. This original conception of chartering can still be seen in the legislative framework for charters in Minnesota, which was the first state to pass a charter law in 1991 with Shanker’s guidance.¹⁵⁸ Here the majority of a charter school’s directors must be licensed teachers (though this provision can now be waived).¹⁵⁹

Initially the school choice movement on the right of American politics ignored charters, preferring to concentrate on more direct voucher schemes that would allow parents to send their children to existing private schools.¹⁶⁰ However, they soon realised that although Shanker may have intended a charter to be held by teachers, laws could be extended to allow anyone to hold a charter – from disaffected parents to community groups to corporations. The right embraced charters as a mechanism for increasing parental choice, forcing monopolistic state systems to compete for students. Shanker was left bemoaning the hijacking of his scheme for teacher co-operatives by precisely the same politicians and corporations that had previously been endorsing vouchers.¹⁶¹ Because of its origins, the charter movement

has thus been a relatively broad coalition with many Democratic politicians, especially Bill Clinton,¹⁶² supporting their development as well as Black and Hispanic groups that have seen them as a potentially key driver of social mobility.¹⁶³ It is notable that Barack Obama has chosen an Education Secretary, Arne Duncan, who is known to be a friend of charter schools.¹⁶⁴ They are, however, still opposed by many on the left and both main teacher unions argue for a return to Shanker’s original concept.¹⁶⁵

Over the past eighteen years the charter school movement has expanded rapidly. As of 2008 authorisers have empowered 4,568 schools in forty states plus Washington D.C., educating 1,341,687 children (see Table 3 for a breakdown by state and Table 2 for annual increases since 1992).¹⁶⁶ The exact status of these schools depends on which state they are in. As Jack Buckley and Mark Schneider note: “almost every aspect of the legislation governing charter schools, such as the length of charters, who can apply for charters, and the like, can and do vary widely from state to state, so there are exceptions to almost every general statement describing charter schools.”¹⁶⁷ Nevertheless there are some universals. All charter schools are publically funded. Charters are a contract between an authoriser (nearly always a public body like a school district, state education board or university) and the school operator. In return for signing this contract the operator is given greater autonomy over the administration of the school and its curriculum. If it does not use these freedoms to improve performance then the charter may not be continued when it comes up for renewal, usually every five years. Crucially parents actively choose to send their children to charters, whereas in most parts of the US pupils are assigned based on residential location alone.¹⁶⁸

¹⁵⁶ Though it wasn’t his idea. See Kolderie T, *Ray Budde and the Origins of the Charter Concept*, www.educationevolving.org/pdf/Ray_Budde.pdf

¹⁵⁷ Kahlenberg RD, “The Charter School Idea Turns 20: A History of Evolution and Role Reversals”, *Education Week*, March 26 2008

¹⁵⁸ Ibid.

¹⁵⁹ For a state-by-state guide to charter laws see www.edreform.com/index.cfm?fuseAction=cLaw

¹⁶⁰ See, for example, the hugely influential book by John Chubb and Terry Moe: *Politics, Markets and America’s Schools*, Brookings Institute, 1990

¹⁶¹ Also Kahlenberg RD, *Tough Liberal: Albert Shanker and the battles over schools, unions, race and democracy*, Columbia University Press, 2007

¹⁶² www.ed.gov/PressReleases/04-2000/wh-0428a.html

¹⁶³ www.bampac.org/issue_advocacy.asp

¹⁶⁴ <http://features.csmonitor.com/littlebillclinton/2008/12/16/what-arne-duncan-means-to-charter-schools>

¹⁶⁵ www.aft.org/topics/charters/; www.nea.org/charter/index.html

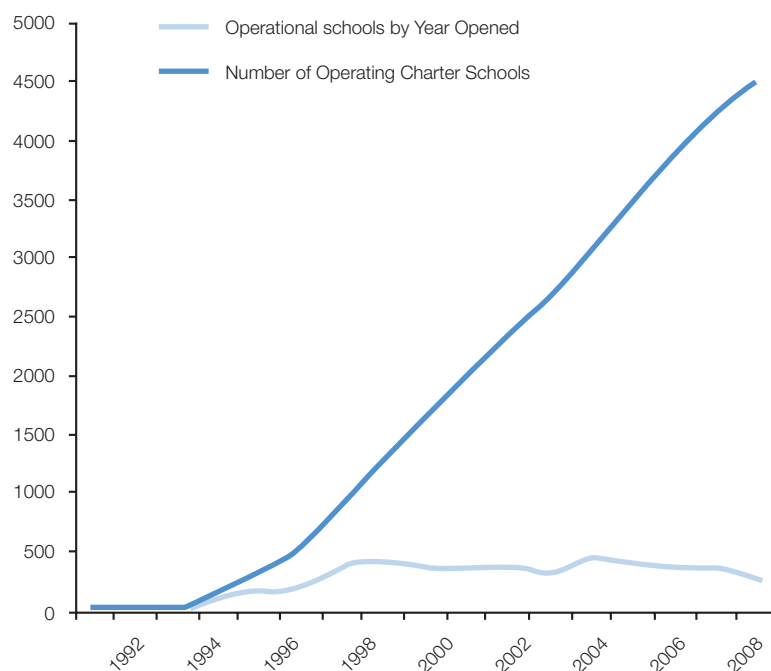
¹⁶⁶ www.edreform.com/_upload/CER_charter_numbers.pdf

¹⁶⁷ Buckley J and Schneider M, *Charter Schools: Hope or Hype?*, Princeton University Press, 2007, p 3

¹⁶⁸ Zimmer R and Buddin R, *Making Sense of Charter Schools*. RAND Corporation Occasional Paper, 2006, p 1

Table 2: Annual Growth of the Charter School Movement¹⁶⁹

Year	Operational schools by Year Opened	Number of Operating Charter Schools
1992	1	1
1993	29	30
1994	49	79
1995	121	200
1996	146	346
1997	208	554
1998	361	915
1999	397	1312
2000	356	1668
2001	362	2030
2002	334	2364
2003	298	2662
2004	451	3113
2005	423	3536
2006	376	3912
2007	361	4273
2008	284	4557

Graph 4: Annual Growth of the Charter School Movement

¹⁶⁹ Data from www.edreform.com/charter_directory/data1.cfm?CFID=3853032&CFTOKEN=44663510

Table 3: State by state Charter School Data¹⁷⁰

State	Operating in 2007-8	Opening in 2008-9	Total Operating	Total Closed Since 2002	Total Enrollment
Alaska	25	1	26	5	5198
Arizona	477	29	506	97	119516
Arkansas	18	7	25	6	6750
California	698	65	763	100	252569
Colorado	140	7	147	10	53249
Connecticut	19	2	21	5	3932
Delaware	19	2	21	2	8740
D.C.	75	14	89	17	25385
Florida	347	37	384	7	108382
Georgia	65	17	82	7	40807
Hawaii	29	3	32	0	7317
Idaho	30	2	32	1	10492
Illinois	63	11	74	9	27683
Indiana	41	9	50	2	12631
Iowa	10	0	10	0	1462
Kansas	33	6	39	10	3361
Louisiana	54	12	66	10	23634
Maryland	30	4	34	2	7301
Massachusetts	62	2	64	6	23905
Michigan	243	6	249	27	93892
Minnesota	145	13	158	28	28371
Mississippi	1	0	1	0	367
Missouri	37	2	39	5	13125
Nevada	21	3	26	7	7295
New Hampshire	11	0	11	2	1212
New Jersey	58	6	64	20	17986
New Mexico	66	4	70	3	11426
New York	99	21	118	10	32602
North Carolina	102	2	104	33	30445
Ohio	285	14	299	38	94171
Oklahoma	15	0	15	1	4770
Oregon	81	12	93	8	13612
Pennsylvania	130	3	133	12	61823
Rhode Island	11	0	11	0	2894
South Carolina	29	7	36	10	8705
Tennessee	12	2	14	1	2585
Texas	320	13	333	35	108541
Utah	60	8	68	1	23233
Virginia	3	1	4	3	275
Wisconsin	246	8	254	22	41799
Wyoming	3	0	3	0	244
TOTAL	4213	355	4568	562	1341687

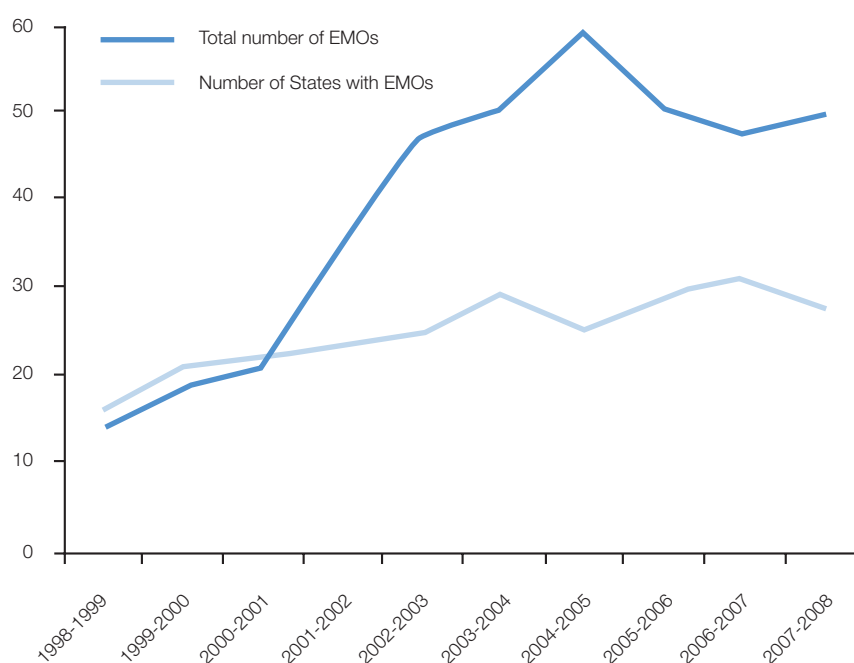
170 Data from: www.edreform.com/_upload/CER_charter_numbers.pdf

Beyond these shared features, the shape of the market in individual states is dependent on a huge range of variables. For a start, rules on funding and freedoms differ widely (explored below on pages 50 and 51) and, perhaps more fundamentally there are differences in rules governing who is allowed to run charters and who may authorise them.

The majority of charters are founded and managed by small groups of parents, teachers, education administrators or community organisers. Unfortunately there seem to have been no studies breaking down the proportion of each of these groups within the overall number of charters. An increasing number, though, are run by corporations known as EMOs (Education Management Organisations) if they make a profit and CMOs (Charter Management Organisations) if they do not. It is extremely difficult to work out exactly how much of the market is held by these groups, but there have been some concerted attempts to estimate numbers. The Commercialism in Education Research Unit

(CERU) at the University of Arizona have for a number of years produced a survey of for-profit EMOs. Last year they found 453 charters were run by 50 EMOs, or 10% of the market, although they acknowledge that, especially for smaller and recent start-up EMOs it is difficult to ensure comprehensive coverage.¹⁷¹ This market has quadrupled since 1998-1999 but has plateaued since 2003-2004 as a number of bigger companies have closed or consolidated (see Graph 5). There is no equivalent annual survey for the more recent phenomenon of CMOs but researchers working for the National Charter School Project (NCSP) at the University of Washington Bothell have identified 251 charters run by 46 CMOs, or 5.5% of the market.¹⁷² This is almost certainly an underestimate as it is difficult to track down smaller CMOs or find all of the schools affiliated with franchise-style operators. For example, KIPP (Knowledge is Power Programme) are the biggest CMO with 66 open schools, according to their website, but only 20 are recorded in the NCSP database.¹⁷³

Graph 5: Total number of EMOs and Number of States with EMOs over time¹⁷⁴



¹⁷¹ Miron G et al., *Profiles of For-Profit Education Management Organizations: 2007-2008*, University of Arizona, 2008. A further 80 state schools are managed by these EMOs under direct contract.

¹⁷² We are very grateful to Robin Lake at the National Charter School Project for sharing this data with us.

¹⁷³ www.kipp.org/09/schools/list.cfm

¹⁷⁴ Data from: Miron G et al., 2008. Op. Cit. p 5

Thus at least 15.5% of the market is controlled by EMOs and CMOs and this may be a significant underestimate, especially if one is a little looser about one's definition of management. Adam Lowe and Margaret Lin estimated, using data collected by the National Association of Charter School Authorizers in 2004-2005, that 30% of charters receive substantial management services from contractors, a percentage that will almost certainly have risen in the past few years.¹⁷⁵ The market in managed charters is growing very quickly, especially CMOs, as educational philanthropists like Reed Hastings and Bill Gates are increasingly focusing their efforts on scaling up successful models across federations. If the first ten years of the charter school movement to 2001 saw organic growth as new legislation led to a 'land rush' of new schools opening by a wide variety of individuals and organisations, more recent history has seen the development of a 'managed growth' strategy based on federations.¹⁷⁶

However, the development of EMOs, and to a lesser extent CMOs, has been frustrated by disparities in legislation in different states over who can manage charters. Just six states allow EMOs to hold charters directly¹⁷⁷ and four do not allow for-profits to be involved at all.¹⁷⁸ The rest do not allow EMOs to hold charters but do allow them to partner with local founders (even within this category, a wide range of conditions prevail). Alongside different rules on per-pupil funding and freedoms such as teacher certification and pay, some states have restrictive rules on governance which pose a major problem for management organisations trying to maintain a stable relationship with a school. For example, in South Carolina the governing body of the charter is elected annually by staff and parents¹⁷⁹ and in Kansas ultimate control of governance remains with the school district.¹⁸⁰ Unsurprisingly, most of the management organisations

focus their efforts on states with friendlier legislation like Arizona, Florida, Michigan, Indiana, California, New York and Ohio (see Appendix C for percentages of charters run by EMOs).

One of the most important aspects of legislation in this context specifies who is allowed to authorise new charters and whether they are limited in the number they can award. The market is much stronger, for both managed and one-off charters, in states where more than one different kind of organisation is allowed to authorise. Where only one type of body is allowed to authorise, the job usually falls to local school districts who have an active incentive to avoid competition as they are in charge of existing state schools. This is clearly analogous to the problems of local authority involvement with academies in England, although districts are typically much smaller and have even less strategic capacity.¹⁸¹

There are around 800 different authorisers across the US and over 90% are school districts, many of which are very small and 50% of which only authorise one school.¹⁸² The other 10% is made up of state education agencies, state authorizing boards, universities, not-for-profit foundations and one Mayor's office (in Indianapolis). These types of authorisers tend to be bigger and more proactive in finding school operators and then supporting and challenging them (a small number of very large school districts such as the ones managing education in Chicago and Los Angeles could also be placed in this bracket).¹⁸³ To take a few examples of this:

- The State University of New York (SUNY), who are allowed to award up to 75 charters in the city and are one of the most successful authorisers in the country, work closely with a not-for-profit called the New York Center for Charter School Excellence who are responsible for finding and supplying applicants who fit with

175 Lower A and Lin M, *Steadying the Three-Legged Stool: Authorizers, Charter Schools, and Education Service Providers*, NACSA, 2006, p 1

176 Harvey J and Britt D ed., *Quantity Counts: The Growth of the Charter School Management Organizations*, National Charter School Research Project, 2007, pp 11-17; Wilson SF, *Learning on the Job: When Business Takes on Public Schools*, Harvard University Press, 2006, especially pp 39-78

177 Arizona, California, Colorado, Delaware, Virginia and Wisconsin

178 Hawaii, Iowa, Mississippi and Tennessee. Although Hawaii's case is more complex than it appears at first: they have entered into an extensive partnership with Edison, who now run 35 elementary, middle and high schools within the public school system. See: www.edisonlearning.com/our_offerings/achievement_services/partnership_profiles.be

179 www.edreform.com/index.cfm?fuseAction=cLaw&stateID=20&altCol=2

180 www.edreform.com/index.cfm?fuseAction=cLaw&stateID=8&altCol=2

181 For example, in California 31% of districts serve fewer than 500 pupils and will typically run only one school while 1% serve more than 50,000 pupils (including one district for the city of Los Angeles) and are responsible for 21% of the total number of pupils. www.edsource.org/data_districtsize06-07.html

182 U.S. Department of Education, *Supporting Charter School Excellence Through Quality Authorizing*, 2007, p 2; Rotherham AJ, "Smart Charter School Caps: A Third Way on Charter School Growth", in Lake RJ ed., *Hopes, Fears and Reality: A Balanced Look at American Charter Schools in 2007*, Center on Reinventing Public Education, p 67

183 U.S. Department of Education, 2007; Gau R, *Trends in Charter School Authorizing*, Thomas Fordham Institute, 2006

SUNY's mission. This can be loosely described as providing intensive academic schools to some of the poorest neighbourhoods in New York.¹⁸⁴

- Bart Peterson, the Mayor of Indianapolis, has used his office to attract some of the bigger management organisations to his city, launched a programme to recruit and train new entrepreneurs to run charters (called the Mind Trust) and developed a financing scheme which allows tax-exempt interest rates for the acquisition, construction and renovation of a school facility.¹⁸⁵
- Central Michigan University, one of the most 'hands-on' authorisers in the country and one of the few to receive per-pupil funding for every charter they award, charters 58 schools. They helped to form the Michigan Public Education Facilities Authority that gives charters access to the state's tax-exempt financing status and its credit rating, and they also developed the Authorisers Oversight Information System (AOIS) that allows them to keep track of student attainment and charter compliance. The system is now used by other authorisers. They have subsequently set up a series of bodies to support other authorisers in the Great Lakes area.¹⁸⁶

Some have argued that authorisers can be too proactive by developing accountability frameworks and compliance rules that are just as stultifying as government bureaucracies.¹⁸⁷ Nevertheless, at the moment these authorisers seem to be the most successful. Certainly they seem to attract EMOs and CMOs, which explains why Michigan, Indiana and New York have the above average percentages of managed charters.

Performance

The terrain of charter school performance studies is vast and treacherous. There are literally hundreds of reports on their

impact on academic achievement from a huge variety of organisations, only a few of which use high-quality research methods and/or are genuinely impartial. The excellent National Charter School Research Project website lists 77 major achievement studies since 2001. Of these 77 studies, 20 are rated as having a poor research design and no studies are considered to have a uniformly excellent design, while just three are considered to be in the next highest category: excellent/very good.¹⁸⁸ The number of studies available and the variation in their quality means that it is possible to make pretty much any argument about the success or failure of charters and cherry-pick studies to fit. In spite of this, it is possible to draw some broad conclusions about performance and the impact of different types of legislation and management.

Only two studies have tried to take a national perspective because of the difficulty of collecting data and the questionable value of mixing up states with vastly different charter laws. Both of these studies were published in 2004 and, as they came to entirely opposite conclusions, sparked off a nationwide debate about the efficacy of charters. The American Federation of Teachers published the first study which showed that, in 2003, students in charter schools on free or reduced price lunches performed significantly worse than those in state schools by the equivalent of around half a year of schooling.¹⁸⁹ Shortly afterwards Harvard Professor Caroline Hoxby (who moved to Stanford in 2007) released a study showing that, nationally, in 2003, charters slightly outperformed their nearest state equivalent by 5% in grade four reading and 3% in grade four (9-10 year olds) maths and considerably outperformed them in states with large numbers of charters (up to 35% in Washington DC). Hoxby used a much larger dataset containing information about state standardised scores for all fourth graders whereas the AFT researchers

184 U.S. Department of Education, 2007, pp 14 and 18; www.newyorkcharters.org

185 U.S. Department of Education, 2007, p 17; Skinner D, "Indianapolis Mayor Bart Peterson: The Peyton Manning of Charter Schools", *Education Next*, Summer 2007, Vol. 7, No. 3

186 U.S. Department of Education, 2007, p 37; www.cmucso.org/modules.php?name=Pages&sp_id=246

187 Lake RJ, "Should Charter Schools be More Different Than Alike?", in Lake RJ ed., *Hopes, Fears and Reality: A Balanced Look at American Charter Schools in 2008*, National Charter School Research Project, 2008, p xii

188 www.crpe.org/cs/crpe/view/projects/1?page=yes&id=3&parent=

189 The authors found that charter school students performed six scale points worse in grade four maths, seven scale points in grade four reading, seven scale points in grade eight maths and four scale points in grade eight reading. Only the first three are statistically significant. Achievement data came from the National Assessment of Educational Progress, a standardised annual test run by government-sponsored research institute on a representative sample of students. Nelson FH et al., *Charter School Achievement on the 2003 National Assessment of Educational Progress*, American Federation of Teachers, 2004

used data from the National Assessment of Educational Progress sample, which only looked at 3% of charter school pupils.¹⁹⁰ Hoxby's data is therefore more robust but, unfortunately, both studies suffer from the same major flaw: neither take into account prior achievement as both use only one year of data. Even though both studies use some kind of demographic proxy to compare schools (free school meals for the AFT and schools in the same area for Hoxby) neither can tell us whether the differences in average scores are attributable to the schools or to the prior ability of the students.¹⁹¹

At the state-level there are a considerable number of studies that do look at achievement over time. The National Alliance for Public Charter Schools (NAPCS), in a 2007 meta-analysis, identified 40 published since 2001, of which 19 look at value-added to individual students and 21 looked at school- or grade-wide changes over time.¹⁹² Of these studies, 21 found that overall gains in charter schools were larger than in state schools, 10 found higher overall gains for specific types of charter school (such as at-risk schools in Texas or elementary schools in Arizona), five found comparable results and four found that charter schools performed worse than state schools (two of these studies come from North Carolina).¹⁹³ This broadly positive overview is supported in another meta-analysis by the RAND corporation, which focused more specifically on 13 of the methodologically strongest longitudinal studies (RAND's sample correlates more or less exactly to the NCSRP's top-rated studies). Out of the 13 analysed studies, four show overall gains in charter schools (two in Texas, and one each in New York and Florida), two show overall gains in specific areas (Wisconsin in maths and an anonymous large urban school district in behaviour), five show comparable results (two in Arizona, two in California and one in Michigan) and two show slightly negative results (one in North Carolina and one

in Idaho).¹⁹⁴ Again, the trend is broadly positive. None of the studies in either meta-analysis, however, show particularly large differences in either a positive or negative direction, so any findings could still be due to methodological differences.¹⁹⁵

Before moving on to discuss differences between types of charter school it is worth highlighting one of the state studies featured in both meta-analyses as it is the only one to employ the 'gold standard' of educational research: a genuinely randomised experimental design (as opposed to simply trying to control for demographic variables). This study by Caroline Hoxby and Sonali Murarka from the National Bureau of Economic Research, looked at students who enter lotteries for New York City charter schools and then compared the performance of those who were successful in winning a place and those who were not.¹⁹⁶ The 'lotteried-in' students were found to gain 3.8 scale more points a year in maths and 1.6 more in reading for every year they were in a charter school.¹⁹⁷ This difference is not large but the strength of the research method makes the findings more robust. Hoxby has undertaken a similar study in Chicago with similar results, but the researchers only looked at the nine schools run by the Chicago Charter Schools Foundation so it is more difficult to extrapolate wider significance.¹⁹⁸

Of course, as the NAPCS researchers put it: "asking about the quality of 'charter schools' as a group is a bit like asking about the quality of 'new restaurants' or 'American cars' – any overall generalization will mask the great diversity within."¹⁹⁹ While it is important to study the total benefits or otherwise of charters, it is equally important to ask why some charters do better than others. After all, one of the key benefits of independent state-funded schools is supposed to be that they encourage innovation that can then be adopted by others. Unfortunately, relatively few studies have tried to identify differences between types of charters

190 Hoxby C, *A Straightforward Comparison of Charter Schools and Regular Public Schools in the United States*, Harvard University, 2004

191 Gill et al., 2007, p 98

192 National Alliance for Public Charter Schools, *Charter School Achievement: What We Know*, October 2007, p 9

193 Ibid.

194 Gill et al., 2007, pp 106-108

195 Ibid. p 107

196 As pretty much all the charter schools in NYC are oversubscribed this study avoids a potential difficulty of lottery-studies: that charter schools requiring lotteries might be better than average.

197 Hoxby C and Murarka S, *New York City's Charter Schools Overall Report*, National Bureau of Economic Research, 2007

198 Hoxby c and Rockoff J, *The Impact of Charter Schools on Student Achievement*, www.innovations.harvard.edu/show-doc.html?id=4992, May 2004

199 NAPCS, 2007, p 3

(though there is far more research on this than for academies or Swedish free schools). Nevertheless it is possible to draw out some broad themes from the available research:

Age

Charters improve with age. A study in Texas by Hanushek et al found that charter schools in their first year had a negative effect on reading and maths scores while those in the fourth-year of operation or older had positive effects on maths scores.²⁰⁰ These results were corroborated by another Texan study which found that students spending three years in established charters made larger gains than those in new ones.²⁰¹ Further supporting evidence comes from Florida, where Tim Sass found that students performed worse in first-year charter schools, but those in their fifth year of operation were performing better (by 10% of the average annual achievement gain).²⁰² This is an important finding for two reasons because it suggests that aggregate results for charter schools in state or national studies will improve over time and it also offers a possible explanation for some of the more negative longitudinal analyses. As Gill et al explain, the Michigan study, which featured in both the NAPCS and RAND meta-analyses, only looked at charter schools in their first two years of operation. This might explain why it found they were only comparable to state schools, even though Michigan's charters are generally considered to be some of the best in the country. Furthermore, the studies from North Carolina were undertaken when the charter school system in that state was less than five years old, which may go some way to explaining their unusually poor results.²⁰³

Classroom Setting

Non-classroom charters, where a significant proportion of instruction is delivered through home schooling or distance learning, perform considerably worse than those based in traditional classrooms. In

California, where a fifth of the charters are 'non-classroom', a recent study has shown that they underperform classroom-based schools even though their demographic make-up suggests they should be doing much better (students who attend them are more likely to be middle-class and white). They also, perhaps unsurprisingly, have a much higher rate of student movement between schools.²⁰⁴ This is supported by an Ohio research project which found that so-called 'cyber charter schools' lag behind state schools whereas other charters perform at a comparable level.²⁰⁵

Pedagogy

There has been no analysis of differences in performance between pedagogical models. The only pedagogical typology that we are aware of was constructed by Dick Carpenter, Associate Professor at the University of Colorado, and was based on 87% of the charters set-up by 2002 in Arizona, California, Florida, Michigan and Texas (1,182 schools in total). He found that 29% of the schools had a 'progressive' pedagogy compared to 23% 'traditional' and 29.5% 'general' i.e. similar to normal state schools. The remainder were vocational (12.3%) or 'alternative delivery' such as cyber-schools (6.2%).²⁰⁶ It is extremely likely that the proportion of traditional and general schools has increased since 2002 as CMO managed schools, the fastest growing sector, are almost all in these categories. This could have a significant impact on future state studies if there is a significant difference in attainment between these types of schools and progressive schools. Interestingly, the percentage of poor and minority students is higher in general and traditional schools than in progressive ones.²⁰⁷ The only clue we have so far is from Hoxby and Murarka's research in New York, which suggests there is a correlation between a longer school year and higher achievement.²⁰⁸ Typically longer school years are part of

200 Cited in Gill et al., 2007, pp 99-100

201 Ibid, p 99

202 Sass TR, "Charter Schools and Student Achievement in Florida", *Education Finance and Policy* Vol. 1(1), Winter, 2006

203 Gill et al., 2007, p 108

204 Crane E and Edwards B, *California's Charter Schools: Measuring Their Performance*, Edsource, 2007, p 18

205 Hassell B, *Summary of District and Charter School Performance in the Ohio 8: 2006-07*, Thomas B. Fordham Foundation, 2007

206 Carpenter DM, *Playing to Type? Mapping the Charter School Landscape*, Thomas B. Fordham Foundation, 2005, p 3

207 Ibid. 47% of children in general schools were on free or reduced price lunches compared to 40% in traditional and 36% in progressive. Similarly, 52% of children in general schools were from minorities, compared to 48% in traditional and 43% in progressive

208 Hoxby and Murarka, 2007, p v

an intensive academic approach that will include a traditional pedagogy.

Management

While there is very little data on types of school there have been some studies looking at differences in management – specifically whether EMO/CMO run charters perform better than those run by community groups, parents and teachers. A 2003 study of charters in ten states by the Brown Center at the Brookings Institute found that students in EMO-run schools improved significantly more from 2000 to 2002 than other charters (which in turn improved faster than state schools).²⁰⁹ The Edsource study in California that showed classroom-based charters outperforming non-classroom based ones also found EMO/CMO run schools significantly outperforming other types of charter. After controlling for demographics the authors found that 55.9% of students at EMO/CMO charters achieved proficiency in 2006 English tests (covering all age groups) compared to 49.5% in other types of charter. The figures for Maths tests are 54.6% for EMO/CMOs and 46.4% for other charters.²¹⁰

In his 2006 book on the brief history of EMOs, Steven F. Wilson reviews all the studies available to that point on achievement in the biggest six EMOs and KIPP (a CMO) relative to state schools. While he finds much of the statistical analysis to be of relatively low quality, Wilson argues that there is fairly good evidence that Edison (84 schools), National Heritage Academies (57 schools) and KIPP (66 schools) outperform comparative state schools.²¹¹ An analysis of Edison schools published by RAND after Wilson had completed his analysis provided more robust support for the largest EMO – indicating that school-wide average proficiency rates in maths increased 17% between 2002-2004 versus 13% in state schools serving comparable populations and 11% versus 9% in reading. RAND also

found that in the first three years of operation Edison schools' performance is similar to the comparison groups, but that they then pull away in the fourth and fifth year – fitting with the hypothesis that charters improve over time.²¹²

Deprived Communities

One of the most interesting developments over the past few years has been the growth of academically intensive schools targeted at extremely deprived urban communities. This has been driven by CMOs whose main focus is typically to find the most effective programmes for children from the poorest families with the least social capital. This trend began with the spectacular success of KIPP, which has been chronicled in charter school research, popular news programmes such as 60 Minutes and in generalist books (for example, Malcolm Gladwell's *Outliers*).²¹³ The core elements of the KIPP programme are: a long school day and a long school year, meaning children spend 60% more time in school than at a state school; parental contracts; tough discipline; and a focus on key subjects. Not only has this approach been disseminated through its own franchise programme (incorporating 66 schools), other smaller CMO federations such as Achievement First, who operate fifteen schools in New York and Connecticut, have implemented the same strategy.²¹⁴ Paul Hill compares these schools, which he calls 'new college-prep charters', to the urban Catholic high schools that offered social mobility to Irish and Italian immigrants in the 20th century. According to Hill, their key shared characteristics are: a demanding intellectual climate; a 'centripetal' curriculum that focuses on mastery of key subjects; close attention to the progress of individual students, including frequent testing; coordination among teachers; a strongly managed school climate (i.e. tough and consistent discipline); overt biculturalism "so that students learn the behavioural codes associated with higher education and professional

209 Brown Center on Education Policy, *How Well Are American Students Learning?*, Brookings Institute, 2003, pp 34-35

210 Crane and Edwards, 2007, pp 14-15

211 The other groups did not provide adequate data for Wilson to make a judgement. It is also worth noting that KIPPs data was based on just three of their schools, though further schools in the network have made similar gains subsequently. Wilson (2006), pp 312-313 (for his full review pp 284-316).

212 Gill B et al., *Inspiration, Perspiration and Time: Operations and Achievement in Edison Schools*, RAND Corporation, 2005, pp xxiii-xxix

213 Gladwell M, *Outliers: The Story of Success*, Allen Lane, 2008, pp 250-269

214 Whitman D, *Sweating the Small Stuff: Inner-City Schools and the New Paternalism*, Thomas B. Fordham Foundation, 2008, pp 96-121 and pp 152-191

work” – such as the use of KIPP’s SLANT mnemonic;²¹⁵ and validation of the school’s effectiveness by connecting students with successful graduates.²¹⁶

In his book on this new trend, *Sweating the Small Stuff*, journalist David Whitman estimates that there are 200 of these intensely academic schools nationwide with more being founded every year.²¹⁷ His book focuses on six of the best known groups and includes data showing that they are uniformly and significantly outperforming local schools. This data is not longitudinal and we await more comprehensive analysis of this phenomenon. Nevertheless the meteoric rise of these schools is strong evidence of their effectiveness. To take one example, the American Indian Public Charter School (AIPCS) in Oakland, which has now developed into a small federation of schools, was run from 1996 to 2000 as a multicultural school for Native Americans. By 2000 it was recording 436 out of 1000 in California’s Academic Performance Index (API) tests – one of the worst scores in a city not known for great schools. It was then taken over by a new headteacher, Ben Chavis, who introduced all of Paul Hill’s characteristics listed above. By 2006 the school was one of the best schools in the state scoring 920 on the API and beating the best fee-paying middle school in Oakland, Piedmont Hills – all this despite 90% of children at AIPCS being eligible for free or reduced price lunches, compared to 0% at Piedmont Hills.²¹⁸

The ongoing development of these types of schools is not without problems. Many of the CMOs driving the process are heavily dependent on philanthropy which may

be harder to come by during the current economic troubles. Perhaps more seriously, it is hard to retain teachers at such schools because their workload is usually considerably higher than those in other kinds. As more and more develop it will become more difficult to find teachers of the quality necessary to support such ventures. Nevertheless college-prep charters are probably the single most promising avenue for reformers.

Alongside the evidence regarding academic achievement, charters are becoming increasingly popular with the public. In 2000 the national Phi Delta Kappa poll on educational issues found that charters – described as a school under a “contract that frees them from many of the state regulations imposed on public schools and permits them to operate independently” – found that 42% supported their expansion with 47% in opposition. By 2007 the same question produced 60% in support against 35% opposed (see Table 4). The few available polls of parents with children at charters also indicate high levels of support. A 2000 survey sponsored by the Arizona State Board for Charter Schools found that 61% of charter school parents rated their school A or A+, compared to 38% of state school parents.²¹⁹ The figure for charter school parents improved the following year to an A or A+ rating of 64%²²⁰ and a Zogby poll of charter school parents in New York found 42% gave their school an A grade compared to 21% who give their child’s previous state school an A. The poll also found that 51% of parents gave their child’s charter school an A for instruction and 28% a B.²²¹

Table 4: National Support for Charter Schools Over Time (%)²²²

	2000	2002	2005	2006	2007
Favour	42	22	49	53	60
Oppose	47	42	41	34	35
Don’t Know	11	13	10	13	5

215 Sit-up. Listen. Ask and answer questions. Nod your head so people know you are listening and understanding. Track the speaker by keeping your eyes on whoever is talking.

216 Hill PT, “Equal Opportunity: Preparing Urban Youth for College”, in Lake RJ ed., 2008, pp 27-28

217 Whitman, 2008, p xv

218 Ibid, pp 68-95

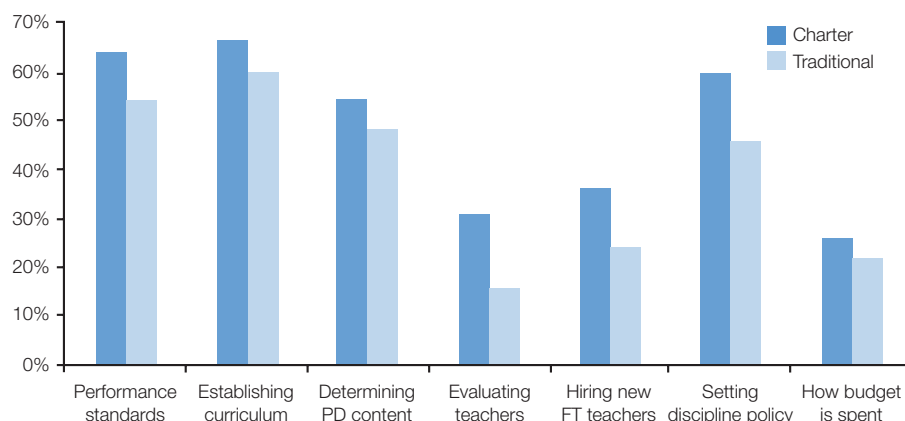
219 www.ncsc.info/newsletter/June_2002/debate.htm

220 www.asbcs.state.az.us/PSS.asp

221 www.manhattan-institute.org/html/cr_37.htm

222 Data from: Larson G, *Familiarity Breeds Content: As the Charter Movement Grows, So does Public Approval*, (National Alliance for Public Charters Schools, February 2008), p5

Graph 6: Teacher autonomy over various aspects of school life in charter and traditional schools²²³



As in Sweden, teachers feel they have more professional autonomy at charter schools. Figures from the U.S. Education Department's School and Staffing Survey last undertaken in 2003-4 show that more charter school teachers consider themselves to have influence on curriculum, school practice and policy than state school teachers (see Graph 6). On this basis, charters are arguably not quite as distant from Albert Shanker's initial vision as the teacher unions make out.

Seven Tests

Demand-led

One of the few things that pretty much all charter school laws across the US share is that they are demand-led, in the sense that the initiative for the development of new schools comes from non-government organisations. Although most states allow existing state schools to convert to charter status, the vast majority of charters are new schools that rely on unmet demand to fill places. Financing is largely (though not entirely) per pupil, so if parents cannot be persuaded to sign up the charter has to close.

In this sense the US is similar to Sweden but distinct from the UK where academies

have an inbuilt customer base because they replace failing schools. Unlike Sweden, however, there is no largely objective, set application process for new schools to go through. Each state has different rules about who is allowed to authorise new schools and charters have developed overwhelmingly in states that allow a range of bodies to authorise rather than just existing school districts. States with multiple sponsors have, on average, nearly eight times as many charters as states with a single sponsoring authority and multiple authorisers are the most important variable when accounting for differences in the numbers of charter schools across states.²²⁴

Another block to a genuine demand-led market are caps on the number of charters allowable at any given time. Only fifteen states have no limitation on new charters while others have quite low limits. For example, the Mississippi legislation allows only 15 charters; in Rhode Island numbers are limited to 20; and in Tennessee to 50.²²⁵ Much of the debate on charter schools in these states focuses on whether to increase the cap once its ceiling is reached. In New York the debate lasted years before the cap was increased from 100 to 200, meanwhile a backlog of 12,000 students built up on existing charter school waiting lists. As

²²³ Christensen J and Lake RJ, "The National Charter School Landscape in 2007", in Lake RJ ed., 2007, p 11

²²⁴ Buckley J and Kuscova S, *The Effect of Institutional Variation on Policy Outcomes: The Case of Charter Schools in the States*, National Center for the Study of Privatization in Education: Occasional Paper, 2003, #79

²²⁵ www.edreform.com/index.cfm?fuseAction=cLaw

of 2007, 10,000 children in Illinois and 16,000 in Massachusetts were on charter school waiting lists, as politicians and lobbyists discussed increasing the cap.²²⁶

In a recent article Andrew Rotherham argued, in our view accurately, that “statutory caps as a policy approach are too blunt an instrument to address quality”.²²⁷ He suggests an alternative system of ‘smart caps’ that would avoid the problems of unlimited and uncontrolled expansion while still allowing demand to be met. The two key features of such a system would be: the removal of any caps for federations or franchises that have proven their educational model to be successful in state tests; and an annual allowance of new schools without a proven track record to promote innovation and diversity. States should provide additional support to this group of schools in the form of start-up funding and ‘charter school incubators’ - resource centres providing technical assistance and administrative support to founders (good examples include the AppleTree Institute in Washington and the Colorado Incubator for Charter Schools).²²⁸ The states closest to this model at the moment are Ohio, where the cap ceiling has been met but charters meeting state performance targets are exempt and may open new schools for each school meeting targets, and Arkansas, which has a cap of 24 but also exempts successful existing charters. Even so, neither of these states have the vital second step of allowing a small number of new schools to be incubated each year regardless of the total cap.²²⁹

Easy to Enter

Needless to say, the artificial limitations of single authorisers and caps can cause frustration for suppliers unable to gain access to the market. It is especially problematic for EMOs and CMOs looking to develop federations. As Steven Wilson explains, one of the reasons that the first wave of

EMOs (set-up in the mid-1990s) ran into trouble was that:

“When statutory caps...and the difficulty of securing customer boards [local partners] made management contracts difficult to obtain, the organizations had to look far and wide for viable projects. Supporting a smattering of client schools in distant states proved enormously costly...EMOs had to modify their standard curricula to align them with the standards in each state in which they operated and then develop and deploy unique test preparation programs... Customized designs diminished the potential for scaling the business, increased corporate staff, and delayed the financial breakeven point.”²³⁰

Researchers at the National Charter School Research Project confirm that this remains a problem for the more recent wave of CMOs, many of whom:

“admitted that their organizations started out spending too little time determining the circumstances under which they should pursue a new school opportunity or turn it down. Most...initially...did not ‘target’ districts or states, but responded to opportunities as they presented themselves.”²³¹

Apart from direct limitations on the size of markets the biggest problem for potential suppliers is caused by rules regarding governance. Just six states allow for-profit EMOs to hold charters directly. In most states for-profits must have local not-for-profit partners who are responsible for governing the school involved. Finding a suitable partner means another significant restriction on the number of available opportunities, mitigating against proper planning. Even when partners can be found, the complex relationship between management organisation, local governing body and authoriser can produce significant tensions. As Wilson notes:

226 Rotherham, 2007, pp 65-66

227 Ibid, p 66

228 Ibid, pp 70-71; dlc.org/ndol_ci.cfm?kaid=139&subid=273&contentid=251957

229 www.edreform.com/index.cfm?fuseAction=cLaw&stateID=33&altCol=2; www.edreform.com/index.cfm?fuseAction=cLaw&stateID=13&altCol=2

230 Wilson, 2006, pp 191-192

231 Harvey and Britt ed., 2007, p 24

“This structure gives rise to immense problems. Companies, their client boards [i.e. local partners], and principals vie for control over the new school...even when the local board is willing to delegate much of its authority for day-to-day management to the contractor, state regulators and charter authorisers often prevent it....When boards planned a stark delegation of responsibility to their contractors, regulators insisted on inserting language throughout the contract that rendered the EMO’s powers ambiguous by subjecting them to ‘the board’s ultimate oversight’.”²³²

Wilson goes on to record the CEO of Mosaica, one of the larger EMOs, describing avoiding conflicts with ‘customer boards’ as the “single biggest problem we’ve had” and the CEO of SABIS, another large EMO, questioning the logic of authorizing EMO-affiliated charters, premised on the EMO’s school design and performance record, and then permitting local boards to unilaterally terminate that arrangement and continue to operate the charter.²³³ The NCSR researchers concur, in the context of CMOs, arguing that “reducing the cost of finding good partners is essential to the financial viability of MOs” and that “problematic partners are expensive to maintain and often damage an MO’s reputation”.²³⁴

For non-EMO/CMO founders (e.g. parent, teacher or community-run schools) the barriers to entry are less complex as they will either be located in an area supportive of charters or not, though they will still be affected by caps and the inability in some states to apply to more than one authoriser. While these founders typically have full operational control, they may choose to contract out some managerial and administrative functions. For smaller community groups who are interested in setting up one-off charters, the biggest problem is one of resources. Funding is rarely available for new projects (see

below) and the applications process can be extremely complex and time-consuming. This is why authorisers (e.g. the Mayor of Indianapolis and the State University of New York) who work closely with charter incubators have proved more successful than others.

Accountable

Unlike in Sweden, where the absence of data creates a real accountability deficit, there is plenty of information about the performance of individual charter schools. They have to participate in whatever battery of standardised tests their state uses to comply with the federal No Child Left Behind Act. Like all schools, charters are expected to meet their Annual Yearly Progress (AYP) target on these tests and the information on their performance is available to parents and legislators. In addition, charters have to be explicitly renewed by authorisers (usually every five years) so accountability is built into the process.

Nevertheless, there are serious questions over the ability of some authorisers to keep their charters accountable. In their study of authoriser decisions to approve or revoke charters Bryan Hassell and Megan Batdorff argue that most are well-founded.²³⁵ There have, however, been a number of high profile cases of extremely lax oversight, like the unforeseen collapse of sixty charters run by the California Charter Academy (CCA) group, many of which were authorised by different school districts from the one in which they were located (a practice that has since been stopped).²³⁶ Research commissioned by the Thomas B. Fordham Foundation found that 44% of authorisers practice limited oversight of their schools and this was more likely to occur among school district and county based authorisers rather than independent chartering boards and university authorisers. They also found that four-fifths of authorisers would use additional staff to monitor academic performance and two-thirds would like addi-

²³² Wilson, 2006, p 223

²³³ Ibid, pp 226-227

²³⁴ Harvey and Britt ed., 2007, p 31

²³⁵ Hassell B and Batdorff M, *High Stakes: Findings From a National Study of Life-or-Death Decisions by Charter School Authorizers*, Public Impact, 2004

²³⁶ Fiscal Crisis and Management Assistance Team, *Extraordinary Audit of the California Charter Academy*, www.cde.ca.gov/sp/cs/ac/documents/cscacaudit.pdf

tional technology to monitor accountability.²³⁷ Robin Lake, Director of the NCSRP, has argued that this lack of oversight could be the “achilles heel of the charter school movement” as “the existence and persistence of low-performing charter schools is the primary contributor to uneven charter school quality. In the end, if the charter school movement fails to prove itself as a viable source of higher quality public schools, bad authorizing and oversight will probably be a major reason.”²³⁸

There is plenty of good practice on this issue, especially amongst the large authorisers who frequently offer far more nuanced and productive accountability structures than any national government could provide. The US Department of Education have produced a checklist of practices established by the best authorisers: they use information and technology to streamline compliance with regulations and performance reviews using management systems (like the one developed by Central Michigan University); they use site visits strategically – some authorisers, like Ferris State University have developed their own small inspectorate teams; they know when to intervene early by keeping a close eye on, for example, board minutes; and they base decisions on solid evidence rather than conjecture or parental pressure.²³⁹ Moreover, the best authorisers spend more time on the initial application process, incubating good ideas, spending time getting to know applicants and clarifying expectations, so as to avoid future problems.²⁴⁰

Robin Lake has suggested a number of ways in which state legislatures could ensure that more authorisers adhered to these practices. These include: increasing transparency by forcing mandatory disclosure of formal policies on approval, oversight and revocation; allowing charters to anonymously rate authorisers and even switch to different authorisers (although Lake acknowledges this could lead to less

critical oversight if introduced without her other suggestions); authoriser report cards, aggregating results for all their schools and publishing them; independent performance audits; specific legislatively mandated performance goals, perhaps using standardised No Child Left Behind data; and the development of markets for authorisers in states that limit authorising to a single agency or type of agencies.²⁴¹

Genuinely free

The extent to which charters have to conform to various state regulations varies significantly between states. With EMO/CMO run schools there is usually the additional complexity of whether the management organisations or the client board hold specific powers. Nevertheless, the majority of charters have significant freedom. There is no national curriculum to follow, though curricula are prescribed to some extent by the content and nature of state standardised tests, and there are typically few restrictions on school design or buildings. Indeed, many charters are set-up in church halls, office blocks and spare rooms of existing district schools.

Freedom over teacher tenure and pay are more complex. Rules regarding pay differ widely between states, perhaps reflecting charters’ muddled origins as an initiative by teacher unions. Six states require charter teachers to be included in collective bargaining with local district schoolteachers and a further seven states assume collective bargaining but may allow some waivers or negotiated freedoms in individual charter agreements.²⁴² In contrast, the states containing the majority of schools allow charter founders to bargain directly with their teachers. Just 10% of charters are in states which require collective bargaining, with 54% operating in states with no requirements and the rest operating in states which either require teachers to opt-out of bargaining (4%) or opt-in (32%).²⁴³ Analysis of the 1999-2000 School and

237 Gau, 2006, p 12

238 Lake RJ, *Holding Charter Authorizers Accountable: Why It Is Important and How It Might Be Done*, NCSRP White Paper Series No. 1, February 2006, p 1

239 US Department of Education, 2007, pp 35-49

240 Holland M and Rainey L, *Finding a Balance: How Application and Authorization Policies Impact School Supply*, NCSRP Working Paper 2008-4

241 Lake, 2006, pp 5-8

242 The Center for Education Reform

243 DeArmond M, Gross B and Goldhaber D, *Look Familiar? Charters and Teachers*, in Lake R ed., 2007, p 45

Staffing Survey (SASS) indicates that start-up charters and those without collective bargaining are much more likely to use non-traditional salary schedules and merit pay than conversions or schools in areas with collective bargaining. Around 45% of start-ups use their own schedules and/or merit pay.²⁴⁴ Those authorised by independent or not-for-profit authorisers are also significantly more likely to use merit pay than those authorised by school districts. This freedom is considered important by management organisations (particularly EMOs) as they tend to have specific management structures that differ from traditional state schools and most use detailed performance evaluations attached to bonuses or salary increases.²⁴⁵

In many states, charters are able to hire a certain percentage (in some cases 100%) of non-certificated staff who have not been through teacher training courses. Some groups, like the American Indian Public Charter Schools discussed on p.46, use this freedom as a good way to attract high-quality graduates who do not want to go through teacher training. According to the 2003-2004 SASS 78% of state school teachers earned their undergraduate degree from an education programme compared to 63% of those in charters, and 41% of state school teachers held a Masters degree from an education programme compared to 26% in charters.²⁴⁶ Finally, and perhaps most importantly, very few charters are unionised, potentially as few as 2%, which means that it is far easier to remove underperforming teachers.²⁴⁷ Most charters, especially EMOs and CMOs, consider this to be one of their most important advantages over traditional schools, who find it even harder to remove poor teachers than their counterparts in England. As Alan Olkes, Head of Human Resources for Chancellor Beacon Academies, one of the bigger EMOS, put it: "One of our key advantages is that we can hire and fire people."²⁴⁸

Financially consistent and stable

Differences in funding, both between public and charter schools and between different states, are one of the biggest headaches for the charter movement. Much of the problem comes down to the overwhelming complexity of the school funding system which operates at a federal, state and local level and consists of numerous different revenue, special programme and capital grants. This complexity, and the localised nature of each individual school's funding means that per-pupil funding is not consistent, seriously affecting the operational capability of charters and distorting the market.

The majority of state laws require that charters receive 100% per-pupil funding. Some states such as New York and Pennsylvania offer far less (70% and 70%-82% respectively) but this typically relates to just federal and state revenue funding. In a 2005 analysis of sixteen states plus Washington D.C., researchers commissioned by the Thomas B. Fordham Foundation found that charters receive on average 21.7% less funding than public schools (about \$450,000 less a year for a 250 pupil school). The largest gap – 39.5% – was found in North Carolina.²⁴⁹ Most of this gap is due to the inability of charters to access local revenue and facilities finance, usually funded by local taxes and administered by school districts (no states in the sample offered full access to local or facilities funding).²⁵⁰ There are significant differences between states in the extent to which they use local taxes to support schools ranging from 64% of all funding in Illinois to 15% in New Mexico and, notably, the three states with the lowest percentage of school funding coming from local taxes also have the lowest gap between public and charter schools.²⁵¹

The funding gap is almost certainly the biggest single problem for charter school founders, especially when it comes to finding and supporting facilities.²⁵² It is largely intractable as there is only so much a state

244 Ibid, p 45-47

245 Wilson, 2006, p 133

246 Lake R, in Robin Lake ed., 2007, p 9

247 Robelen EW, "Efforts to Unionize Charters Grow, But Results So Far Appear Modest", *Education Week*, March 22 2006

248 Wilson, 2006, p 134

249 Speakman S and Hassell B, *Charter School Funding: Inequity's Next Frontier*, Thomas B. Fordham Institute, 2005, p 6

250 Ibid, p 13

251 Ibid.

252 See, for example, Hutton P, Eckerling W and Balczarek A, *Short-Changed Charters: How Funding Disparities Hurt Colorado's Charter Schools*, Colorado League of Charter Schools, 2008

government can do to force the hand of local districts. In California, for example, districts are now required to provide charters with facilities to accommodate students in “conditions reasonably equivalent to” public schools in the district, yet many districts (who are also competitors of the charters) have gone to the courts to argue against this requirement, while some EMOs have been reluctant to push the issue to avoid upsetting their authorising district. Other support in the form of state ‘lease aid’ is subject to annual appropriation and therefore cannot be budgeted for (the same is true in Minnesota). Only Washington D.C. grants charters a per-pupil capital allowance equivalent to public schools (averaged over five years) and this is only possible because there is no distinction between state and local government.²⁵³ Needless to say the differences between states also cause huge problems for groups attempting to develop national federations. Responses to these problems are likely to be piecemeal at best unless individual states or the national government were to reduce the extent to which schools are funded locally (by introducing something like the Local Management of Schools implemented in English schools from 1988), admittedly an extremely unlikely scenario.

Politically stable

Charter school initiatives in most states are less politically stable than Swedish free schools or academies because the majority of authorisers (school districts) are directly elected and charters are typically short-term contracts with a built-in timescale for renewal. Even for charters that are authorised by non-elected bodies like universities or private not-for-profits, districts still have huge influence over funding, facilities and planning. Not only does the charter movement have a permanent battle to maintain or develop strong legislation in each state, it must also respond to the local politics

of each district (of which there are 13,500 in total). As the CEO of Charter Schools USA, a large EMO, has put it “the continued political undercurrent requires charter operators to spend an enormous amount of time defending [themselves]...while still having to operate schools.”²⁵⁴

As with free school operators in Sweden, most EMO/CMOs now spend a considerable amount of time developing community support before applying to open a school, but this is both costly and time-consuming. Furthermore, even if charter founders are successful in winning support for initial proposals, those authorised by directly elected institutions are vulnerable to wider changes in political momentum. The Mayor of Indianapolis, who has politicised his role more than any other authoriser, has had to work harder than others to institutionalise practices and win support for charters so that the next mayor is forced to carry on with the programme.²⁵⁵ Of course, the direct politicisation of charters can work both ways, with poor schools kept open despite the concerns of authorisers, because they do not want to risk upsetting influential community groups or parents.²⁵⁶ As discussed earlier, this occasionally weak accountability is one of the biggest threats to the charter movement.²⁵⁷

Even after taking these issues into account, the main problem created by the direct politicisation of authorising remains the extreme instability it causes within individual districts. Steven Wilson relates the story of Edison winning an initial vote from the San Francisco board of education to take over one of the worst schools in the city in 1998, only to find new board members elected two years later who were viscerally opposed to the idea of profit-making schools. Despite Edison’s investment in new facilities, improved scores and almost unanimous support from parents and teachers, the new board members ended up forcing a revocation of the char-

²⁵³ Wilson, 2006, pp 203-204

²⁵⁴ Harvey and Britt, 2007, p 20

²⁵⁵ U.S. Department of Education, 2007, p 55

²⁵⁶ Ibid, pp 55-56

²⁵⁷ Lake, 2006

ter. Edison were allowed to transfer their charter to the state board but only on condition that they paid \$300,000 costs, paid ongoing rent to the San Francisco board and agreed not to manage any additional schools in the district.²⁵⁸ The role of profit remains the single most contentious political issue, due to the largely illogical yet intuitive dislike many people have towards any relationship between commerce and children. Wilson also relates the story of a KIPP director who, when approaching new school district boards, is regularly asked “are you for-profit?” and when he replies that they are not is told “Oh Good. Now I can talk to you.”²⁵⁹

Fair

One of the original concerns of charter school opponents was that they would lead to an increase in segregation as allowing parental choice might result in cream-skimming. As it stands, the vast majority of charter schools laws were designed to give all parents an equal chance of winning a place if they applied. Only five states do not mandate that over-subscription to charters must be settled by lottery rather than academic ability or interview. Academic ability can only be taken into

account in three states (Delaware, New Hampshire and Rhode Island), none of which have many charter schools.²⁶⁰

In practice charters have been predominantly focused on the poorest communities as this is where the demand for higher-quality state-funded education is to be found. There is evidence that opposition to charters is much lower in poorer areas and Black/Hispanic voters are more likely to support charters than the public in general.²⁶¹ Many EMOs attempting to operate in single authoriser states have found that the only districts prepared to countenance for-profit are the most desperate. CMOs are even more focused on the poorest communities as they are philanthropic institutions. This means that charter schools, on average, have far poorer intakes than public schools (in contrast to Sweden where for-profits are able to open in most of the country and admissions are done on a first-come-first-served basis). A recent survey of charters found that 52% of students are from ethnic minorities, compared with 44% in the entire public sector, and 54% are low-income (as defined by uptake of free or reduced-price lunches) compared to 41% in the public school sector.²⁶²

²⁵⁸ Wilson, 2006, pp 272-281

²⁵⁹ Ibid, p 98

²⁶⁰ The Center for Education Reform; National Center for Education Statistics, nces.ed.gov/ccd/tables/2009305_02.asp

²⁶¹ Larson, 2008, p 5

²⁶² The Center for Education Reform, *Annual Survey of America's Charter Schools 2008*, p 12; National Center for Education Statistics, see nces.ed.gov/pubs2007/ruraled/tables/table1_8.asp

Lessons and recommendations

In the last three chapters we have provided information on the politics and performance of independent state-funded school (hereafter known as ISFS) reforms in England, Sweden and the United States. We have looked at the background to reform, evidence on academic achievement and seven ‘tests’ designed to identify which programmes have been best at solving specific policy problems. As Table 5 shows, no country has designed a system that resolves all of these difficulties. But because at least one country has found a solution to every problem, we believe it is possible to develop a programme that adopts the best aspects of all three systems and could be implemented in this country. There are cultural and political differences between the three countries that prevent some ideas from being directly transferable. Even so, many of the issues, such as tensions between local and central government and inequalities between rich and poor, are faced by reformers in each nation. In this chapter we start by drawing together what we believe to be the ten key lessons from the previous chapters and then go on to give our recommendations for reform based on these lessons.

The Ten Key Lessons of School Reform

1. Once established ISFS (Independent State-Funded School) systems grow steadily and reforms are difficult to reverse

In the US and Sweden the number of charter schools and free schools have grown steadily every year since reforms have been introduced. In neither country was there an explosion of interest after the first reforms but sizable markets developed as initial problems were ironed out and potential entrants were assured about the longevity of the reforms. In the US there are now 4,568 charter schools educating 1,341,687 children – or 2.7% of the total. In Sweden, where there are fewer barriers to setting up new schools, approximately 11.9% of children are educated in 3,302 free schools (including pre-schools). In this respect the academies programme in England is somewhat different as its expansion has been driven by government targets rather than demand. Nevertheless, as with charter and free schools, academies enjoy the broad support of all mainstream political parties due to their popularity with parents and the success of major alternative

Table 5: How each country fares in our seven tests

	Demand-led	Easy to enter	Accountable	Genuinely free	Financially consistent	Politically stable	Fair
UK	X	X	✧	✧	✓	✓	✓
USA	✧/✓*	✧	✧/✓*	✓	X	X	✓
Sweden	✓	✓	X	✓	X	✓	X

✧ indicates that the evidence on whether a system passes the given test is mixed

* These categories have been given two ratings because of the huge difference between states that have multiple-authorisers and are, therefore, more demand-led and accountable, and states that only allow school districts to authorise.

providers like ARK. In all three countries, however, the political right are typically more supportive of the process than the left, who have to accommodate the usually hostile views of affiliated trade unions, even though over time unions find themselves with members in ISFS and have to moderate their hostility accordingly. The left are particularly hostile to commercial providers and, in the US and Sweden, centre-left politicians have moved away from attacking the general principle and towards attacking the profit motive.

2. Most studies of attainment in ISFS show a positive effect:

‘Evidence’ can be cherry-picked to support any line on the benefits or otherwise of ISFS reform. In this report we have tried to include at least some mention of every available major study in the US, Sweden and England. In short, the overall picture tends towards the positive, especially when research methodology is taken into account. In this country there is too little achievement data available to draw strong conclusions about long-term average trends. Nevertheless the data from the recent PwC evaluation suggests academies are improving much faster than other local schools. Longitudinal datasets with proper controls will be needed to reach firmer conclusions. In Sweden, the lack of national tests before 15 circumscribes the kind of analysis possible but all three main studies looking at the impact of an increase in free schools on the performance of any given municipality are positive. In the US just four out of the 40 longitudinal studies assessing the impact of charter schools on achievement are negative, while 31 found some kind of gain – which is particularly notable given that charters receive, on average, 20% less funding than public schools.

While analyses of the overall impact of ISFS are important justifications for pursuing this policy, they can hide significant disparities in the performance of ISFS

operating within the same system. Far more research in all three countries is needed to help explain what works and what doesn’t. However, it is possible to draw out some broad themes. On the basis of the success of the Harris and ARK groups in the UK, the charitable CMOs in the US and the popularity of more traditional groups such as the International English Schools in Sweden, we believe that providers offering an academic education with a focus on core subjects and strong discipline, especially to children from deprived communities, may be the most successful. These providers also counter the low expectations often held for children from such communities. We hope that researchers in each country will focus on this aspect of reform over the next few years. We also believe there is strong evidence, especially from the US, that federations perform better than one-off schools – perhaps, in part, because they are more likely to offer more traditional curricula based on core subjects. This theme is explored in more detail in the next three sections.

3. A system based on independent state-funded schools moves naturally towards federation:

In all three countries the initial intention of reformers was not to create federations. Those behind the academies programme assumed – based on the experience of City Technology Colleges – that local sponsors from the business community would come forward to sponsor one-off schools. As the programme has developed some of the most important sponsors, like ARK and Harris, have taken on a number of schools and created branded networks but that has come about organically and, because of this, unnecessary barriers remain to this way of working, such as the sponsorship fee for every new academy and the inability to move money between schools.

In the U.S. and Sweden reformers assumed that schools would be run by

local community groups or teacher/parent co-operatives. Indeed, the very first ISFS in both countries conformed to expectations as parents took control of rural schools in Sweden and teachers opened the first charters in Minnesota. However, in subsequent years federations (typically using general or traditional academic-style curricula) have become more prominent. In Sweden, where there are few barriers to federation, the majority of schools are now run by for-profit companies and the vast majority of new applications are for this type of school. In the US there are much stronger barriers: for-profit providers can only run schools directly in six states; state laws differ widely meaning scalability is compromised and funding is extremely variable between states and even school districts. Nevertheless, as many as 30% of charter schools are involved with management organisations in some capacity. The growth in the number and size of charitable CMOs over the past few years, with many of them focusing on providing ‘college-prep’ academic education to deprived communities, is a particularly interesting development.

4. ISFS in federations seem to perform better than one-offs:

In the UK and Sweden there have been no statistical comparisons of performance between federations and one-offs. Nevertheless the initial data on academies suggests that multi-academy groups are outperforming sponsors with one or two schools. Furthermore, in their qualitative analysis PwC emphasise the significant benefits of this kind of sponsorship, including the potential for developing school leaders in-house, the scalability of curricula and economies of scale. To this we would add the potential for developing a coherent brand which conveys information about quality to parents and the ability to set up multi-school teacher training programmes. In Sweden the dominance of

for-profit federations is indicative – at the very least – of the benefits of economies of scale. The two studies from the US on this topic that compare federations to one-off charter schools both strongly favour federations, despite the barriers to their development. Although more evidence is still needed in this area, the performance of CMOs like KIPP and AIPCS seems especially strong.

5. Allowing commercial companies to set-up ISFS significantly boosts the potential for federation

The question of profit is one the most emotive aspects of ISFS and has been the focus of discontent on the left of American and Swedish politics. There seems to be little basis for this, or for the queasiness over potential profit-making schools in the UK, beyond an intuitive dislike of the idea that money could be made from educating children. The most common argument used in opposition – that it takes money away from schools to line the pockets of shareholders – simply ignores economic reality. If it were true it would be an argument for nationalising all industries. We do not believe that the inclusion of for-profit firms in any reform is *essential* to making reform work – and reformers may consider the additional opposition it creates not worth the trouble. However, for-profit groups are much more likely to have the scale and ambition necessary to create multi-school federations. Larger charities with a national or regional focus, such as Harris and ARK in the UK or KIPP and the other CMOs in the US, are also able to do this, but such groups are relatively few and far between, especially during an economic downturn. Parent or teacher co-operatives and community groups are, by their nature, focused on one locality.

In Sweden, where there are no restrictions on profit, there are far more national multi-school federations, and ISFS represent a far higher proportion of the total

number of schools. However, the lack of effective quality-control means that there is anecdotal evidence that some less impressive groups have gained access to the market, perhaps with a quick profit in mind. Because the availability of profit increases the incentive to set-up schools it also increases the need for strong accountability – both in the commissioning process and in continuing oversight. Of course, if for-profit schools are not offering any value then parents will soon desert – forcing it to close anyway – but education is too important to risk even brief market failure.

6. The authorising process is crucial for the success of ISFS reform

Authorising is an often overlooked aspect of ISFS reform, perhaps because the idea of a market in schools is suggestive of an organically evolving sector. However, given that significant amounts of state funding are involved, someone has to decide who has access to this market. This decision can be made at different levels of national or local government or remitted to non-governmental bodies. The authorisation can involve the application of minimum standards (in the knowledge that it is impossible to make the process entirely objective) or a more rigorous commissioning approach designed to favour specific types of schools (which is subjective in any case). The benefit of the ‘minimum standards’ approach is that it increases diversity and innovation in the market, while the benefit of the ‘commissioning’ approach is that it reduces the potential for market failure. The Swedish system tends towards the former while, in most states, the US tends towards the latter. In contrast the academies programme authorising mechanism is entirely lacking in transparency and depends on the available local sponsors and the whims of the relevant local authority.

In practice the best option is probably to balance the two approaches and we would argue US states that have multiple authoris-

ers come closest to managing this. This is because schools can approach more than one authoriser, so reducing the risk to diversity, but authorisers themselves are in competition so typically take a more rigorous approach to accountability and oversight. Such a system would work even better if authorisers were themselves accountable to government and parents for the performance of the schools they oversee.

7. Existing local government providers should not be able to veto provision but also should not be prevented from participating in reforms:

In all three countries the traditional monopoly school provider has been local government and most local authorities (or municipalities or school districts) have been hostile, at least initially, towards ISFS reforms. In the UK this hostility has manifested itself in the refusal of many authorities to participate in the programme despite the government’s enticing variety of sticks and carrots to encourage involvement. Alternatively, local authorities display a grudging acceptance of academies on condition that they can co-sponsor them – retaining significant control. In the US, relatively few school districts (7-8%) have been prepared to authorise charters and often after lengthy political battles. Where charters have been authorised by other bodies the districts in which they are set up typically refuse to offer fair funding and can be extremely hostile unless significant groundwork is done in advance to soften up local opposition. In Sweden municipalities play no direct role in the authorising process, although they are allowed to file an objection which the national authoriser has to take into account, but again those whose support is not won in advance can make life difficult by withholding suitable buildings or failing to offer equivalent funding.

Given this pattern of hostility it would not be sensible to introduce any reform that gives local government an effective (de

facto or de jure) veto over new provision. That does not mean that local government should never participate in the authorising process. Some authorities, districts and municipalities have embraced the potential of ISFS, especially those in larger urban areas (like Stockholm or Chicago) and/or with an enhanced strategic capacity (like the privatised authorities in Hackney and Stoke). Where possible, local government should play a significant role in the development of local markets.

8. Accountability is difficult to manage at a national level

The problem of entirely ignoring local government is that it is difficult to authorise and oversee schools from central government. Many of the difficulties faced by the academies programme stem from the DCSF trying to manage it centrally. This approach has led to a chaotic commissioning process in which local authorities and sponsors are confused about their role and has engendered a total lack of transparency. Moreover, if an academy fails – as has happened on a number of occasions – the DCSF feel compelled to get involved, which can mean throwing money at the problem. Trying to manage hundreds of schools in this way will become increasingly implausible. A new national quango would be unlikely to manage much better. The experience of Sweden here is not encouraging. In a country a fifth of the size of England, the schools' agency has not proven itself able to manage quality-control or long-term accountability as effectively as one would hope. In fact, at the end of 2008 responsibility for managing free schools passed to the relatively new schools' inspection agency (their equivalent of Ofsted). Their oversight is likely to be more extensive as it will link up with more regular inspections and with new high-stakes tests. Nevertheless it simply cannot have the nuance of a more local and focused authoriser.

9. Funding needs to be fair and consistent

In England academies are funded centrally according to the per pupil revenue that schools in the same authority would receive, plus start-up funding and the money authorities would receive to pay for central services. As academies also receive free new buildings there are no problems with capital costs. This works acceptably at the moment but if ISFS reform were to be broadened a transparent national funding formula would be preferable to hundreds of bespoke agreements. In the U.S. funding for charters is handled by a chaotic mix of federal, state and local agencies leading to confusion and disparity. Charters receive on average 20% less than public schools, primarily because they do not receive equivalent funding for facilities, which seriously limits their ability to succeed. In Sweden funding is controlled by municipalities and there have been problems over how to fairly calculate a per pupil equivalence which takes leasing costs into account. There are also problems caused by differences in the proportion of local taxes allocated to education in different municipalities. In both the US and Sweden, providers with some mobility (i.e. commercial companies and national/regional charities) have focused their attention on states, localities or municipalities with higher rates of funding – thereby skewing the market. Consistent and transparent national formulas, which are nuanced to take into account local differences, are the only way to resolve this difficulty.

10. Choice does not necessarily lead to segregation but admissions policies have to be set carefully:

In all three countries a central concern for opponents of ISFS reform has been that choice may lead to further segregation of the education system on the basis of class and income as wealthier professional families will have better access to information. In a sense this is more of an issue in the

US and Sweden where state school places are typically allocated by government. In England parents already have a choice so the issue of providing useful information to parents is crucial anyway. Nevertheless, providing a wider range of choices could theoretically lead to further segregation.

There are two ways of mitigating this. First, to make sure that parents are not penalised for being slower off the mark. In Sweden admissions are done on a first-come-first-served basis which does give a clear advantage to middle-class parents. In the US oversubscription is usually dealt with by lottery which removes the ‘early-bird’ advantage and in England academies have to abide by the admissions code which gives a variety of criteria for dealing with oversubscription including the use of catchment areas and fair banding. The second way is to more actively incentivise providers to set-up in more deprived communities. This has happened to some extent in the US by default as school districts in deprived urban areas have been more prepared to try radical new approaches. In England the government has limited academy sponsors to replacing poorly performing schools (by their definition) which are usually in deprived areas. An approach that was genuinely demanded might require incentives for providers.

Our Recommendations

Our first recommendation is that it makes sense to think of school choice reform as a series of stages rather than a ‘big bang’. That way the system can be developed in a coherent fashion rather than reactively in the face of unexpected difficulties. It also should reduce the risk of initial market failures, making the reforms easier to defend politically. We should be able to predict what problems might arise in advance as we have the examples of Sweden and the US to study. Unlike the Swedes and Americans in the early-90s, we already have a hybrid model –the

academies programme – which embraces some important aspects of reform, like independent provision, but also bears little resemblance to a proper market. It makes sense, therefore, to start by adapting the academies programme, making the process of entry for providers easier and more transparent. Once proper commissioning, funding and accountability mechanisms are developed then reforms should be widened to allow existing academy providers and new providers to set up new schools directly in response to demand. This could be done using smart caps to regulate provision without diminishing the potential for diversity and innovation. Our four-stage process of reform would look like this:

1. The academies programme should be immediately reformed by removing barriers to entry and developing a transparent commissioning process.

The DCSF should identify those schools it wishes to turn into academies (regardless of whether the relevant local authority agrees) and give its criteria for doing so, which should be more nuanced than just failing to reach the 30% good GCSEs target (perhaps making use of the school report cards being introduced by the government)²⁶³ and should include some measure of public demand in the area. They would then invite public bids, in manageable waves, from any interested providers. There should be clear criteria for bidders with preference given to groups who are successfully running other academies, which would encourage federation, and those who have prior educational experience. The winner would be subject to proper public consultation. Contracts should be simplified and freedoms over curriculum and teacher certification should be restored.

As the commissioning process would be clear and transparent there would be no need for providers to pay sponsorship fees (which act, at the moment, as a crude quality-control barrier) so groups without

²⁶³ Following a recommendation from Policy Exchange in Lim C and Davies C, *Helping Schools Succeed: A Framework for English Education*, Policy Exchange, 2008, pp 58-72 ; DCSF, *A School Report Card: consultation document*, 2008, see, publications.teachernet.gov.uk/eOrderingDownload/DCSF-01045-2008.pdf

access to capital would be able to bid. We would also allow commercial organisations to bid, which would not require any change in legislation as for-profit companies are already allowed to run state schools. There is simply no logical reason to exclude them as long as they can show in a bidding process that they would be more effective than other alternatives and they are held accountable for their performance on an ongoing basis. Dropping the sponsorship requirement and allowing commercial organisations to bid and make a profit would increase the number of providers participating in competitions, thereby boosting standards.

While we think it is sensible for the DCSF to actively intervene to replace the worst performing secondary schools we would also widen the scope of the academies programme. First, to include poorly-performing primaries, who are currently excluded for no obvious reason, and secondly to allow the governing bodies of successful schools to convert to academy status. This would entail setting up a trust that could then also bid for other schools. The Conservative Party have already moved in this direction by proposing to give the top 400 secondary schools the same freedoms as academies in return for federating with a poorly performing school.²⁶⁴ That said, we don't see why this should be limited to 400 schools or why the initial quid pro quo is necessary. There should be a wider entitlement with fewer strings attached in the expectation that some high-performing school trusts would go on to build federations.

2. The DCSF should transfer the oversight of academies to a variety of local and regional authorisers.

As the academies programme expands – which would happen faster if primaries and high-performing schools were allowed to participate – it will become impossible for the DCSF, or any national agency, to

manage. This is not an argument for simply handing control to local authorities, many of whom remain hostile to the principle of ISFS. Instead the DCSF should look to approve multiple local and regional authorisers. Local authorities would be able to apply to authorise but so would other devolved local and regional governmental institutions such as Regional Development Authorities (RDAs) and elected mayors, and even non-governmental organisations, specifically universities and educational charities. A key advantage of including universities is that it would help develop closer links between secondary and higher education, boosting the drive for wider participation. They have also proved to be some of the best authorisers in the US. Some of the authorisers would have a local focus while others might look to authorise across regions or even nationally. The DCSF would retain its ability to authorise as a last resort for areas as yet uncovered by any other body.

Existing academies would have to agree to be transferred to another authoriser as their contracts state that the DCSF is responsible for oversight. However, in the future, schools considered to be performing at a very poor level (a group that should continue to rapidly diminish in number) would be identified by the DCSF criteria, go through a centralised bidding process and then be assigned to an authoriser of the winning bidders choice. High-performing schools that wished to become academies would apply directly to an authoriser of their choice. The DCSF would be left in charge of existing academies that wished to remain under its control and a small number of new academies without access to any other authorisers. Local authorities would retain control (regardless of whether they chose to become authorisers) of children's services and any aspect of education that required local co-ordination such as diplomas, information about admissions, exclusions and transport.

²⁶⁴ Prince R, *Tory party conference: Schools to get budget freedom under Conservative plans*, The Daily Telegraph, 30th September 2008 www.telegraph.co.uk/news/newsttopics/politics/conservative/3108378/Tory-party-conference-Schools-to-get-budget-freedom-under-Conservative-plans.html

The network of authorisers would then be responsible for monitoring the performance of their academies and re-commissioning any school that was failing or whose provider pulled out. This would allow for a far more dynamic and flexible process of accountability than is currently possible via brief Ofsted inspections. Ofsted would only have to inspect the authorisers not their individual schools. Authorisers would be funded through a combination of a dispersal of DCSF and Ofsted funds and, if necessary, a small levy (no more than 0.5%) on their schools.

3. A national funding formula should be introduced.

An unintended outcome of the expansion of the academies programme has been the development of a twin-track funding system whereby academies are funded centrally but all other schools are funded by their local authorities (admittedly, the extent to which local authorities have the power to specify individual school's funding is somewhat constrained). This is not sustainable as the academies programme continues to expand. It has already led to the perception of disparity and unfairness which is, to some extent, justified. The twin-track system means that authorities can 'hold back' money from 'their' schools but not from academies, meaning that the latter are better funded. It also means that money allocated by the DCSF for 'disadvantage' is not passed on to schools in any coherent way. Furthermore, as the market develops, unwarranted disparities between authorities based on out-of-date calculations could skew providers towards certain areas of the country, as has happened in Sweden and the US.²⁶⁵

A clear and transparent national funding formula should be introduced as recommended in our report *School Funding and Social Justice* published in 2008. All schools would receive per-pupil funding direct from the government and local

authority activities would be funded separately. The per-pupil amount would consist of three elements: a base element (different for secondary and primary schools), an area cost adjustment dependent on the cost of hiring staff in different areas, and, if applicable, a 'pupil premium' – additional funding for pupils coming from deprived communities. This would not only represent a fairer and more consistent way of allocating funding, and especially funding for disadvantaged students, but it would also actively skew a market towards the most deprived areas of the country, thus mitigating the potential for increased choice to lead to increased segregation.

4. Once a network of authorisers is established they should be allowed to start commissioning new schools.

Once a network of authorisers and a national funding formula were set-up, the right balance of accountability and incentives would be in place to allow authorisers to start commissioning new genuinely demand-led ISFS to compete with existing schools. Providers, who could be existing charitable or for-profit federations, parent or teacher co-operatives, or community charities, would be able to make their case to an authoriser of their choice. Authorisers would be able to approve an unlimited number of schools from providers whose educational model had already proved successful. For entirely new providers an annual cap would be in place, perhaps five or ten for each authoriser, to regulate supply. This would encourage the demand-driven growth of successful federations while not excluding those with new ideas. It would also give authorisers the chance to intensively 'incubate' schools run by less experienced new providers. All new schools should have to abide by the existing admissions code while retaining their own admissions policy.

A serious issue, which has caused problems in Sweden and the US, is how to

265 Freedman S and Horner S, *School Funding and Social Justice*, Policy Exchange, 2008

support the expansion of the school estate which demand-led choice reform requires. Because it is focused solely on replacing existing schools, the academies programme only requires that existing buildings are handed over or, more typically, rebuilt. Setting up a new school means either funding a new development or, if planning regulations are relaxed, leasing buildings designed for a different purpose (e.g. office space, community centres or warehouses). This extra cost is the main reason why charter schools in the US are so much worse off than public schools.

There are three options for resolving this problem (a fourth would be to leave it unresolved, as in the US, and expect ISFS to make efficiency savings to cover the cost of leasing). The first is for the government to give a large chunk of up-front capital funding to each new school. This is less than ideal for three reasons: it would be extremely expensive, it would arbitrarily limit the number of new schools that could be set-up and untested providers could waste the money on expensive experimental designs that don't work. The second is to do what happens in most Swedish municipalities and provide annual leasing costs. This is preferable as it does not require massive up-front expenditure and is less risky. Nevertheless it would mean an additional annual cost to the system which would have to come from elsewhere in the education budget (or increased spending). It is difficult to estimate exactly what this cost would be without knowing how many schools would set up (or how many existing schools would close down as the result of competition, freeing up land that could be sold or offered to new ISFS). The third possibility could involve supporting successful

federations with up-front capital or leasing costs while providing temporary accommodation for new providers in custom-built 'incubators'. A number of cheap, small buildings could be developed in each local authority as part of the Building Schools for the Future programme that could be leant out to providers to try new concepts so as to avoid wasting capital. If they were successful they could then be given access to capital to develop a new school; if they were not successful the space would be leant to a new provider.

The end goal of the reforms would be a system that is built on the following principles:

- Allowing for demand-led expansion of successful groups, emphasising federation and educational experience;
- The promotion of innovative new ideas;
- A commissioning system that is open to any provider, large or small, for-profit or charitable;
- Careful quality controls to avoid multiple market failures;
- A combination of autonomy and strong accountability for providers;
- Incentives for providers to set-up in communities where achievement is currently lowest.

A school system based on these principles would combine the best aspects of choice-based reforms in Sweden, the US and this country to date. These reforms, which have already boosted achievement in all three countries, have the potential to transform the lives of millions of children.

Appendix A

Swedish School Numbers

Förskola					
	2003	2004	2005	2006	2007
Number of schools					
State	6616 (75.3%)	6576 (75.2%)	6769 (75%)	7076 (75.5)	7324 (75.4%)
Free	2175 (24.7%)	2170 (24.8%)	2252 (25%)	2301 (24.5%)	2392 (24.6%)
Total	8791	8746	9021	9377	9716
Number of students					
State	293075 (83.3%)	303107 (83.3%)	315481 (83.3%)	329371 (83.1%)	344790 (82.7%)
Free	58647 (16.7%)	60938 (16.7%)	63473 (16.7%)	66860 (16.9%)	72151 (17.3%)
Total	351722	364045	378954	396231	416941
Grundskola					
	2003	2004	2005	2006	2007
Number of schools					
State	4571 (89.5%)	4476 (88.8%)	4387 (88.4%)	4312 (87.9)	4262 (87.5%)
Free	538 (10.5%)	565 (11.2%)	576 (11.6%)	596 (12.1%)	610 (12.5%)
Total	5109	5041	4963	4908	4872
Number of students					
State	997180 (89.5%)	979387 (93.6%)	952273 (93%)	919312 (92.3%)	881637 (91.6%)
Free	60045 (5.7%)	67054 (6.4%)	71451 (7%)	76145 (7.7%)	80712 (8.4%)
Total	1057225	1046441	1023724	995457	962349
Gymnasium					
	2003	2004	2005	2006	2007
Number of schools					
State	517 (72.1%)	515 (68.1%)	516 (67.6%)	523 (65.8)	518 (63.3%)
Free	200 (27.9%)	241 (31.9%)	247 (32.37%)	272 (34.2%)	300 (3.7%)
Total	717	756	763	795	818
Number of students					
State	295320 (91.8%)	299424 (89.7%)	306183 (88.1%)	311124 (86.6%)	319540 (85%)
Free	26323 (8.2%)	34504 (10.3%)	41530 (11.9%)	48291 (13.4%)	56547 (15%)
Total	321643	333928	347713	359415	376087

Appendix B

Opinion data from the Swedish Conference of Business

PARENTS (984 participants)				
	Free schools		Municipal Schools	
	Positive	Negative	Positive	Negative
My children have involved teachers	88%	1%	65%	6%
The school helps make students take responsibility for their studies	90%	1%	62%	7%
The school is good at giving each student the support that he/she needs	78%	4%	40%	17%
The school helps strengthen the students' self esteem and confidence	81%	3%	41%	16%
I know how the school deals with bullying, should it occur	73%	10%	58%	17%
How pleased or displeased are you with the parenting role of the school?	79%	3%	47%	14%
The school listens to me as a parent	87%	2%	63%	11%
The school is good at utilizing co-operation with parents	75%	5%	37%	20%
As a parent the school encourages me to get involved in my child's education	84%	2%	51%	14%
As a parent I continuously receive information on how the student develops	88%	1%	72%	9%
I am pleased with how I, as a parent, am treated during contact with the school	93%	1%	79%	4%
As a parent I can influence how the rules and norms in school are followed	47%	12%	19%	32%
How pleased or displeased are you with parents' influence in the school?	75%	4%	41%	13%
The school makes sure students get the knowledge they need for further studies	87%	1%	58%	12%
The school gives the best prerequisites for learning	77%	4%	38%	19%
The school is good at encouraging entrepreneurialism	46%	6%	13%	22%

The school enables the students to work from their own curiosity and interests	76%	5%	41%	15%
The school is good at taking care of skilled and talented students	67%	3%	24%	16%
The school is good at incorporating students in need of special support	48%	9%	28%	20%
The school does a good job on following up on the results of the students	80%	3%	56%	11%
The teachers are competent and knowledgeable	86%	0%	61%	5%
The school has good equipment and means for learning	68%	6%	35%	22%
How pleased or displeased are you overall with learning in the school	85%	2%	50%	14%
I have confidence in the school's teachers	88%	1%	70%	6%
I have confidence in the management of the school	86%	4%	54%	13%
I am pleased with the school's demands on the students with regard to order	86%	3%	47%	22%
I clearly see that the school works for increased respect and sense of community between students and adults	85%	3%	46%	19%
What overall grade would you give your child's school?	91%	2%	63%	7%

STUDENTS (1008 participants)				
	Free schools		Municipal Schools	
	Positive	Negative	Positive	Negative
The teachers are interested in the views and opinions of the student	81%	4%	65%	9%
The teachers listen and react to the students' opinions	79%	5%	67%	7%
The teachers co-operate in teaching so that separate subjects create a whole	66%	11%	60%	13%
The teachers are involved in their task	86%	2%	80%	3%
I get judged fairly in grades and reports	82%	5%	75%	7%

Our teachers immediately act on bullying or rule violations	72%	5%	58%	10%
The teachers seem to enjoy themselves in my school	91%	2%	83%	3%
Overall, how would you grade teachers in your school?	82%	3%	74%	5%
There are good common rooms to be in outside of education	55%	20%	32%	41%
Students can influence how the school environment can be improved	65%	9%	48%	20%
I can talk to teachers in school if I'm sad, concerned or have other issues or problems	84%	5%	77%	6%
Students can influence how we work in school	62%	10%	50%	13%
My school is orderly	68%	7%	55%	12%
We are good at being on time for class	53%	21%	45%	26%
I have peace and quiet to study in school	74%	9%	59%	13%
Overall, how would you grade the learning environment in your school?	79%	4%	65%	5%
In my school students take significant responsibility for their learning and results	76%	6%	65%	7%
Education takes place in suitable size groups for the lesson aims	80%	3%	63%	10%
I know where I am and what I need to do to reach my goals	79%	4%	79%	4%
I get the help I need to reach my goals	84%	3%	81%	6%
Through school I get in touch with the outside world, for example business, universities and colleges.	51%	16%	46%	23%
The school is good at encouraging entrepreneurialism	67%	9%	56%	12%
I would choose this school again if I had the choice over again	74%	15%	78%	10%
I would choose the same program or major	70%	17%	76%	11%
Overall, what grade would you give the education that you partake in, in your school?	82%	3%	83%	4%

STAFF (712 participants)				
	Free schools		Municipal Schools	
	Positive	Negative	Positive	Negative
How do you see your chances of...				
receiving more interesting tasks	83%	13%	75%	19%
expanding your professional experience	79%	21%	66%	32%
learning new things	79%	19%	66%	33%
increasing your competence	57%	42%	47%	52%
enjoying your work	72%	28%	59%	38%
feeling positive about your future	45%	53%	365%	61%
feeling pride	95%	4%	87%	11%
planning your own work	91%	9%	83%	17%
working at a controlled pace	85%	15%	89%	10%
taking your own initiative	76%	23%	72%	27%
testing new ideas	84%	16%	88%	12%
experiencing camaraderie	74%	25%	69%	29%
feeling appreciated	79%	20%	73%	26%

Appendix C

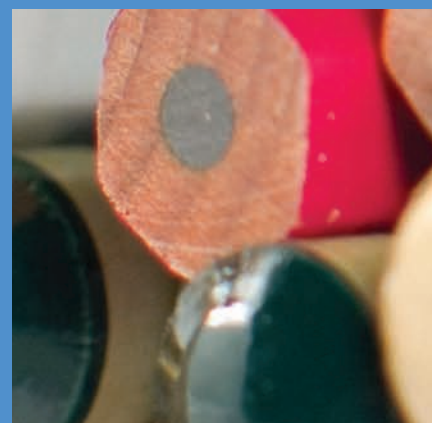
Number of charters run by EMOs
and as a percentage of charter
schools in each state (CMOs not
included)²⁶⁶

State	Charters Operating	Charters run by EMOs	Percentage For-Profit
Michigan	249	144	57.83
Wyoming	3	1	33.33
Ohio	299	77	25.75
Missouri	39	10	25.64
Virginia	4	1	25.00
Arizona	506	82	16.21
Nevada	26	3	11.54
Florida	384	43	11.20
Iowa	10	1	10.00
Georgia	82	8	9.76
New York	118	11	9.32
Colorado	147	13	8.84
Pennsylvania	133	11	8.27
Indiana	50	4	8.00
Illinois	74	5	6.76
Idaho	32	2	6.25
North Carolina	104	6	5.77
D.C.	89	5	5.62
Arkansas	25	1	4.00
Texas	333	13	3.90
Massachusetts	64	2	3.13
Louisiana	66	2	3.03
Maryland	34	1	2.94
Minnesota	158	4	2.53
California	763	17	2.23
Wisconsin	254	4	1.57
Oregon	93	1	1.08
Alaska	26	0	0.00
Connecticut	21	0	0.00
Delaware	21	0	0.00
Hawaii	32	0	0.00
Kansas	39	0	0.00
Mississippi	1	0	0.00
New Hampshire	11	0	0.00
New Jersey	64	0	0.00
New Mexico	70	0	0.00
Oklahoma	15	0	0.00
Rhode Island	11	0	0.00
South Carolina	36	0	0.00
Tennessee	14	0	0.00
Utah	68	0	0.00
TOTAL	4568	472	

²⁶⁶ Data from: Data from: Miron
G et al., 2008. Op. Cit.

School choice reform will be a key issue at the next General Election, yet the debate so far has focused on the theoretical arguments for and against creating a 'schools market' by bringing more independent providers into the state system. The purpose of this report is to learn the lessons of existing school reforms in England (the academies programme), Sweden (free schools) and the US (charter schools). We assess the success of reforms in all three countries against seven criteria which we believe a schools market should meet in order to find the right balance between promoting innovation and choice while maintaining accountability and quality control.

None of the countries studied have achieved this balance yet, though in each case the introduction of new providers to the system has brought benefits, but all of the seven criteria are met by at least one country. By combining the best aspects of each system, we argue, it is possible to develop a set of school choice reforms that will increase diversity and performance while protecting against market failure.



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