

# Competition Meets Collaboration



Helping school chains address England's long  
tail of educational failure

James O'Shaughnessy



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# Foreword

Gerard Griffin  
Chair of the Board of Governors, Isaac Newton Academy  
Trustee, Ark Schools

It gives me great pleasure to introduce an important contribution to the policy debate regarding the future of academies and academy chains by James O'Shaughnessy, former Director of Policy at Downing Street.

The academies programme has been rightly praised as an effective remedy to the problem of school failure. But there is a much broader challenge in education to be met: at present, some 40% of English schools are delivering an unacceptably mediocre education to children. Though deemed satisfactory by Ofsted, such schools have been declared “anything but” by the Ofsted Chief Inspector. Academies, particularly those linked together in chains to achieve economies of scale, may be the source of a solution. However, if academy chains are to move from remediating failed schools, representing 5% of the student population, to driving improvements at nearer half of all schools in Britain, education policy toward academies and chains must also evolve, both to facilitate and regulate such a transformation.

In the pages that follow O'Shaughnessy offers a number of proposals with two, mutually-reinforcing threads. First, regulation of chains and schools should be rationalized, with better oversight of chains and academy sponsors from the centre and a transparent, localized failure regime for all schools. The intended effect of the failure regime would be to push underperforming schools into successful chains. Second, the government should promote the growth of chains and more generally collaboration among schools. A robust policy would promote effective school chains and open the door to meaningful private sector involvement in education provision.

The paper has three parts. The first reviews the brief but successful history of academies and academy chains. The second highlights a significant challenge facing education policy and education reform: a large swathe of “coasting schools” whose numbers, it must be acknowledged, include underperforming academies. In the third part, O'Shaughnessy turns to proposals for future government policy: first, an “industrial policy” to encourage the growth of successful academy chains; second, enhanced regulation of academies and chains; and third, a call for the private sector to be permitted to play a role in school improvement, notwithstanding the likely attendant political difficulties. The industrial policy that O'Shaughnessy sketches has a number of components but the overall message is straightforward: the government should allocate financial and other resources to promoting the growth of academy operators with a demonstrated ability to drive educational improvement. Even if bolstered by government support, existing

academy operators and chains are unlikely to be able to expand sufficiently to address the needs of 40% of our student population. Thus O'Shaughnessy invites us to consider whether private sector capital and expertise should have a role in raising standards. This is not to overlook the essential role of government oversight and direction. O'Shaughnessy recommends a strengthened Office of Schools Commissioner and a transparent failure regime for all schools that would require schools given a "notice to improve" by Ofsted to become academies and academies given such a notice to join successful chains. Such a failure regime would be implemented by newly appointed local school commissioners, meeting the need for a middle tier of regulation long sought by education reformers.

The ambition and scope of O'Shaughnessy's proposals – to boost academy chains, bolster their ranks with capital and expertise from the private sector, and reinforce the regulatory and policy-making powers of government – match the scale of the challenge they are intended to address. I expect the debate this paper provokes to be a lively one, and hope that it will be productive as well, fostering government policy that adequately meets the needs of our schools and children.

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# Executive Summary

A new form of organisation has emerged in the English school system over the last ten years – academy chains. These are groups of institutions that are bound together legally, financially and operationally. Usually they have formed in order to spread the benefits of a particular approach to education that has proven to be successful, as well as bringing other benefits such as the ability to drive out economies of scale. Encouragingly, there is a growing body of evidence showing that school chains are even more effective at improving results than single academies. That is because they provide exactly the kind of collaborative environment, within a competitive marketplace, that schools need to flourish. This should not come as a surprise. Groups of schools have been part of the education landscape for centuries, and the emergence of academy chains can also be predicted from market theory, from the experience of school markets in other countries, and from the development of other, more mature, public sector markets in the UK.

The emergence of the new academy chains is timely because England faces a serious educational problem. Whereas policy for dealing with failure in the last 20 years has been targeted at the circa 5% of acutely failing schools – this is what the original academy programme was designed for – in the next five years the challenge is to cope with a much bigger and more publicly-contested seam of chronic failure in which mediocrity is the norm. According to Ofsted, the quality of teaching in over 40% of schools is no better than satisfactory.<sup>1</sup> But as the new Chief Inspector of Schools, Sir Michael Wilshaw, said ‘satisfactory’ is anything but, and his new inspection regime will mean that unless schools are ‘good’ then they will be viewed as underperforming.

The academy programme has proved remarkably successful and the programme has been effective in raising standards. But a policy designed for a few hundred schools will not be able to cope with the demands of turning around several thousand. So the Department for Education (DfE), under the leadership of Secretary of State Michael Gove, needs to build on their existing strategy by harnessing the power of academy chains and other good quality education providers and using them to improve standards in these so-called ‘coasting’ schools.

In order to realise the potential of chains to deal with the chronic underperformance in the system the DfE needs to make three major changes to its policy framework:

1. **Implement a new ‘industrial policy’ for the school market to promote quality.** This more directional approach is based on emerging knowledge from the UK and elsewhere of what works, and should include a series of actions including better accountability through strengthening market rigour, for example by giving parents better and richer data; an expansion in the number and size of school chains so that more schools are brought into

<sup>1</sup> Annual Report 2010–11, Ofsted, 2011 see <http://www.ofsted.gov.uk/news/annual-report-focus-schools>



successful collaborative arrangements; and giving the Office of the Schools Commissioner (OSC) more powers of regulatory oversight over academies and chains to ensure that weakness is dealt with.

2. **Introduce a universal, rules-based failure regime with clear consequences for underperformance.** The only argument for a so-called ‘middle tier’ is to ensure that underperformance throughout the school system is dealt with swiftly. There needs to be a new, universal failure regime with clear consequences for failure, linked to the new Ofsted inspection regime. It would include the creation of an additional policy tool whereby a failing school is placed into a successful chain if turning it into an academy has not worked. A beefed-up OSC would take responsibility for applying this failure regime to the growing number of chains with three or more schools. New local school commissioners – third parties fulfilling contracts let by the DfE – would apply the failure regime to single schools/academies or groups of two schools/academies, overseen by the OSC.
3. **Harness the power of the private sector to tackle intractable failure.** Even with the changes proposed above, chains cannot meet the underperformance challenge alone. This is where the capacity of the private sector should be directed. Education Management Organisations (EMOs) – both for-profit and not-for-profit companies, including the best chain providers – should be brought in to run schools on performance-based contracts where transformation into an academy and subsequent placement into a chain have failed to improve outcomes.

Nothing is more important to the cause of education reform than getting this rebooted academy programme right. It must be the DfE’s number one priority, even if that means pushing other important reforms, for example to the national curriculum, down the pecking order.

### An industrial policy for the school market

The success of the academy programme will be largely determined by how well it adapts to the chronic underperformance challenge. This requires a new ‘industrial policy’ for the schools market. The DfE already has the first and most important of this industrial policy – making the schools market work better. It must continue in its plans to create more competition, lower barriers to entry for new suppliers, remove obstacles to innovation, and give consumers more information and choice. But on their own these changes will not be sufficient – the DfE should be looking to allow more schools to benefit from membership of a chain, the organisational form that is most effective at raising standards, and providing better regulatory oversight so that poor practice is dealt with.

So the second part of the industrial policy **involves extending the transformative power of the best school chains.** These chains, usually ‘hard’ forms of partnership like multi-academy trusts, are proving themselves to be even more effective at raising standards than single academies because they provide economies of scale, dispersal of best practice, better professional development, and school improvement challenge and support. All schools should be encouraged to become academies and join chains, and struggling schools especially. To unleash their potential the DfE should:

- **Capitalise the best chains:** by creating a new School Chain Growth Fund, modeled on BIS's Regional Growth Fund, to support chains that want to expand using matched funding linked to outcomes.
- **Create a new wave of chains:** by using other educational programmes to encourage their growth: the National College should be restructured to support the development of chains; half of the remaining Teaching Schools contracts should be awarded to chains; the National Leader of Education status should be linked to chain leadership; and Ofsted should only award consecutive 'outstanding' grades in leadership and management for schools showing systemic leadership across a chain.
- **Fund a 'Collaborating Schools Network' to help academies form or join chains:** the DfE should follow the successful example of the New Schools Network and outsource the OSC's 'cajoling, encouraging and brokering' function to a national educational charity, which would work with schools that are proactively looking for academy, chain and other collaborative solutions. This would leave the OSC free to perform the hard-nosed economic regulator role needed to deal with the chronic underperformance challenge.
- **Allow academies to experiment with new forms of governance:** there is widespread disillusionment among academy principals, chairs and trustees with the quality of governing bodies. The DfE should allow the best academies and chains to pilot new approaches to governance, including smaller remunerated governing bodies that mirror the boards of private companies.

“Nothing is more important to the cause of education reform than getting this rebooted academy programme right. It must be the DfE's number one priority”

The third part of the industrial policy should be about **providing academies and chains with better and more joined-up regulatory oversight**. This would hasten the development of the sector by allowing the DfE to weed out weakness and promote excellence. To make this happen the DfE should:

- **Beef-up the Office of the Schools Commissioner:** to the outside world it is not clear who is responsible for what in the DfE, so the Schools Commissioner should be given overall control of every aspect of the academy programme and equipped with the necessary staff and seniority to fulfill this role.
- **More powers to regulate sponsor quality:** too many groups are expanding without any evidence of the value they add. Sponsors that want to grow chains of three or more schools should have to demonstrate their impact to the OSC. This would then allow the OSC to be more draconian in imposing effective sponsors on recalcitrant failing schools, ending the wasteful 'beauty parades'.
- **Better oversight of chains:** Ofsted should start inspecting chains for their effectiveness and financial sustainability, a move that would be welcomed by the top-performing chains. The Ofsted regime is effective in improving standards in schools so the same logic should be applied to chains.
- **Sharper accountability for failing academies and chains:** academies and chains can appear to get an easier ride than community schools when it comes to failure. This endangers the reputation of the programme. Current and future

funding agreements should be amended to ensure that any academy that goes into special measures is immediately handed to a new provider of the OSC's choosing.

### A new failure regime

This new industrial policy for schools will help chains expand and crack down on weakness within the academy and chain sector, but Ofsted's new inspection framework could lead to a fivefold increase in the number of schools being told they need to improve. Combined with the dramatic increase in the number of Academies it is doubtful whether the DfE alone has the capacity to deliver the solutions needed to improve these schools. A new failure regime is needed, one which provides clarity about the consequences of failure and capacity to deal with schools which are told they need help to improve.

Many people are proposing the creation of a 'middle tier' that sits in between schools and the DfE, but proposals that have been made by the Labour Party, Robert Hill and others seem like a solution in search of a problem. I am concerned about the cost of creating a new bureaucracy and the role it might play in allowing 'the blob' to reassert its grip on academies. The market, local authorities and other parts of the regulatory regime are better placed to perform almost every function for which a new middle tier is proposed. The one exception is the application of the failure regime to the growing number of academies, therefore any 'middle tier' needs to be focused solely on weak and failing schools. Its functions must be tightly defined by the centre and it should leave perfectly good schools well alone. The new failure regime proposed in this report has the following features:

- **Clear and universal rules:** these should be in line with the new Ofsted inspection regime, so:
  - A first 'requirement to improve' means the school has to become an academy; and,
  - A second 'requirement to improve' means the school or academy must join a successful chain.
- **The OSC should apply the failure regime directly to chains:** There could be up to 100 chains with three or more schools by September 2013. These often span local authority boundaries so it makes sense for them to be regulated directly by the OSC.
- **New local commissioners should apply the failure regime to other academies and schools:** The OSC does not, even with my proposed changes, have the capacity to respond to failure in all of England's schools. So I propose creating new local school commissioners to enforce the failure regime on all weak schools not in chains of three or more schools. In order to promote efficiency, the delivery of this function should be put out to tender, with a series of sub-regional performance-related contracts designed, let and overseen by the OSC. Third parties from any and every sector would be encouraged to apply, including private companies, educational charities, and councils or city mayors that have relinquished their role as a local provider of education.
- **Parents and governors need better data to improve accountability:** even with the much better information now available it is still difficult to judge a school's performance against its peers. Introducing sophisticated annual performance reports for each school that include comparative data would help parents and governors push schools to improve.

## Using private sector expertise to turn around the weakest schools

The proposed new industrial policy and failure regime will go a long way towards helping the academy programme cope with the scale of transformation needed in England's substantial minority of 'satisfactory' schools – our long tail of underachievement. But my research suggests that even with these changes school chains are unlikely to be able to take on the full task. This is where the private sector can play a role by allowing established Education Management Organisations (EMOs) to run the worst schools. EMOs are for- or not-for-profit organisations that run schools on behalf of governing bodies. This can happen now but is very rare. Any ethical and political objections to the private sector attempting to succeed where the state and voluntary sectors have failed should be dismissed for what they are – ideological prejudice. There are countless examples of the private sector delivering excellent services to citizens across the public sector, from the NHS to special educational needs provision. To unlock the capacity of the EMO sector to deal with chronic underperformance the DfE should:

- **Create a procurement framework for EMOs:** this would allow governing bodies swiftly to appoint an EMO to run their school, as opposed to the long and painful process the Breckland Free School had to go through to appoint an EMO. Schools would be free to employ an EMO at any time.
- **Design a standard contract for schools wishing to appoint an EMO:** this would further speed up the process, and would allow the DfE to promote payment-for-results clauses in any contract, linking payment to improved outcomes.
- **Provide better information on the performance of EMOs:** so that schools know which providers deliver the best improvements.
- **Add the EMO option to the new failure regime:** if turning a school into an academy and then putting it into a chain fail to turn that school around, on receipt of a third requirement to improve, i.e. going into special measures, the governing body should be obliged to appoint an EMO or be replaced by an Interim Executive Board that will. If no academy or chain solution can be secured for a school following a first or second requirement to improve, the EMO option should be used then too.
- **Support the creation of not-for-profit EMOs:** the public and charitable sectors can be at a disadvantage to the private sector in their ability to raise risk capital. So the DfE should work with Big Society Capital to develop new hybrid funding models to support the development of a not-for-profit EMO sector, and/or expand its School Chain Growth Fund to perform this role.

## Funding the turnaround of weak schools

Many sponsors are increasingly frustrated by the lack of financial support they receive from the DfE and are openly talking about scaling back their plans or even exiting the market. Sponsors report having to spend up to half a million pounds more than they receive in public funds to turnaround a failing secondary school, money which is used for things like redundancies, providing extra training, or purchasing new curriculum materials. There is no extra money in the pot and the DfE would be right to dismiss any call for extra resources as impossible. But the department's resource

*2 DfE Spending Review,*  
Department for Education Press  
Notice, 2010

budget is just over £50 billion and will grow in the coming years.<sup>2</sup> By diverting just 0.3% of this budget each year – £150 million – for the next three years the DfE could provide adequate financial support to help turn around the new flow of weak schools. In addition to the proposals in this report, that would all but guarantee the success of the academy programme. It is at least worth considering.

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# Part One

## Academies and School Chains – Past, Present and Future

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# 1

## Introduction

Since this project was initiated in Autumn 2011 Robert Hill *et al* have published a superb and detailed analysis of the school chain landscape, *The growth of Academy chains: implications for leaders and leadership*, for the National College of School Leadership.<sup>3</sup> While there is much more to say in this report that is new or different to Hill's findings, his report is a fantastic resource and I would encourage any reader who is interested in the finer details of how chains operate to read it. I draw on its main findings in this report.

Part I of this report looks at the history and background of chains of schools, arguing that academy chains are a current manifestation of a much older phenomenon within our education system. Independent groupings of schools have been a feature of our school system for hundreds of years because the opportunities for economies of scale, dispersal of pedagogical practice, and peer-to-peer collaboration they offer are the most sustainable route towards a continually improving school system. This is what Hill found in his research and reflects my interviews with leading practitioners. Seen in this context, the period of municipalised control of schools in the twentieth century, which began in earnest with the 1902 Education Act and became dominant after the Second World War, is the historical aberration, not the other way round. The drift of policy back towards school autonomy is now in its fourth decade and, thankfully, on the verge of being irreversible. Inherent to that movement has been the (re)emergence of groups of independent state-funded schools.

The development of chains can be predicted by looking at other countries' schools sectors. The longer-established charter school movement in the US and Free School movement in Sweden have both seen the emergence of large multi-school organisations, both for- and not-for-profit. In the UK, the social housing sector has seen a process of institutional agglomeration over the last 30 years with a smaller number of larger providers emerging, while in healthcare the creation of the foundation trust model has seen groups of institutions coming together under single governance structures.

Having understood why, on an historical and comparative analysis, the growth of school chains is unsurprising, I then go on to describe the existing school chain landscape and explain why schools are increasingly volunteering to enter into tighter collaborative arrangements. The emerging literature around chains also enables us to identify some of the defining features of the best school chains and to outline the positive impacts on student outcomes these chains are achieving. Finally I look at some of the potential problems emerging in the sector, which – in addition to the positive reasons to promote actively the growth of chains – are a second reason for the DfE to move on from its permissive policy and start giving the development of school market greater direction.

<sup>3</sup> Hill R *et al*, *The growth of Academy chains: implications for leaders and leadership*, National College for School Leadership, 2012

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# 2

## A Short History of Groups of Schools

### The role of church schools

One of the purposes of this report is to dispel some of the myths around the emergence of school chains, which have been a feature of our school system for hundreds of years. Those groups with greatest longevity are based around the main religious faiths, with the Church of England most dominant followed by the Catholic Church. H.C. Barnard's *A History of English Education from 1760* gives a sense of the role that the voluntary, charitable and religious sectors have played in providing schools, often in groups or societies. It is almost impossible to separate the history of schooling in England from that of the Established Church, which played a vital role in the provision of primary education in rural areas.<sup>4</sup> Religious education in philanthropic schools for the poor started as early as 1699 through the Society for Promoting Christian Knowledge, and continued to be developed in the 18th and 19th centuries after it was taken over by the National Society, which is still responsible for Church of England Schools, in 1811. A fifth of all schools have Anglican foundations and the majority of Anglican primary schools today remain small rural schools with under 100 pupils.<sup>5</sup> Although traditionally more hands-off than the Catholic Education Service, in 1995 it was reported that 31 out of 39 Anglican diocesan boards of education provided a diocesan RE syllabus for their aided schools; five of the other eight offered guidelines on how aided schools might use or adapt their LEA agreed syllabus; 10 additionally gave advice to their controlled schools.<sup>6</sup>

Non-conformist and Catholic schools also grew up alongside Established Church schools, with Catholic Religious Orders such as the Jesuits and Benedictines featuring prominently. My own daughter attends a Catholic primary school, Larmenier and Sacred Heart in Hammersmith, which is run by the Sisters of Nazareth. The Catholic Education Service exists to ensure that not only should the Catholic faith be taught only in the timetabled religious education classes but that it should penetrate and illuminate every aspect of the curriculum and the life of the school.<sup>7</sup> It has its origins in the mid-nineteenth century in the Catholic Poor School Committee, which was founded in 1847. It exists to provide "a bureau of information and advice on matters educational both to Catholic bodies and to individual Catholics" but especially to the 2,500 Catholic schools in England. Practice across dioceses varies and ultimately the diocese is responsible for its local schools, leading to Federations of schools in some areas and academies in others. The CES has contributed by offering expert objective advice and by hosting

4 Barnard HC, *A History of English Education from 1760*, Hodder and Staughton, 1961

5 Chadwick P, "The Anglican Perspective on Church Schools", *Oxford Review of Education*, Vol.27, No.4, pp 475-487, 2001

6 Chadwick P, "The Anglican Perspective on Church Schools", *Oxford Review of Education*, Vol.27, No.4, pp 475-487, 2001

7 Elliott K, "Between two worlds: the Catholic educational dilemma in 1944", *History of Education*, Vol.33, No.6, pp 661-682, 2004



an annual Education and Theology conference and an annual National Catholic Education conference – long-running examples of the kind of networking benefits that arise from groups of schools.<sup>8</sup>

The influential Quaker Joseph Lancaster and the Society of Friends set up a private school in Southwark at the turn of the 19th century. In 1814 they created the British and Foreign Schools Society to promote their brand of non-sectarian religious education across a number of schools, including a training school for teachers. Similar schools were instigated by Robert Owen in New Lanark and various Whig luminaries such as James Mill and Zachary Macaulay through the London Infant School Society, and the Ragged School Union under the leadership of the future Earl of Shaftesbury. From the mid 19th century onwards there was a tremendous growth in non-conformist education as an alternative to schools provided by the Established Church. The Voluntaryists, which consisted of Congregationalists, raised funds and established 364 schools by 1851, but this movement always struggled without the support of either the rates or the wealth of the Anglican Church.

The Forster Act of 1870 attempted to protect private, charitable and religious control of schools, thereby guaranteeing plurality and autonomy, while using state funds to ensure coverage, quality and access through establishment of school boards where voluntary efforts were not enough. This Act set up the dual-system – local school boards providing non-denominational schools on the rates, and religious and other foundations providing schools funded by endowments and government grants. One of the effects of the introduction of school boards was a huge surge in the creation of voluntary schools – between 1870 and 1876 1.5 million school places were created but only a third by school boards.<sup>9</sup>

### Other groups of schools

School federations or groups have been around for centuries – arguably the King Edward School Foundation in Birmingham, which dates from the 16th Century, is the oldest non-religious school group in England – and many schools are already in harder or softer partnerships with other schools, crossing state and independent sectors. The City Livery companies have provided secondary education for centuries. The mid-19th century saw the creation of the Church Schools Company in 1883 (now the United Church Schools Trust, which through its sister charity the United Learning Trust is one of England's biggest academy chains) and the creation of Woodard Schools from 1849 onwards, now an academy sponsor. The Endowed Schools Act of 1869 opened up school endowments to the use of girls, with separate schools for boys and girls arising out of the same foundations. It also provoked the creation of the Women's Educational Union to support a new 'Public Day School for Girls' – the origin of the Girls Day School Trust, also now an academy sponsor.

The 1902 Act was the point where the pendulum swung towards state control. New local education authorities covered the whole country, no longer simply filling in the gaps, and they took responsibility not only for education in those schools provided on the rates but also for non-religious education in voluntary schools of every kind. This was the price paid by the voluntary schools, which were predominantly church-run, for receiving rate aid. It marked the beginning of the end of the pluralist system, with the 1944 Act secured finally ensuring

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<sup>8</sup> Stannard O, "From Catholic Poor School Committee to Catholic Education Service", *The Pastoral Review*, 2006

<sup>9</sup> Barnard HC, *A History of English Education from 1760*, Hodder and Staughton, 1961

the dominance of local authorities in controlling comprehensive education in every area, especially as the relevance of religious education waned.<sup>10</sup> This municipalisation of schools was largely the result of government mission creep, from merely taking responsibility for ‘filling in the gaps’ of local education provision towards government dictating how schools operated. It was brought about in part due to concerns that seem arcane today, about the role of churches in school provision and the delivery of religious education, but which were incredibly resonant at the time. Given the current government’s policies, there is perhaps some irony in the fact that both the 1902 and 1944 Acts were passed by Conservative-led governments.

10 Barnard HC, *A History of English Education from 1760*, Hodder and Staughton, 1961

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# 3

## The Re-emergence of Autonomous Schools and the Academy Programme

### Durability of historical school groups

The move back towards school autonomy and a more collaborative, pluralist supply of education embodied in the emergence of school chains should be seen as a reversion to the historical norm. Indeed, to understand the power, relevance and durability of chains one only needs to look at the sponsors of the original wave of academy schools that opened in the first five years of the scheme between 2002 and 2006. As well as seeing the beginnings of some of the big chains, such as the Harris Federation and ARK, there were also at least nine existing organisations already involved in the delivery of education to one degree or another:

1. The Diocese of London (Greig City Academy),
2. The United Learning Trust, itself a sister trust to the United Church Schools Trust (Manchester Academy, The King's Academy, Lambeth Academy, Northampton Academy, Trinity Academy and Salford City Academy),
3. City of London Corporation (City of London Academy),
4. The Mercers' Company (Walsall Academy),
5. The Roman Catholic Archdiocese of Southwark (St Paul's Academy),
6. Haberdashers' Livery Company (Haberdashers' Aske's Knights Academy, Haberdashers' Aske's Hatcham College),
7. Diocese of Liverpool and the Roman Catholic Archdiocese of Liverpool (The Academy of St Francis of Assisi),
8. Diocese of Ripon and Leeds (David Young Community Academy), and
9. CFBT Education Trust (St Mark's Church of England Academy).<sup>11</sup>

This is fairly remarkable given the hostile environment for these kinds of organisations in the heavily local-authority dominated post-war era. And as the programme has developed so more and more charitable educational trusts, both existing and emergent, have become involved.

### Drivers of school autonomy

Of course, in the end the move back towards school autonomy was driven by a range of factors in addition to the historical strength of England's independently-run schools, be they in the state or private sector. As Sir Michael

<sup>11</sup> *All Open Academies*, Department for Education, 2012, see <http://www.education.gov.uk/schools/leadership/typesofschools/academies/b00208569/open-academies>

Wilshaw said in a speech to Policy Exchange on 20 March 2012, there is now a “[g]rowing consensus across the major parties that the principle of school autonomy, matched with accountability, works. Indeed, the recent evidence from Professor Michael Barber on successful jurisdictions which operate according to this principle is incontrovertible”.<sup>12</sup> Even the Labour Party, which has become more sceptical about the Blairite reforms that were so important in developing the school autonomy movement, does not challenge this view:

“Labour has no desire to turn back the clock and return powers from schools to Local Authorities. Nor do we want to see a reduction in the autonomies we gave schools through academies, trust schools and federations. In fact, although school autonomy is not the focus of this consultation, I want to see more schools get the freedoms that allow them to serve their pupils and communities most effectively.”<sup>13</sup>

There is compelling and extensive evidence on the effectiveness of school autonomy in raising pupil outcomes, well summarised in the DfE’s Academies Annual Report 2010/11:<sup>14</sup>

- The Organisation for Economic Cooperation and Development (OECD) has stated: “the creation of more autonomous schools will lead to innovations in curriculum, instruction and governance, which in turn will improve outcomes.”<sup>15</sup>
- Wößmann and Fuchs found that “test scores are higher when schools manage their own budgets and recruit and select their own teachers.”<sup>16</sup>
- Hindriks et al examined the Flemish education system in Belgium and concluded that: “we find strong indications that operational school autonomy is associated with high educational performance if appropriate accountability systems are active”.<sup>17</sup>
- Hanushek et al analysed PISA data and concluded: “autonomy reforms improve student achievement in developed countries.”<sup>18</sup>

In England, Clark compared outcomes for schools that narrowly voted to take advantage of grant-maintained (GM) status against schools that narrowly voted to reject adopting GM status. He found that the narrow GM vote winners experience a significant improvement in the proportion of pupils achieving the equivalent of five or more GCSEs at A\*–C grade – increasing by roughly 0.25 standard deviations for each additional year the narrow GM vote winner is open – compared to the narrow GM vote losers.<sup>19</sup>

## Key steps in the re-emergence of autonomous state schools in England

The think tank Reform and trade body The Schools Network provide a helpful guide to the key moments in the re-establishment of autonomous schools, which can be seen in Table 3.1. The major turning point was the 1988 Education Reform Act, described by Michael Barber as “the most important piece of education legislation in the second half of the twentieth century”,<sup>20</sup> which among other things aimed to create a market within the school system and began the process of unwinding the dominance of local authorities in school provision.<sup>21</sup>

12 “Not good enough: how should the system respond when schools need support?”, Speech given by Sir Michael Wilshaw to Policy Exchange, 20th March 2012

13 Twigg S, “Developing Power in Education School Freedom and Accountability”, *Policy Review Consultation*, 2012

14 *Academies Annual Report*, Department for Education, 2010/11

15 *Education at a Glance 2010: OECD Indicators*, Organisation for Economic Cooperation and Development, 2010

16 Wößmann L. and Fuchs T, *What Accounts for International Differences in Student Performance? A Re-examination Using PISA Data*, Working Paper no 1235, Germany 2004

17 Hindriks J et al, *School Autonomy and Educational Performance: Within-Country Evidence*, Centre for Operations Research and Econometrics, Discussion Paper no. 82, Belgium 2010

18 Hanushek EA et al, *Does School Autonomy Make Sense Everywhere? Panel Estimates from PISA*, Discussion Paper no. 6185, IZA: Institute for the Study of Labor: Germany 2011

19 Clark D, “The Performance and Competitive Effects of School Autonomy.” *Journal of Political Economy*, 117(4): 745–783, 2009

20 Barber M, *The Learning Game*, 2nd ed, London: Indigo, 1997

21 Bassett D et al, *Plan A+ Unleashing the potential of academies*, The Schools Network and Reform, 2012

**Table 3.1: Milestones on the road to autonomy**

Year	Systemic changes	Peripheral changes
1980	Governing bodies established for all schools, heralding the introduction of school accountability	
1986	Governors given greater freedom over headteacher and staffing decisions	
1988	National Curriculum introduced for all schools  Schools given greater autonomy over budgets, management and staffing under Local Management of Schools (LMS)	City Technology Colleges (CTCs) introduced  Grant-maintained status introduced, enabling schools to opt-out of LEA control and receive funding from central government
1990		300-pupil threshold on grant maintained (GM) applications removed
1992	Ofsted established to regulate and inspect schools  The Parent's Charter introduces school league tables and greater parent information  Further education and sixth-form colleges removed from LEA control	
1993		Sponsored GM schools introduced  Funding Agency for Schools established to coordinate central government payments to GM schools  Specialist Schools programme introduced
1997	School Standard and Framework Act reconstitutes schools as foundation, voluntary or community schools	Grant-maintained schools brought back under control of the LEA
2000	National 'floor targets' of five A*–C GCSE grades introduced	City academies, modelled on CTCs, introduced to address failure in disadvantaged urban areas through a mix of autonomy and strong governance
2002		Eligibility rules for academies relaxed to include all-age, primary and sixth-form colleges in disadvantaged rural (as well as urban) areas
2004	School Improvement Partners (SIPs) introduced	
2007		All future academies required to follow the National Curriculum programme of study in English, maths, science and ICT
2009	All schools obliged to meet the '21st Century School Pupil Guarantee', imposing curriculum requirements on primary and secondary schools	Removal of funding requirement for academy sponsors
2010	The Academies Act allows all maintained schools to apply to become an academy and removed the need for local authority consultation  Underperforming primary schools are replaced with academies for the first time	Introduction of free schools announced  Abolition of requirement for new academies to follow National Curriculum in core subjects

## The academy movement

The move back towards school autonomy has found its ultimate expression in the academy movement. Box 3.1 summarises the legal and financial status of academies.<sup>22</sup>

### Box 3.1: What are academies?

Academies occupy a separate legal status to government maintained schools. In fact, each 'qualifying academy proprietor', i.e. academy trust, is established as a Company Limited by Guarantee, whose object is a charitable purpose for advancing education (Academies Act 2010). In this regard, academies must comply with company law as set out in the Companies Act 1985 and the requirements of the Charity Commission, especially in regard to the Charities' Statement of Recommended Practice (SORP) (Charities Commission, *Academy schools: Guidance on their regulation as charities*). These legal requirements are principally related to financial management, meaning that academies must produce their accounts, in a prescribed format, and that they must be independently audited by a registered auditor.

While they are constituted as charities, academies are exempt from having to register with the Charity Commission and are principally regulated by the Young People's Learning Agency on behalf of the Department for Education, although from March 2012 this function was taken over by the Education Funding Agency (Charities Commission, *Academy schools: Guidance on their regulation as charities*). Any educational endowment or academic fund established under the academy company is also exempt from registration.

The academy trust enters into a funding agreement with the Secretary of State for the running of the academy, with both parties signing Articles of Association outlining the constitution of the school. From this point the academy trust takes strategic responsibility for the running of the academy, entering into contracts (such as school improvement services), and ownership of land and other assets. The trust appoints the governors (also known as directors or trustees) to manage the academy on its behalf.

The programme can be broken down into two major strands (Free Schools are, arguably, a third):

- The 'sponsored' academy programme, which is designed to harness the expertise of the best schools and other groups to turn around the fortunes of England's weakest schools.
- The 'converter' academy programme, which is designed to allow all schools to benefit from the institutional autonomy enjoyed by both sponsored academies and schools in the independent sector.

Both programmes have a long and bi-partisan political pedigree. The sponsored academy programme grew out of the creation of City Technology Colleges under the last Conservative government, before being refined further by Tony Blair's Labour government. The converter academy movement has an even older heritage that is based in the operational autonomy enjoyed by the first Church schools

22 Bassett D et al, *Plan A+ Unleashing the potential of academies*, The Schools Network and Reform, 2012

to receive public funding, while its modern incarnation began with Margaret Thatcher and John Major (Grant-Maintained schools) as well as Tony Blair (Foundation and Trust schools).

The number of academies has grown rapidly under the Coalition government. According to DfE ‘Open Academies’ data, as of September 2012 there were 2,309 academies in total, of which:

- 501 were sponsored academies (compared to 203 in May 2010)
- 1,809 were converter academies (compared to none in May 2010)
- 32 were all-through mainstream schools
- 767 were primary mainstream schools
- 1,454 were secondary mainstream schools
- 56 were special schools of various phases<sup>23</sup>

While it is too early to know whether the converter academy programme has been successful, there is no ambiguity about the success of the original sponsored academies. The National Audit Office has looked at the performance of academies compared to a selected group of maintained schools and found a significant improvement in the proportion of pupils achieving the equivalent of five or more GCSEs at A\*–C grade in the academies compared to the comparison group.<sup>24</sup> Machin and Venoit for the London School of Economics looked at the performance of these schools:

“Our results suggest that moving to a more autonomous school structure through Academy conversion generates a significant improvement in the quality of pupil intake, a significant improvement in pupil performance and small significant improvements in the performance of pupils enrolled in neighbouring schools. These results are strongest for the schools that have been academies for longer and for those who experience the largest increase in their school autonomy. These findings matter from an economic perspective, in that they suggest the increased autonomy and flexible governance enabled by Academy conversion may have had the scope to sharpen incentives to improve performance. They also matter from a public policy standpoint because recent years have seen the increased prevalence of an education system that is being allowed to become more and more autonomous. In essence, the results paint a (relatively) positive picture of the Academy schools that were introduced by the Labour government of 1997–2010. The caveat is that such benefits have, at least for the schools we consider, taken a while to materialise.”<sup>25</sup>

DfE analysis has shown that, between 2005/06 and 2010/11, results for pupils in sponsored academies improved by 27.7 percentage points – a faster rate than in other state-funded schools (14.2 percentage points) and a faster rate than in a group of similar schools (21.3 percentage points).<sup>26</sup>

It is clear that successive governments have been pushing school autonomy in England, but what are the reasons for schools to take up these new freedoms? Reform and The Schools Network surveyed a range of academy leaders and found that the financial incentive – extra funding that used to go to the local authority for the provision of services – was the most quoted reason. A strong desire to benefit from autonomy featured too, with the other main reasons cited by schools for conversion were a sense of financial autonomy (73%), educational autonomy

<sup>23</sup> *All open academies – September 2012*, Department for Education, 2012

<sup>24</sup> *Department for Education: The Academies Programme*, Report by the Comptroller and Auditor General, National Audit Office, London, 2010

<sup>25</sup> Machin S and Venoit J, *Changing School Autonomy: Academy Schools and their Introduction to England’s Education*, Centre for the Economic of Education London School of Economics, 2011

<sup>26</sup> “How are the Children? Achievement for all in the 21st Century”, Speech given by Rt Hon Michael Gove MP to the Spectator Education Conference, 26 June 2012

(71%) and freedom to buy services from providers other than the local authority (70%). 57% of schools wanted the opportunity to innovate to raise standards, while half (51%) wanted less local authority involvement in their school. Just as importantly, 84% of academy leaders would recommend becoming an academy to other school leaders, with only 1% saying they would not.<sup>27</sup> However, the researchers also found that many academies were not using the freedoms available to them.

Law firm Browne Jacobson carried out a similar survey of primary and secondary head teachers of converter academies and found a more positive picture about how these schools were taking advantage of their freedoms. Half of all recently converted academy schools have already used their freedoms to make changes to the way their school curriculum is delivered and another 20% expected to make changes within the next 12 months, even though only 5% of head teachers identified it as the most important reason to become an academy.

The same research also found that, even for academies that were not taking advantage of their freedoms, just being out of local authority control was important. One third of schools stated that freedom from local authority control was their most important reason for becoming an academy, and of those interviewed nine out of ten have already exercised this freedom.<sup>28</sup> This chimes with my interviews, and those carried out by Davies and Lim. There is simply no desire among secondary heads for local authorities to get involved once more in the delivery of education, although the picture for primaries is more nuanced. Even critics of government policy among the academy leaders feel that local authorities were inefficient as education providers and that the move away from the local authority as education provider was necessary on the grounds that most, though not all, had failed to adapt to the demands of the choice agenda.<sup>29</sup>

27 Bassett D et al, *Plan A+ Unleashing the potential of academies*, The Schools Network and Reform, 2012

28 *Academies – driving success through autonomy*, Browne Jacobson Academy Survey 2012

29 Davies C and Lim C, *Helping Schools Succeed. A Framework for English Education*, Policy Exchange, 2008



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# 4

## Markets: Why Theory and Practice Predict the Emergence of Chains

### Collaboration and competition

Moves towards school autonomy have been driven by the fact that, with some notable exceptions like Tower Hamlets, local authorities have shown themselves to be ineffective at, and in some cases utterly incapable of, providing the collaborative arrangements that schools require. That is because they have lacked both the expertise among staff and, operating often as local monopolies, the incentives to drive improvement. The emergence of chains of schools among newly autonomous institutions is therefore a response to the necessity of collaboration, which schools need to flourish, and the inability of local authorities to supply it.

Despite the hysterical claims of some on the left that the government is attempting to privatise the school system – the Guardian newspaper has actually run a story with the headline “Education system could be completely privatised by 2015, union predicts”,<sup>30</sup> what is actually happening is that it is being turned into a classic public sector market. Accepting the benefits of such markets, properly constructed, has been mainstream social democratic thinking since Tony Crosland wrote the *Future of Socialism* and was reinvigorated by Professor Julian Le Grand at the London School of Economics in the 1980s.<sup>31</sup> That is why other public services have seen the emergence of a smaller number of larger non-state delivery organisations, such as housing associations and foundation trusts in the NHS. In both these cases individual institutions have merged or come together in partnership to achieve the benefits of scale. Within public sector markets, just as in private sector ones, collaboration is actually a much more important feature than competition. Most productive work in any industry takes place within a firm; that is the crucible of innovation. Competition between firms plays a smaller yet essential part, providing the sharp edge of accountability that ensures collaboration is productive and does not slide into complacency – the end state of most monopolies in the public or private sector.

Thus one way to understand the emergence of school chains in this country is to see the emergence of bigger organisations as significant drivers of productivity growth. As Wendy Marshall, chief executive of the David Ross Education Trust, which operates a small and growing chain of academies, put it:

*“In my mind there are three things: collaboration, autonomy and freedom. We want to build schools where leadership and governance of those schools is strong. They will have autonomy within their communities and use the freedoms of an Academy, but within a collaborative network.”<sup>32</sup>*

<sup>30</sup> “Education system could be completely privatised by 2015, union predicts”, *The Guardian*, 28 March 2012

<sup>31</sup> Le Grand J and Estrin S (ed), *Market Socialism*, Clarendon Press, 1989

<sup>32</sup> Interview with Wendy Marshall, 2012

The key point here is that a willful misunderstanding of the nature of well-functioning markets by opponents of school reform has allowed the academy movement to be caricatured as resulting in an atomised dog-eat-dog environment, with institution pitted against institution, when the true nature of successful markets is that they are defined as much by collaboration within larger firms – in this case groupings of schools – as they are by competition between them. This mixture of competition and cooperation has been dubbed ‘co-opetition’ by Harvard and Yale academics Adam Brandenburger and Barry Nalebuff and is a common business strategy for optimising productivity.<sup>33</sup>

Davies and Lim found that school systems are most effective when there is a balance of competitive pressure and collaborative relationships within the system and the way in which competition and collaboration rely on each other to drive school improvement has been neatly described by Steve Munby, chief executive of the National College:<sup>34, 35</sup>

“Accountability and competition are good things and should be welcomed by all those who want to raise aspirations and help children to achieve their potential. But just as I believe competition for the sake of competition is unhelpful, so too is collaboration for the sake of getting along – the worst kind of collaboration is the sort that sees schools huddling together, endorsing each other’s views and practices and generally keeping one another comfortable.”

Basset, Lyon et al further endorse the interplay between these two concepts, commenting that:

“Competition and collaboration are not, then, mutually exclusive, but rather can be mutually reinforcing. Even the best schools have an incentive to support other schools, since the evidence demonstrates that collaboration improves the performance of every school, even the high-performing school doing the supporting... Even though autonomy and deep collaboration are excellent drivers of school improvement, it does not follow that schools will pursue this course. Effective competition between schools is a key factor in incentivising schools to use their autonomy and seek greater collaboration.”<sup>36</sup>

They find that just over a quarter (25.4% ) of academies have seen their relationships with other schools improve since they became an academy – 3.5% say they have greatly improved, 21.9% say they have improved. This compares to just 5.4% who say their relationships have worsened, and 0.2% who say they have greatly worsened. Many academy leaders are keen to engage in broad partnerships rather than the more restrictive ‘support’ cited in funding agreements and would like this to be amended. This organic emergence of a cornucopia of collaboration out of an increasingly competitive marketplace is the most important outcome of the government’s policies, something Ministers eagerly acknowledge even if they did not predict it.

## Evidence from international school markets

The emergence of school chains as the drivers of innovation and productivity growth can also be predicted by looking at other school markets abroad. The emergence of charter or educational management organisations (CMOs and EMOs) in the US, Free School providers in Sweden, and global private school

33 Brandenburger A and Nalebuff B, *Co-Opetition: A revolution mindset that combines competition and cooperation*, New York: Currency, 1997

34 Davies C and Lim C, *Helping Schools Succeed. A Framework for English Education*, Policy Exchange, 2008

35 Davies C and Lim C, *Helping Schools Succeed. A Framework for English Education*, Policy Exchange, 2008

36 Basset D et al, *Plan A+ Unleashing the potential of academies*, The Schools Network, 2012

operators owning and running schools in a variety of jurisdictions are instructive. A salutary lesson in how not to implement these kinds of reforms is offered by New Zealand, where mistakes in policy design and the rurality of the country did lead to some atomisation, which subsequent governments have had to address. These are lessons British policymakers can learn from.

This is not the place to review the literature on the overall effectiveness of market-based school reforms in other countries, but it is worth highlighting the experiences of a few countries and jurisdictions simply to understand the important roles that competition and collaboration between and among groups of schools play in these school systems.

### USA

There are dozens of studies examining the effectiveness or otherwise of US charter schools. However, few researchers have tried to understand what it is about the successful ones that makes them stand out. Mathematica Policy Research and the Center on Reinventing Public Education have conducted a major study to correct that deficit, looking primarily at charter management organisations (CMOs, which are not-for-profit) that directly control four or more schools. In 2007 there were 40 CMOs in this category out of 130 CMOs with two or more schools. These organisations, “represent one prominent attempt to leverage the success of high-performing charter schools. Many CMOs were created to replicate educational approaches that appeared to be effective, particularly for disadvantaged students, in a small number of charter or other schools.”

Among the CMOs they studied, large CMOs were more likely than smaller ones to have positive impacts. Although the larger CMOs often have positive impacts, this does not mean that CMOs increase their performance as they grow. This variation in school-level impacts is mostly due to differences between rather than within CMOs, indicating that some CMOs are systematically outperforming others. The main policies associated with positive effects on outcomes are the use of school-wide behaviour policies, more monitoring and coaching of teachers, greater use of performance-related pay and more instructional time.<sup>37</sup>

### New Zealand

In New Zealand, school-based management reforms eliminated the middle-level governing bodies between individual schools and the Ministry of Education. This highly atomised framework is both the system’s greatest strength and weakness. On one hand, the autonomy given to schools and teachers has generated exciting innovations at the local level. On the other hand, system-wide change occurs at a slow pace. And collaborative frameworks have yet to be built into education practices.<sup>38</sup>

### Canada – Ontario and Alberta

Both Ontario and Alberta have several publicly funded education authorities: the English-language Public and Catholic Schools, and the French-language Public and Catholic Schools. Both provinces have home-school and private school sectors. In addition, Alberta has publicly funded charter schools. The particular diversity of schooling options within Alberta’s public sector has created strong competitive pressures between school boards. More crucially, these competitive pressures have

<sup>37</sup> Ferguson J et al (Mathematica Policy Research) and Bowen M et al (Center on Reinventing Public Education), *Charter-School Management Organisations: Diverse Strategies and Diverse Student Impacts*, The National Study of Charter Management Organization (CMO) Effectiveness, 2012 Updated Edition

<sup>38</sup> Davies C and Lim C, *Helping Schools Succeed. Lessons From Abroad*, Policy Exchange, 2008

had positive consequences for students. Edmonton Catholic's choice programme, for instance, was developed in response to the fact that the district had been losing students to Edmonton Public Schools. The presence of more than one publically funded school authority in the same district automatically creates a competitive climate. At the same time, these boards also provide a natural support network for individual schools to draw on in terms of resource-sharing and professional development.<sup>39</sup>

### Hong Kong

The majority of government-funded schools in Hong Kong are run by non-governmental organisations, usually charities or religious bodies. The highly competitive Hong Kong school market is moderated by the natural support networks formed by school sponsoring bodies (SSBs). Collaboration among schools run by the same SSB is common, particularly with regard to professional development, thus creating a system where there is competition between schools belonging to different SSBs and collaborations among schools belonging to the same SSB.<sup>40</sup>

### Sweden

The Swedish Free School movement is famously the inspiration for the creation of Free Schools in the English school system by the coalition government. Introduced as a programme by a centre-right government in 1991, not least to cope with demographic growth, around 12% of pupils are educated in these independent, state-funded schools. Free Schools are relatively easy to set up and provide alternatives to municipal education in most districts, although they tend to be concentrated in urban areas. The kinds of schooling offered by Free Schools varies, from religious schools to those practicing particular educational philosophies (such as Steiner and Montessori) to generalist schools in large, for profit chains (such as IES and Kunskapsskollan).<sup>41</sup>

### Some conclusions

These short case studies demonstrate the contributions made by competing multi-school organisations in some of the most successful school systems in the world. They have all embraced some form of school-based management on the grounds that increased autonomy at the school level encourages innovation, heightens responsiveness to student needs, empowers parent and community involvement, and increases overall efficiency. But they have also produced, often unintentionally, multi-school collaborations that lead to productivity gains. They do this in a number of ways: providing administrative support for each individual school, a task that frees up time for principals and teachers to focus on teaching; acting as 'internal auditors' in order to provide quality assurance; spreading best practice, particularly as a way of improving professional development; and, supporting individual school governance.

Thus the evidence from the countries profiled strongly suggests that systems are most effective when there is a balance of competition and collaborative relationships within the system. Within the publicly funded education sector, it appears that some forms of school organisation are better suited to achieving this balance than others. In contrast, there have been no comparable competitive

<sup>39</sup> Davies C and Lim C, *Helping Schools Succeed. Lessons From Abroad*, Policy Exchange, 2008

<sup>40</sup> Davies C and Lim C, *Helping Schools Succeed. Lessons From Abroad*, Policy Exchange, 2008

<sup>41</sup> Davies C and Lim C, *Helping Schools Succeed. Lessons From Abroad*, Policy Exchange, 2008

pressures within the English system. Until the reforms of the 1980s local authorities essentially acted as monopolies because, while they may have ceded the running of a minority of schools to the churches, they controlled much of what went on within every school.

What is exciting about the development of school chains is that it reflects the creation of a better-functioning public sector market where collaboration and competition both feature. The most important outcome of the supply-side reform movement (the main strands of which are autonomy and freedom to provide) has been the creation of school chains that deliver higher standards than stand-alone providers.

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# 5

## The Growth of, and Case for, Chains of Schools

Academies work, and I hope I have shown that the organic grouping of academies into chains is a trend with historical, theoretical and comparative precedent. That is not to say policy has been actively geared to encouraging chain formation, although many Acts of Parliament since 1944 have allowed, with increasing specificity, schools to group together:

- The 1944 Education Act provides for grouping multiple schools 'under one management'.<sup>42</sup>
- The 2002 Education Act addresses school 'federations' specifically.<sup>43</sup>
- The 2005 Education Act provides that in the establishment of a new school, this school may be established as a federated school.<sup>44</sup>
- The 2011 Education Act describes how academy conversions occur with federated schools.<sup>45</sup>

Hill reports Andrew Adonis, the architect of the academy programme, as saying "the rise of these academy chains is a highly significant development of English state education".<sup>46</sup> In conversation Adonis has described to me how important the idea of developing chains of academies was to the original programme, and indeed the landmark White Paper he authored in 2005 makes explicit reference to the potential for federations to facilitate parental choice and to spread best practice:

"We will encourage the growth of federations and other partnership arrangements which ensure our most successful school leaders are used to best effect and are able to support our less successful schools."<sup>47</sup>

The reason for the increasingly active promotion of collaborative networks is that evidence about their effectiveness is slowly increasing. Mourshed *et al* describe how moving from a great to excellent education system involves introducing peer-based learning through school-based and system-wide interaction. In typical McKinsey terminology they say that, "there are three ways that improving systems commonly do this: by establishing collaborative practices between teachers within and across schools, by developing a mediating layer between the schools and the center, and by architecting tomorrow's leadership". In the systems McKinsey&Co analysed many had chosen either to delegate responsibility away from central

42 <http://www.legislation.gov.uk/ukpga/Geo6/7-8/31/contents>

43 <http://www.legislation.gov.uk/ukpga/2002/32/section/24/enacted>

44 <http://www.legislation.gov.uk/ukpga/2005/18/section/68/enacted>

45 <http://www.legislation.gov.uk/ukpga/2011/21/contents/enacted>

46 Hill R, *Chain reactions: a think piece on the development of chains of schools in the English school system*, National College for Leadership of Schools and Children's Services, 2010

47 *Higher Standards, Better Schools for All*, Education White Paper, 2005

government to a newly created mediating layer located between the central educational authority and the schools themselves (e.g. school clusters or subject-based groups), or have expanded the rights and responsibilities of an existing mediating layer (e.g. school districts/regions).<sup>48</sup> Chains may be well placed to fulfil these functions given local authorities' failure to do so,<sup>49</sup> and it is now explicit government policy to encourage schools into collaborative arrangements. The 2010 White Paper promises to:

- “[e]nsure that there is support for schools increasingly to collaborate through Academy chains and multi-school trusts and federations.”
- “encourage strong and experienced sponsors to play a leadership role in driving the improvement of the whole school system, including through leading more formal federations and chains.”<sup>50</sup>

A major element of the DfE’s strategy for encouraging the growth of chains is the use of ‘brokers’ to bring schools and sponsors together. Most chains are being enabled to expand through the role played by DfE brokers, and the vast majority of chains CEOs rated the role of the DfE in this area as ‘significant’ or ‘very significant’.<sup>51</sup> And there is considerable demand among academies to start up new chains. Browne Jacobson report that over a quarter of surveyed converter academies will look to become approved sponsors in the next 12 months, and over a third will look to create a group of academies.<sup>52</sup>

## What is a school chain

### Types of school chain

There is a definitional point to consider before looking at school chains in more detail – what exactly are they?<sup>53</sup> Chapman *et al* use the term ‘federation’ to describe two or more schools operating under a single governing body, also known as a ‘hard federation’. Two or more schools working together under collaborative governance structures and joint committees, but maintaining their own individual governing bodies, are referred to as ‘collaboratives’ or ‘soft federations’.<sup>54</sup>

This typology is also used by Ofsted, which describes two main types of federation: hard federations consisting of a single governing body; and soft federations retaining separate governing bodies in each school but achieving a level of joint governance through the creation of committees with delegated powers. At the time of their survey in 2011 at least 600 schools nationally were known to share leadership arrangements.<sup>55</sup>

The DfE’s predecessor department published guidance in which it described ‘Accredited Schools Groups’ as lead organisations accountable for three or more other schools. Building on this, the best and clearest description of school chains is provided by Hill *et al* for their 2012 report for the National College.

- A sponsored academy chain is where a lead sponsor is sponsoring or responsible for three or more academies. They might be sponsored individually or through a multi-academy trust (see below). Member schools usually contribute a proportion of their general annual grant to the central trust in return for the provision of a range of services.

48 Mourshed M *et al*, *How the world’s most improved school systems keep getting better*, McKinsey & Company, 2010

49 Basset D *et al*, *Plan A+ Unleashing the potential of academies*, The Schools Network, 2012

50 The Importance of Teaching, Department for Education Schools White Paper, 2010

51 Hill R *et al*, *The growth of Academy chains: implications for leaders and leadership*, National College for School Leadership, 2012

52 *Academies – driving success through autonomy*, Browne Jacobson Academy Survey 2012

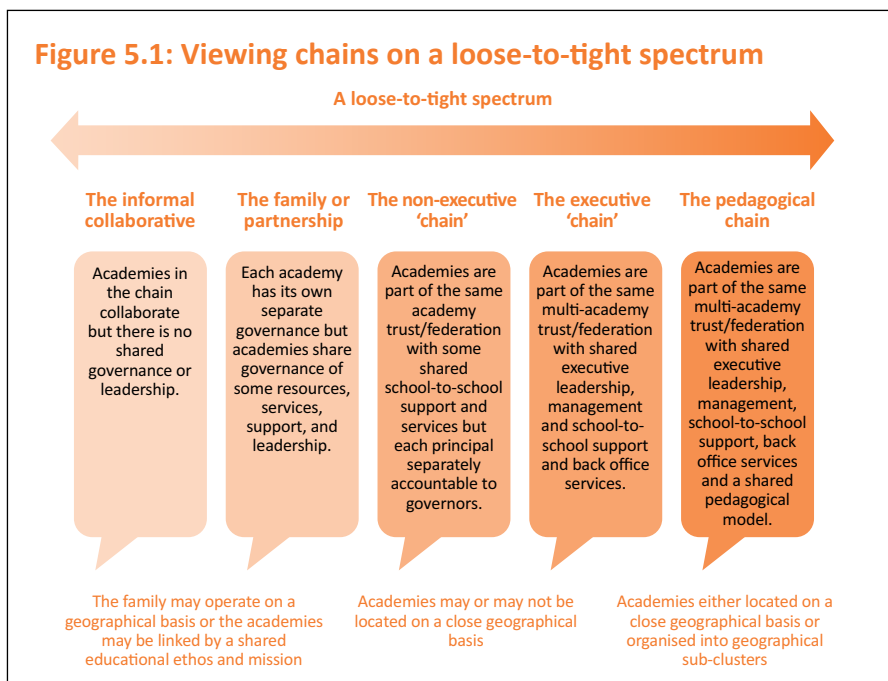
53 *Guidance on becoming an Accredited School Provider or an Accredited Schools Group in the secondary phase. Information on the accreditation system*, Department for Children, Schools and Families, 2010, see <http://dera.ioe.ac.uk/771/1/criteria.PDF>

54 Chapman C *et al*, *A study of the impact of school federation on student outcomes*, National College for School Leadership, 2011

55 *Leadership of more than one school – An evaluation of the impact of federated schools*, Ofsted, 2011

- For a converter academy chain, there are three common forms endorsed by the DfE:
  - **Multi-academy trusts (MATs):** These chains are in governance terms structured in the same way as many of the sponsored chains. The multi-academy trust has a master funding agreement with the Secretary of State and a supplementary funding agreement for each academy within it. The trust has responsibility for the performance of all the academies within it, and academies cannot unilaterally withdraw from the MAT.
  - **Umbrella trusts:** Under this model, a faith body or a group of schools sets up an overarching charitable trust. This trust in turn establishes individual or multi-academy trusts to run the schools coming under the umbrella of the overarching trust. Each individual academy trust has a separate funding agreement with, and articles of association approved by, the Secretary of State and is able to withdraw from the umbrella trust of its own accord. Eight of the 15 converter chains Hill et al interviewed included a multi-academy or umbrella trust.
  - **Collaborative partnerships:** The majority of converter academy chains are, however, not so formal or structured: they take the form of looser collaborative partnerships.<sup>56</sup>

Figure 5.1, taken from Hill et al, shows the spectrum of collaborative arrangements emerging in the school sector.



Based on these various definitions, I use school chains to mean harder forms of school partnership, predominantly MATs, with three or more member schools.

### How chains have grown

According to the DfE there were 110 lead sponsors with 203 open academies in July 2010, with 11 outstanding schools sponsors. Two years later there

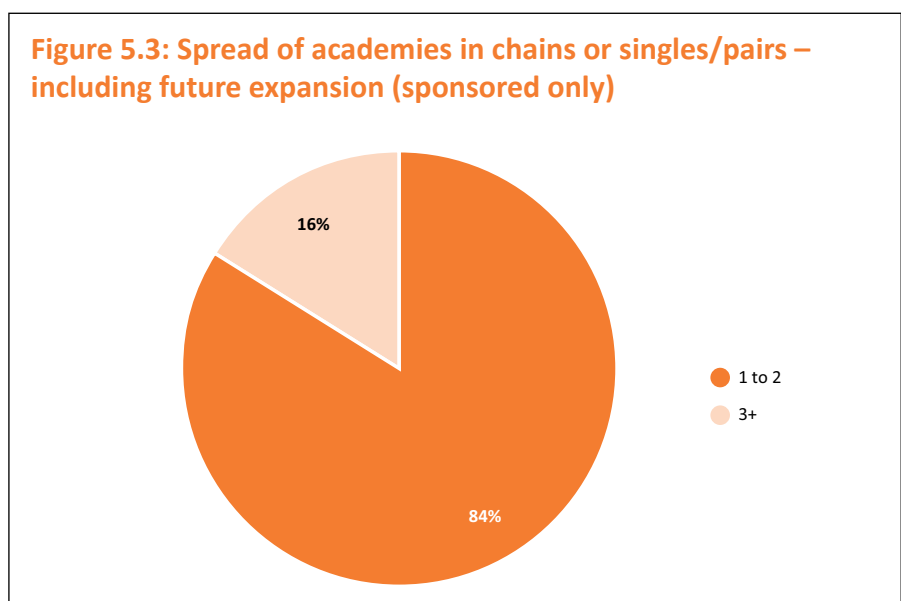
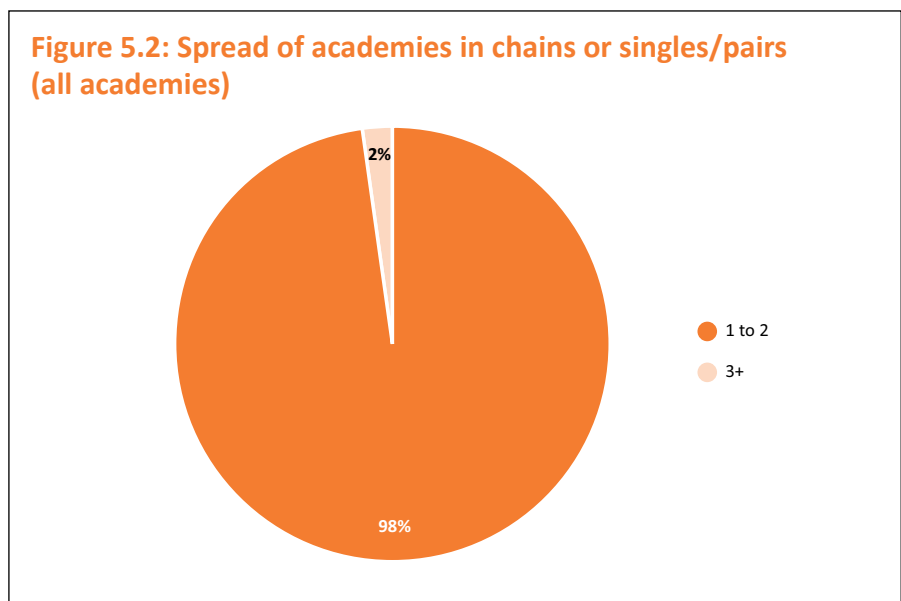
<sup>56</sup> Hill R et al, *The growth of Academy chains: implications for leaders and leadership*, National College for School Leadership, 2012



were around 200 sponsors with 367 open academies and over 60 new good/ outstanding school sponsors in the pool. 26 sponsors had three or more open academies and ambitions to grow.<sup>57</sup>

Hill et al found that, by September 2012, there would be 48 chains with three or more academies in their chain, and that there would be nine chains consisting of 10 or more academies. From 2010/11 onwards some of the growth is accounted for by good or outstanding academies joining sponsored chains. Successful schools are increasingly the sponsorship engine room powering the growth of school chains.<sup>58</sup>

Our own analysis of the growth of chains is outlined below (chains defined as three or more academies).<sup>59</sup>

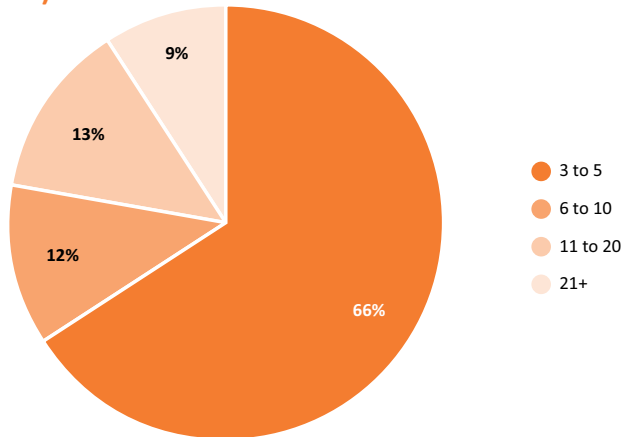


57 Leading Sponsors Event PowerPoint, Department of Education, July 2008

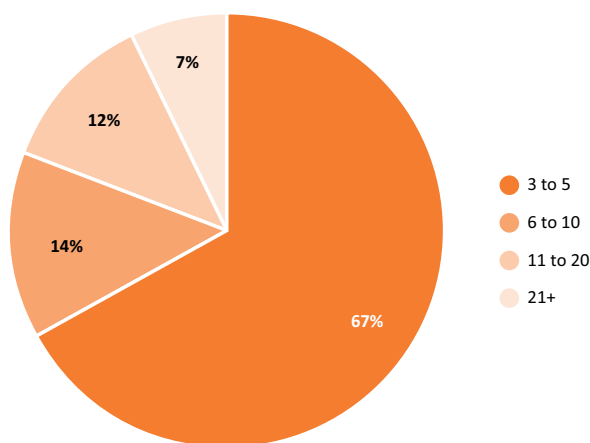
58 Hill R et al, *The growth of Academy chains: implications for leaders and leadership*, National College for School Leadership, 2012

59 <http://www.guardian.co.uk/news/datablog/2012/sep/26/academies-sponsors-list-map>

**Figure 5.4: Spread of academy chain size – existing academies (all academies)**



**Figure 5.5: Spread of academy chain size – including future expansion (all academies)**



### Benefits of joining a chain

There are a variety of reasons that schools might want to enter into a school chain, either as sponsored or converter academies. The best chains offer a range of high quality services that may be harder to access as a single institution. The London-based Harris Federation provides initial teacher training across its group of schools through its designation as a Teaching School. Harris are also proud of the fact that they ‘grow their own’ leaders. Their internal newsletter describes how:

“Rebecca Hickey, previously Vice Principal of Harris South Norwood, took up the post of Principal at Harris Academy Beckenham. Harris Beckenham is currently an all boys’ school but it is set to become co-educational in September 2012 for Year 7. Rebecca is well placed to manage this, having overseen an identical change at Harris Academy South Norwood. A very well-deserved promotion.”<sup>60</sup>

60 Harris Federation Update, Harris Federation, Issue 14, Spring 2012

Harris also offers a one-year professional development programme for taking teachers from satisfactory to good, and a two-year programme for taking them from good to outstanding.<sup>61</sup>

The benefits offered by enhanced professional and career development in chains are highly attractive to many heads and teachers, with this kind of training most effectively delivered across a range of schools. Basset, Lyon et al find that:

“School-to-school collaboration is a vitally important mechanism for improving the quality of teaching. Collaboration is necessary for this because the highest quality continuous professional development (CPD) is essentially collaborative, involving lesson observation, mentoring and sharing of best practice. CPD of this nature is at its most effective across schools, and many schools work together on CPD for staff. The most effective collaboration goes further than simply sharing best practice and involves richer joint development of practice.”<sup>62</sup>

Chapman et al suggest that economies of scale provide opportunities for joint CPD, enabling a group of schools to engage in CPD activity that would have been problematic as a single school. Almost all the staff they interviewed expressed the view that federation had created professional and career development opportunities that ‘would not have been there’ if their federation had not emerged.<sup>63</sup>

Most chains have sophisticated systems for evaluating performance across the group. Gilbert describes how the strategic leadership team at the Cabot Learning Federation agrees common goals and shared practice across all academies, identifies areas of focus where support from another academy might be helpful, checks the federation’s vision is owned across all academies, and monitors and quality assures the performance of schools across the federation.<sup>64</sup>

Michael Marchant, head of education at The Mercer’s Company, has said that “for pragmatic reasons it’s good to band together. It gives more options to all the schools – say, if one is a maths specialist then it can help the other schools with their Maths”.<sup>65</sup> Ofsted found that schools came together in federation for one of three main reasons:

- In 10 of the federations visited, high performing schools had been approached, often by the local authority to federate with a school causing concern.
- Thirteen federations consisted of a number of small schools that had been in danger of closure or were unable to recruit high-quality staff. The aim of the federation in these cases was to increase capacity and protect the quality of education available across the schools.
- A further six federations combined schools across different phases in an attempt to strengthen the overall education of pupils in the community.<sup>66</sup>

Hill et al provide a useful summary of the reasons why the academies they surveyed were choosing to join or grow chains.<sup>67</sup> The main points are in Figure 5.6.

61 *Academies Annual Report*, Department for Education, London, 2010\11

62 Basset D et al, *Plan A+ Unleashing the potential of academies*, The Schools Network, 2012

63 Chapman C et al, *A study of the impact of school federation on student outcomes*, National College for School Leadership, 2011

64 Gilbert C, *Towards a self-improving system: the role of school accountability*, National College for School Leadership, 2012

65 Interview with Michael Marchant, 2012

66 *Leadership of more than one school – An evaluation of the impact of federated schools*, Ofsted, 2011

67 Hill R et al, *The growth of Academy chains: implications for leaders and leadership*, National College for School Leadership, 2012

### Figure 5.6: Advantages of expanding academy chains

The advantages of expanding academy chains as identified by three-quarters of CEOs of sponsored academy chains as 'very significant' or 'significant'

1. Extends the chain's impact in terms of raising standards of education for more young people (all but one chain rates this as very significant, underlining the moral purpose that underpins chains' vision of their role).
2. Creates a broader base for developing leaders.
3. Increases the scope for sharing learning, subject specialisms, school improvement expertise and CPD.
4. Provides more opportunities for staff deployment and promotion within the chain.
5. Increases economies of scale in the running of central services and provides greater purchasing power.
6. Opens up new opportunities to build new primary/secondary curriculum and transition models.
7. Enables central costs to be shared across a larger number of schools.
8. Provides a bigger platform for supporting innovation.
9. Provides a stronger brand to attract parents and applications for admission.

Source: CEO survey (25 responses); analysis of Leschley, 2004

### Features of the best academy chains

As school chains have re-emerged as a feature of the education landscape, it has become possible to pick out some of the features that make the best ones successful. This has implications for the policy proposals I set out later; not because the DfE should be rigidly applying this logic to every chain, but rather by giving all regulatory bodies the ability to look for potential problems (for example, a wide geographic spread) and to help weaker chains identify where they might be going wrong.

Hill's 2010 thinkpiece *Chain reactions* picks out the key features of the best school chains. They are listed in Figure 5.7.

### Figure 5.7: Features of academy chains as described in Hill, 2010

1. Clear vision and values, describing the central driving educational ethos of the chain.
2. A distinct teaching and learning model.
3. A system for training leaders and other staff.
4. Deployment of key leaders across the chain.
5. Direct employment of all or key staff.
6. Geographical proximity.
7. Central resources and system.
8. Strong quality assurance arrangements.
9. Effective and clear governance.

He revisits these in his 2012 report, broadly finding that surveyed chain CEOs pick out the same themes. These 'non-negotiables' have been validated in separate studies by Chapman et al and Ofsted,<sup>68,69</sup> as well as by my own interviews, and a long list includes:

68 Leadership of more than one school – An evaluation of the impact of federated schools, Ofsted, 2011

69 Chapman C et al, A study of the impact of school federation on student outcomes, National College for School Leadership, 2011

- Academies in their chain should be in close proximity to each other.
- A clear vision for school improvement.
- A strong emphasis on behaviour, discipline and attendance.
- A tight grip on target-setting, pupil tracking and performance monitoring, linked to raising pupils' aspirations and expectations
- Ensuring curriculum content is relevant to student ability.
- The intensive use of formative assessment to provide feedback to students.
- Intensive support for student in exam years, for example, Year 11.
- Building up the capacity of teachers to deliver high-quality lessons through feedback via frequent lesson observations and programmes such as the improving and outstanding teacher programmes.
- Developing and coaching middle and senior leaders.
- Working with and securing the support of parents.
- Moving leaders and specialist staff around the chain.
- Developing capacity across the chain through joint practice development.
- Applying quality assurance processes across the chain.
- Providing non-education services at a chain level.<sup>70</sup>

The importance of leadership across the chain comes through very clearly in the literature. A 2011 report by the Public Accounts Committee said that: “the sponsored academies see collaboration across chains or ‘clusters’ of academies as the way forward which will help to further raise and develop future leaders.”<sup>71</sup> Schools Commissioner Liz Sidwell, who herself led an academy chain, has said that “Chains and federations have an advantage in that they help with succession planning: if you have an executive head you can bring in deputies to run schools. Everybody’s talking about primaries being short of heads – well, the more chains you have the more chance you have to practice under a successful head”.<sup>72</sup>

Chapman *et al* found that some models of leadership lead to better outcomes than others, with secondary federations with executive leadership (one executive principal across the chain) outperforming federations with traditional leadership structures (one head teacher per school).<sup>73</sup> Hill *et al* found that almost all the larger chains identified either a CEO or a director of education as the key individual. That role involves:

“The development of human capital through finding and supporting Academy leaders is given the highest priority. Keeping on top of performance through monitoring data and holding accountability reviews with academies also scores highly, with business planning, negotiating about the future expansion of the chain and communication across the chain all being significant.”<sup>74</sup>

It is notable that both the unions representing headteachers are broadly supportive of the emergence of chains. In my interview with him, ASCL general secretary Brian Lightman explained that there was little appetite in his sector for local authorities getting involved again in the provision of school improvement services. Instead he supports schools grouping together voluntarily, noting that ‘support federations’, where a good school supports a weak one, seem to be one highly productive approach”.<sup>75</sup> The NAHT has also dropped its ‘one head, one school’ policy and is in favour of schools coming together, and general secretary

<sup>70</sup> Hill R *et al*, *The growth of Academy chains: implications for leaders and leadership*, National College for School Leadership, 2012

<sup>71</sup> *The Academies Programme*, Public Accounts Committee, Seventeenth Report, 2011

<sup>72</sup> Interview with Liz Sidwell, 2012

<sup>73</sup> Chapman C *et al*, *A study of the impact of school federation on student outcomes*, National College for School Leadership, 2011

<sup>74</sup> Hill R *et al*, *The growth of Academy chains: implications for leaders and leadership*, National College for School Leadership, 2012

<sup>75</sup> Interview with Brian Lightman, 2012

Russell Hobby believes the government should do more in trumpeting the benefits of federation if they want to drive chain formation.<sup>76</sup>

### The impact of school chains on outcomes

As with academies before them, there is now a reasonable amount of domestic evidence – to go alongside the international research – about the effectiveness of the best chains. The 2011 Secondary School Performance Tables showed that some academy sponsors saw large improvements across their schools. Between 2009/10 and 2010/11, Harris Academies saw an average improvement of 13.1 percentage points, ARK 11.0 percentage points, Oasis 9.5 percentage points and ULT 7.5 percentage points in the proportion of pupils gaining 5+ A\*–C including English and mathematics. Across all state-funded schools, the rate of improvement was 3.1 percentage points.<sup>77</sup>

Hill et al find tentative evidence that chains of three or more academies made greater progress between 2008/09 and 2010/11 than standalone and two-strong academies. The average rate of improvement between 2008/09 and 2010/11 for chains of three or more academies was 15 percentage points, compared with 12.2 and 11 percentage points for standalone and two-strong academy chains, respectively. They are clear that the figures should be treated with caution and not over-interpreted, but are prepared “to rule out four possible variables (prior attainment, relative deprivation, length of time operating as an academy and cherry-picking which academies to support) that could potentially explain the difference”. Furthermore, they report that at a national level, a greater proportion of sponsored academies were judged outstanding and a smaller proportion judged inadequate than other maintained schools inspected between 2009 and 2011 and that chains of three or more academies do have a higher proportion of schools classified as outstanding.<sup>78</sup> Evans and Meyland-Smith came to a similar conclusion in their work for Policy Exchange.<sup>79</sup>

Ofsted found that the fact that schools had federated was a contributory factor to the improvement. In the federations where weaker schools had joined forces with stronger ones, the key areas of improvement were in teaching and learning, pupils’ behaviour and achievement.<sup>80</sup> Sir Michael Wilshaw is in no doubt about the impact of chains on outcomes:

“Chains and federations offer a way of strengthening leadership across a group of academies, and the majority of academies do not belong to one of these. The early evidence is that such chains are, on average, more effective than single institutions. For example, of the 30 academies currently judged by Ofsted to be outstanding, 22 are in a chain with at least one other school. Academies that are in chains are also more likely to add greater value for their pupils. Chains which are effective share a number of characteristics. Most importantly, they focus on the performance and accountability of each of their schools. They create a no-excuses culture of high expectations for all their pupils.”<sup>81</sup>

It is remarkable that chains are beginning to have these kinds of impacts despite the relatively immaturity of the sector. The ATL union, in a report effectively attacking school chains, was forced to admit that chains were well placed to perform a number of the collaborative functions traditionally done by local authorities, including:

<sup>76</sup> Interview with Russell Hobby, 2012

<sup>77</sup> *Academies Annual Report*, Department for Education, London, 2010\11

<sup>78</sup> Hill R et al, *The growth of Academy chains: implications for leaders and leadership*, National College for School Leadership, 2012

<sup>79</sup> Meyland-Smith D and Evans N, *A guide to school choice reforms*, Policy Exchange, 2009

<sup>80</sup> *Leadership of more than one school – An evaluation of the impact of federated schools*, Ofsted, 2011

<sup>81</sup> “Not good enough: how should the system respond when schools need support?”, Speech given by Sir Michael Wilshaw to Policy Exchange, 20th March 2012

- Good use of data, hard and soft
- Good knowledge of schools, frequent visits
- Early intervention and swift action
- Challenging conversations with heads and governors
- Good quality of staff making the interventions
- Grow your own leaders
- Thinking forward strategically

They point out that there are two conditions that need to be fulfilled for chains to carry out these roles effectively, which is that they are “large enough to support quality central staff sufficient to monitor and intervene” and that they are geographically close. The authors then go on to claim that: “These conditions are not met in the case of the large majority of organisations described as chains by the National College report, most being too small and some of the larger ones being geographically dispersed.” This makes it all the more impressive that chains outperform both academies and ordinary maintained schools, and hints at the potential of a more mature and properly structured school market where chains harness their unique combination of competition and collaboration to raise standards.<sup>82</sup>

Perhaps the most powerful evaluation of the impact of strong collaborative partnerships was carried out by Chapman *et al* for the National College in 2010. They found that performance (defined as a strong school partnering with a weak school) and academy federations both have a positive impact on student outcomes. Performance federations have a positive impact on both the higher and low performing schools in the partnership. There is some evidence of impact in academy federations. The report does not say so, but the clear implication of this is that academy chains featuring both strong and weak schools, i.e. which are also performance federations, could be even more effective. Not only that, but harder forms of federation such as MATs and umbrella trusts perform better than looser collaborative arrangements for secondary schools. Several of my interviewees backed this up. Wendy Marshall of the David Ross Education Trust said: “I’m in favour of harder forms of federation – if you’re going to make a transforming change you need to have the same values and the same direction”.<sup>83</sup> Happily this is the way the chain movement is developing. However, there is a time lag of two to four years between formation of the federation and when their performance overtakes their non-federated counterparts, although performance gains continue to grow over time.<sup>84</sup>

The point about some forms of collaboration being more effective than others is underlined by an early report for the DCSF. Looking at the results of a school federation pilot that funded schools to establish looser forms of collaboration, it found no statistically significant difference between schools in the Federation Programme and non-programme schools with respect to pupil achievement at Key Stage 2 or 3. At Key Stage 4 there was no difference in the percentage of pupils achieving five GCSEs at A\*–C.<sup>85</sup> This reinforces the finding of Davies and Lim, who saw in New Zealand that: “short-term collaborative frameworks developed in response to specific funding incentives, but rarely lasted once funding stopped. In contrast, models which built on the principle of long-term partnerships (whether with other schools and/or the local community) were

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<sup>82</sup> Education needs a democratic, accountable middle tier so why reinvent the wheel?, ATL Union, 2012

<sup>83</sup> Interview with Wendy Marshall, 2012

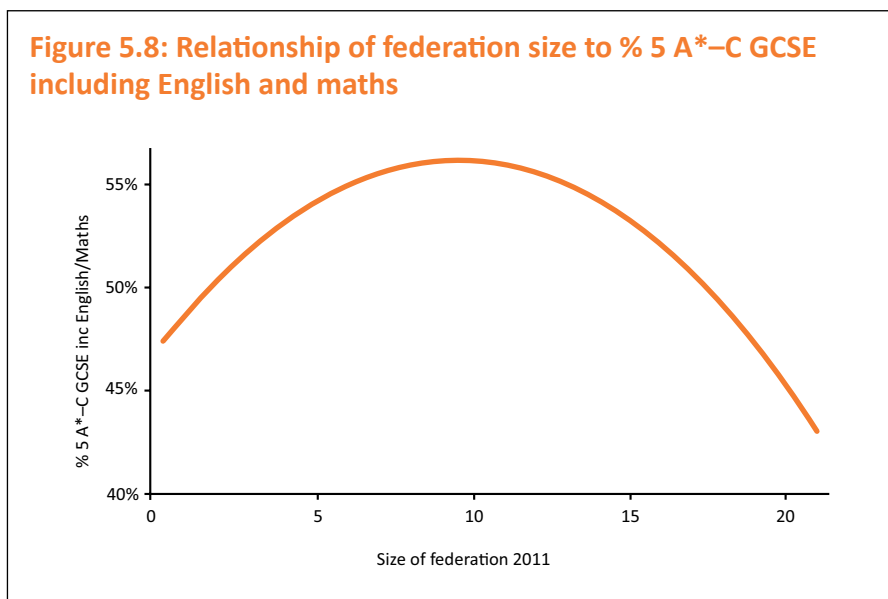
<sup>84</sup> Chapman C *et al*, *A study of the impact of school federation on student outcomes*, National College for School Leadership, 2011

<sup>85</sup> Lindsay G *et al*, *School Federations Pilot Study 2003–2004*, University of Warwick, 2007

more likely to get embedded into the everyday practice of each member school”. Anders Hultin, an education entrepreneur who founded the Kunskapsskollan Free School chain in Sweden, has commented that “if chains are loose they are of less value”.<sup>86</sup> In their view models of collaboration which require a transformation in the ways schools operate were considered more effective than informal or loose ones.<sup>87</sup> This is a good description of the difference between hard and loose chains.

Finally, for this project Policy Exchange carried out its own analysis to see whether there was any link between being in a federation and improved outcomes, and to understand whether there was a link between the size of a chain and its results. The analysis looked at the GCSE performance in 2011 of a set of around 190 academies. These were chosen because they also had results from 2010, when they constituted almost the entire set of academies in existence at that time. The analysis broadly shows that there is a curvilinear relationship between chain size and school outcomes across a range of indicators, namely Expected Maths Progress, 5A\*–C GCSE, and 5A\*–C GCSE including English and Maths. Only Expected English Progress does not show a curvilinear relationship. The association holds up when controlling for other factors such as years since academisation, percentage of special needs students, percentage of students in receipt of free school meals, and percentage of students with English as a second language.

As can be seen in Figure 5.8 below, which plots chain size against the percentage of students achieving 5A\*–C GCSE including English and Maths, there appears to be an ‘optimum size’ of 10–11 schools. If this reflects the success of those chains which choose steady, organic growth over a ‘big bang’ approach, it is likely that this ‘optimum size’ will grow over time. We should, of course, interpret these findings cautiously. Some of the larger cluster sizes are comprised of only one federation, so there is a possibility that this effect could be federation-specific as opposed to size-specific. But the hypothesis can be tested again in future years with a larger sample size as more academies federate and further data becomes available.<sup>88</sup>



<sup>86</sup> Interview with Anders Hultin, 2012

<sup>87</sup> Davies C and Lim C, *Helping Schools Succeed. A Framework for English Education*, Policy Exchange, 2008

<sup>88</sup> Policy Exchange analysis based on the 2011 Secondary Performance tables for England, see <http://www.education.gov.uk/schools/performance/index.html>



## Potential issues with the school chains

There is a huge amount of promise in the school chain movement, and growing evidence for both their impact on outcomes and the key features that deliver these improvements. But even enthusiasts need to be realistic – it is not a perfect picture. A number of potential problems, some fundamental and some contingent, are beginning to emerge. Any attempt to harness the benefits of school chains to deal with England’s long-tail of educational underachievement needs to understand these issues and ensure the regulatory framework is designed to mitigate any risks.

Both the literature and the interviews I carried out for this report suggest that there are five main issues associated with the growth of school chains:

1. Over-expansion and local dominance
2. Lack of capacity or financial sustainability
3. Concerns over chains’ accountability
4. Problems with the appointment of sponsors
5. Applicability for primaries

### Over-expansion and local dominance

In *Chain Reactions* Hill finds no consensus about what an upper limit for a chain might be, though somewhere between 8 and 15 schools/academies was the most common suggestion. It is worth remembering that his survey was carried out before the Coalition government expanded the academy programme to all schools, so is likely to be an underestimate.<sup>89</sup> My research suggests that something more like 25–30 is seen as being the upper limit, which includes secondaries, primaries and sometimes Free Schools, Studio Schools and University Technical Colleges. Lucy Heller envisages around 50 ARK schools but arranged in regional clusters.<sup>90</sup> Wendy Marshall talks of 15–18 schools in her group.<sup>91</sup> A small handful of groups seem to be expanding beyond that range – AET could have around 70 schools by January 2013 and E-ACT have expressed a desire to run over 250 (although that ambition appears to have been scaled back after disagreements at board level).<sup>92</sup> One potential new entrant, Clarendon Academies, has suggested it wants to run 2,000 schools, but it is not clear how it plans to reach this figure.<sup>93</sup> Caroline Whalley, head of the Elliott Foundation, believes that primary school groups like hers by definition need to be much bigger in order to generate the economies of scale as the average primary school is perhaps a fifth of the size of a secondary, yet the DfE currently has no means of delivering primaries in the clusters of five or six that make it viable for chains to take them on.<sup>94</sup>

Clearly there are problems of any one provider getting too big, although most of my interviewees did not really believe this would happen because the dynamics of running a chain militate against it. Indeed, as the ATL, itself an opponent of the academy and chain movement, has pointed out chains are well capable of performing the vital collaborative role that councils are no longer playing so long as they are of sufficient scale and the schools are relatively near one another.<sup>95</sup> Of more concern is the risk that certain chains could come to dominate local school markets. For example, in Southwark there are 16 state secondaries. Five are voluntary-aided church schools, the other 11 are academies. Of those four are run by the Harris Federation and three by ARK Schools. These are the two best

89 Hill R, *Chain reactions: a think piece on the development of chains of schools in the English school system*, National College for Leadership of Schools and Children’s Services, 2010

90 Interview with Lucy Heller, 2012

91 Interview with Wendy Marshall, 2012

92 <http://www.tes.co.uk/article.aspx?storycode=6182991>

93 <http://www.tes.co.uk/article.aspx?storycode=6191801>

94 Interview with Caroline Whalley, 2012

95 *Education needs a democratic, accountable middle tier so why reinvent the wheel?*, ATL Union, 2012

academy chains in the country and local pupils are fortunate to have this range of quality to choose from, but it is reasonable to ask at what point any school provider should no longer be allowed to expand in a given area for fear of market dominance – particularly in rural areas where choice may already be minimal. In general there is a long way to go until that point is reached, but it is undoubtedly an emerging issue.

### Capacity and financial sustainability

The main issue about the growth of school chains is not their ultimate size but the rate at which they expand and their ability to sustain a successful school improvement model. The unfortunate poster-child for over-expansion is the United Learning Trust, which following problems with its two academies in Sheffield in 2009 was prevented by then Education Secretary Ed Balls from expanding further until it had demonstrated its ability to improve results in its member schools.<sup>96</sup>

Hill *et al* provide a useful summary of the risks of expanding too quickly, which can be seen in Figure 5.9.<sup>97</sup>

### Figure 5.9: Risks of expanding academy chains and the challenges of expanding chartered management organisations

The risks from expanding academy chains as identified by half or more of CEOs of sponsored academy chains as 'very significant' or 'significant'

1. Damage to the reputation of the chain as one of the (new) academies gets into difficulties or improvement proves very intractable.
2. Too many new schools are taken on at one time and there is insufficient leadership capacity to manage the challenge.
3. The chain reacts to having more academies by becoming more bureaucratic and more rules-based organisation.
4. Diseconomies of scale start to emerge – for example, communication becomes much harder and it is difficult to keep everyone informed and involved across all the academies in the chain.
5. The core infrastructure (central services) becomes overstretched.
6. Existing schools in the chain start to slip back as energies are focused on new joiners.
7. The growth in the number of academies makes the chain impersonal, eg key senior and middle leaders and staff don't really know each other.

Source: CEO survey (26 responses); CMO analysis based on Lake *et al*, 2010

These risks are exacerbated if growth takes place in a haphazard way across the country, given that geographical proximity is such an important feature of the best chains.

A further concern relates to chains which are based around the original sponsored academies and City Technology Colleges, where an individual philanthropist may have played a vital role in the injection of significant amounts of funding into the group's schools. What happens if a sponsor or sponsors lose interest, lose their money or worse? In these cases the schools in the group will become financially vulnerable, particularly if their business model has relied on an annual injection of cash from the sponsoring trust.

96 <http://www.guardian.co.uk/education/2009/nov/05/united-learning-trust-academy-schools>

97 Hill R *et al*, *The growth of Academy chains: implications for leaders and leadership*, National College for School Leadership, 2012

### Concerns over accountability

Many opponents of the academy and school chain movement accuse these schools of lacking accountability, of there being a ‘democratic deficit’ because there is no direct involvement of locally-elected bodies in the management of the school. This position is promoted by teaching unions like the ATL, who claim that chains tend to lack transparency and are not obviously accountable to anyone.<sup>98</sup> It is easy to dismiss these objections on practical and theoretical levels – for example, the abysmal record of most local authorities in providing education and the fact that democratic accountability to users, in this case parents, can be better achieved through markets for most services, even publicly-funded ones – yet there is also an important point in this criticism. It is not easy to understand whether a chain of schools, as opposed to the schools themselves, is performing well and adding value to its members. Parents have to rely on the chains’ own promotional material for that, a sub-optimal position, and chains themselves are not inspected. Another aspect of this problem is the fact that no one really understands what should happen to a chain if it or its member school start to fail. The accountability for academies itself needs significant tightening but no arrangements exist at all for the central offices of chains themselves. This is primarily a function of the novelty of this type of institution, but anyone who believes in the potential of school chains must be concerned with ensuring that chains are subject to the same standards of transparency and accountability to which all other parts of the school system are subject.

### Problems with the appointment of sponsors

The final issue concerns the way in which the DfE, local authorities and schools (that are being turned into academies because of underperformance) go about choosing sponsors. Hill *et al* report that some chain CEOs considered certain local authorities to be ideologically opposed to the academy programme and used their powers to award academies to sponsors that shy away from confronting authorities with the hard actions that may be needed to turn a school around.<sup>99</sup> This plays into the hands of the weak schools themselves, which if given the chance to maintain the status quo and – crucially – avoid the sacking of large numbers of underperforming staff will understandably be tempted to do so. These are the dreaded ‘beauty parades’ that a number of my interviewees referred to, with many relaying anecdotes about schools which had chosen the soft option. Part of the issue is that governing bodies lack the ability to access data on the performance of different chains, which weakens the ability of the DfE to impose effective sponsors on recalcitrant schools. A particularly galling issue for effective sponsors is that they spend charitable funds unsuccessfully participating in these beauty parades, money that would be better spent on the schools already in their group.

### Applicability for primary schools

A number of interviewees commented on the fact that neither the academy programme nor the emerging school chains seemed well designed for primary schools. NAHT general secretary Russell Hobby pointed out that there is little appetite for academy status among most primaries and predicted that only around 20% of primaries will convert.<sup>100</sup> Michael Marchant also thought that many

<sup>98</sup> Education needs a democratic, accountable middle tier so why reinvent the wheel?, ATL Union, 2012

<sup>99</sup> Hill R *et al*, *The growth of Academy chains: implications for leaders and leadership*, National College for School Leadership, 2012

<sup>100</sup> Interview with Russell Hobby, 2012

primaries would see moving to academy status – and leaving the support of the local authority – as too risky.<sup>101</sup> Part of the issue is a collective action problem. While it might make sense for a group of schools to convert to academy status together in some form of chain, co-ordinating this leap among half a dozen or more governing bodies is very difficult unless there is some powerful external stimulant, such as the promise of extra money or the threat of forcible conversion.

101 Interview with Michael Marchant, 2012

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# 6

## Conclusion

There is now an emerging literature on the growth of school chains in England, which complements international studies. It points, with reasonable confidence, to school chains as a successful form of institution with the capacity to improve standards even more quickly than academies, let alone ordinary state schools. The harder the form of collaboration, such as multi-academy trusts, the bigger the impact. And there appears to be an ‘optimum size’ of chain that is the result of organic growth rather than a big bang approach. This is all information that the DfE should be using more actively to guide the development of the market.

Chains can have this effect because of their unique ability to synthesise competitive and collaborative pressures. According to Lord Hill, it is not autonomy that will be the main driver of improvement that results from the academy converter programme, although that was the original justification for its introduction. Rather it is the use that academies are making of this freedom to find new ways to collaborate, within a competitive market, which will provide the most significant long-term impact on standards. However, these effects are contingent on avoiding some of the problems that could potentially reduce chains’ ability to raise standards, so the right regulatory environment is needed to harness their full potential.

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# Part Two

## The Great Educational Problem of Coasting Schools

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# 7

## Introduction

The argument about school failure has changed dramatically. The appointment of Sir Michael Wilshaw as Her Majesty's Chief Inspector of Schools crystallised and brought to the fore a series of concerns that have been held for years by heads, teachers, parents and politicians about the quality of education on offer in the average English state school. Wilshaw's basic premise, that 'satisfactory' schooling is anything but, has gained traction among politicians and policy-makers and there is now a broad consensus around the existence of 'coasting' schools that have proven stubbornly resistant to a range of policy interventions introduced over the last thirty years. Wilshaw's proposals – a tougher Ofsted regime would give satisfactory schools no more than four years to sort themselves out before being put into special measures – have elicited a predictable response from the teaching unions and other parts of what Sir Chris Woodhead memorably described as 'the blob'. They mark a sea change in the debate about standards in this country.

Whereas policy for dealing with failure in the last 20 years has been targeted at the circa 5% of dangerously awful schools – this is what the original academy programme was designed for – in the next five years the challenge is to cope with a much bigger and more publicly-contested seam of chronic failure in which mediocrity is ingrained. The new Ofsted inspection regime could, by Wilshaw's own estimate, lead to as many as five times more schools being told they need to improve. Based on historical Ofsted data it could be up to 30% of schools,<sup>102</sup> a figure that was supported by my interviewees – one of whom thought that half of England's schools were underperforming.

102 *A good education for all*, Ofsted, 2012

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# 8

## How Governments Have Pursued School Improvement

### Three-pronged approach to reform

Ever since the long march back towards rigour begun by James Callaghan in his 1976 Ruskin College speech,<sup>103</sup> governments of both left and right have accepted the basic premise of Callaghan's analysis – that there was “legitimate public concern” about how schools were operated – and set about breaking the grip of teaching unions, academics and local politicians and bureaucrats on educational management. The reforms used to implement this strategy can be described as falling into three broad, sometimes overlapping or contradictory, categories:

1. **Universalist** – these are ‘top-down’ policies designed to raise standards in all schools by introducing universal standards to which all schools have to submit. They are interventionist policies the validity of which is based on evidence that they work in a variety of contexts. Examples include the National Curriculum, the creation of Ofsted, standardised testing, league tables, the cap on infant class sizes, and the National Literacy and Numeracy Strategies.
2. **Decentralising** – these are policies designed to devolve power all the way to the school and parent level as a way of putting control of the education system into the hands of people who have the right incentives to improve performance. They are partially permissive, in that they grant more operational autonomy to both producers and consumers of education, but they are also designed to increase horizontal accountability between the two. Examples include the creation of governing bodies, local management of schools, grant-maintained schools, parental choice in school admissions, the publication of school performance data, Teaching Schools, and Free Schools.
3. **Progressive** – these are policies designed specifically to help the poorest of those with the lowest academic achievement, and may be either decentralising or universalist. Examples include City Technology Colleges, the original academy programme, the pupil premium, one-to-one mentoring, and the National Challenge.

Since the 1980s, governments of every hue have sought to use policy tools under all of the three headings simultaneously, despite the obvious tensions that are thrown up. So within four years of abolishing a decentralising measure like GM status<sup>104</sup> and introducing universalist ones such as the National Literacy

<sup>103</sup> <http://education.guardian.co.uk/thegreatdebate/story/0,9860,574645,00.html>

<sup>104</sup> School Standards and Framework Act 1998, Part 2, Chapter 1



and Numeracy Strategies and an expanded National Curriculum,<sup>105</sup> the Blair government legislated to reboot the decentralising City Technology College scheme and use newly-formed academies – with as much freedom as GM schools, including the power to ignore the National Curriculum – to turn around performance in some of the worst secondary schools in the country.<sup>106</sup>

An extensive academic literature exists about the impact of these policies which has been well summarised by the DfE to make the case for its own current set of reforms, themselves a mixture of the three categories described above.<sup>107</sup> The

“There is a broad recognition that standards in too many schools are both unacceptably low and fairly dismal by international standards. According to a 2010 poll by YouGov, 25% of parents think their child’s education is satisfactory or worse”

2010 McKinsey & Co. report *How the world’s most improved school systems keep getting better* extensively reports on common factors found in improving schools system, and the vast majority of those interventions have been implemented in one form or another in England in the last 30 years. The McKinsey report also points to a natural and painful

moment in the evolution of improving school systems, where ‘top-down’ universalist interventions cease to become so effective and decentralising ones come into their own. Even after this point there is an ongoing tension between the value of autonomous teaching professionals and institutions and the need to maintain consistent teaching practice.<sup>108</sup> This is the stage that the English school reform has now reached.

### Have schools improved?

Whatever politicians say, experience, research and data show that most of the programmes implemented since the late 1970s have been effective in raising standards. Huge strides have been made, basic standards across the system have improved, especially in the quality of teachers and teaching, and some of the worst secondary schools turned around – often dramatically so in the case of schools run by high-performing academy chains such as the Harris Federation and Ark. It is true that failing primary schools have not yet felt the full benefit of the progressive policy strand, but this is changing – 121 out of 501 open sponsored academies were primaries as at September 2012.<sup>109</sup> With potentially up to 1,000 primary schools eligible for sponsorship there is clearly a long way to go.<sup>110</sup> But the DfE’s method for effecting this transformation has been well honed by experience in the secondary sector over the last decade, and officials in the department report no shortage of sponsors coming forward to take on the task. This probably reflects the fact that many secondary academies and chains are keen to expand into the primary sector, often so that they can get to children earlier in the education cycle, and the fact that many ‘converter’ academies – good or outstanding schools looking to benefit from the extra freedoms (and money) on offer – are expected to take on weaker schools as part of the bargain.

Yet despite these undoubted gains there is a broad recognition that standards in too many schools are both unacceptably low and fairly dismal by international standards. According to a 2010 poll by YouGov for the National Union of Teachers, 25% of parents think their child’s education is satisfactory or worse

105 <http://www.educationengland.org.uk/documents/pdfs/2006-primary-national-strategy.pdf>

106 Education Act 2002, Part 5

107 *The Case for Change*, Department for Education, 2010

108 Mourshed M et al, *How the world’s most improved school systems keep getting better*, McKinsey & Company, 2010

109 *All Open Academies*, Department for Education, 2012, see <http://www.education.gov.uk/schools/leadership/typesofschools/academies/b00208569/open-academies>

110 “How are the Children? Achievement for all in the 21st Century”, Speech given by Rt Hon Michael Gove MP to the Spectator Education Conference, 26 June 2012

(which roughly correlates with the results of Ofsted inspections), with around a third of parents who privately educate their children supporting the creation of new Free Schools in their area to challenge low teaching standards in local state schools.<sup>111</sup> And while our real positions in the international league tables are a matter of much debate,<sup>112</sup> it is still indisputably the case that according to the 2009 PISA evaluation England is at best a middling performer in English and Maths and just above average in Science.<sup>113</sup> How can this be the case if, as a nation, successive governments have been implementing a set of well-evidenced reforms over a significant period of time?

111 NUT/YouGov Opinion Poll on Free Schools – Summary Analysis, 2010

112 *OECD warns against education trends made by DfE and media*, Fullfact, 2010, see [www.fullfact.org/factchecks/school\\_standards\\_oecd\\_pisa\\_data\\_media\\_conservatives\\_education-2423](http://www.fullfact.org/factchecks/school_standards_oecd_pisa_data_media_conservatives_education-2423)

113 *PISA 2009 Results: What Students Know and Can Do*, OECD, 2009

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# 9

## The Nature of the Problem

### Coasting schools

Until recently it was believed that standards in coasting schools would be lifted up by a mixture of universalist policies, which would force improvement by raising basic standards all round; decentralising policies, which would incentivise improvement through greater operational freedom and consumer pressure; and, progressive policies, which would challenge satisfactory schools to improve by raising standards in the previously-failing schools which used to lie beneath them in the league tables. This suite of policies ought, in Caroline Hoxby's phrase, to be "a tide that lifts all boats".<sup>114</sup>

There is no doubt that this has happened to some degree. Evidence from Machin and Venoit for the London School of Economics has shown that the conversion of failing schools into academies not only lifts standards in those schools but also in neighbouring schools.

*Our results suggest that moving to an autonomous school structure through Academy conversion generates a significant improvement in the quality of their pupil intake and a significant improvement in pupil performance. We also find significant external effects of the pupil intake and the pupil performance of neighbouring schools. All of these results are strongest for those schools that have been Academies for longer and for those who experiences the largest increase in their school autonomy.*<sup>115</sup>

Yet as Ofsted revealed at the beginning of 2012, there are around over 6,000 schools that only provide a satisfactory education, nearly a third of the total. This included 3,000 'stuck' schools that have been rated as only satisfactory at their two most recent inspections (typically there are around three years between inspections). And to push back against the economic determinism that blights too many so-called progressives within the schools system, Ofsted's data showed that 279 of these schools serve pupils from the most affluent areas while 679 schools in the most deprived areas, and had managed to go from satisfactory to either good or outstanding in the same period.<sup>116</sup> Consequently a growing view at the top of government is that there has been a fundamental blind spot in the reform strategy that successive governments have followed: namely, the quality of teaching, learning, behaviour and leadership that occurs in so-called 'coasting' schools.

It was therefore no coincidence that the Prime Minister's first political intervention of 2012 on education policy was to convene a summit at No.10 to address the issue of standards in these schools. In a newsletter published on the day of the summit the Prime Minister was quoted as saying:

<sup>114</sup> Hoxby C, *School choice and school productivity: Could school choice be a tide that lifts all boats*, NBER, 2003

<sup>115</sup> Machin S and Venoit J, *Changing School Autonomy: Academy Schools and their Introduction to England's Education*, Centre for the Economics of Education, London School of Economics and Political Science, 2011

<sup>116</sup> *Dataset of satisfactory schools*, Ofsted, 2012, see [www.ofsted.gov.uk/news/ofsted-announces-scrapping-of-'satisfactory'-judgement-move-designed-help-improve-education-for-mill](http://www.ofsted.gov.uk/news/ofsted-announces-scrapping-of-'satisfactory'-judgement-move-designed-help-improve-education-for-mill)

“Last year I spoke out about the scandal of coasting schools – the ones that are content to muddle along without trying hard to improve. These might be schools in leafy areas that get above-average results, or schools in inner cities that have seen flat-lining poor results; what links them isn’t the scores they’re getting, but the complacent attitude that says things are OK just as they are.

“This year we’re doing something about it. Ofsted have announced today that they’re changing the rating system for schools. It used to be that some schools were labelled ‘satisfactory’. Now they’re abolishing that label and replacing it with a new one: ‘requires improvement’.

“This is not some small bureaucratic change. It marks a massive shift in attitude. I don’t want the word ‘satisfactory’ to exist in our education system. “Just good enough” is frankly not good enough. Every teacher, every head and every school should be aiming for excellence – no lower.”<sup>117</sup>

At the Prime Minister’s coasting schools summit in January 2012, Wilshaw admitted that the previous inspection regime allowed thousands of schools to bump along in mediocrity for years so long as they weren’t actually failing. The acute problem of underperformance was being dealt with through the sponsored academy programme, especially given its expansion into the primary sector, but the chronic weakness across the system was not really being dealt with. The patient was out of intensive care but no one had yet addressed the long-term illnesses that put her there in the first place. This was a tacit acceptance that the three-pronged approach to reform described above had failed to shift performance in a significant minority of schools. In a speech at Policy Exchange, the new Chief Inspector described the problem and hinted towards the role that school chains could play in solving it:

“In fact 3,000 schools in England were judged ‘satisfactory’ at their last two inspections, which means many pupils could have their whole experience of primary or secondary school – or indeed both – at a school that is less than good. What is most astonishing is that there are 300 schools serving the most prosperous communities which are coasting – delivering mediocre provision day after day.

“Leadership of good teaching is crucial to raising standards. Have we got 22,000 head teachers who have these qualities at the moment? No, we haven’t. But we do have a growing number of outstanding head teachers who are taking on the challenge of school-to-school improvement through clusters, federations and chains of schools.”<sup>118</sup>

## Ofsted’s new inspection regime

To address these problems Wilshaw proposed a radical yet common-sense development of the inspection regime. Until now, schools with a ‘satisfactory’ result in an inspection (scoring an overall mark of 3 out of 4) were not subject to central intervention to improve performance. To qualify for that kind of support, generally through the sponsored academy programme, schools need to score the lowest mark of 4 out of 4, at which point they would be placed into a category within the group of schools causing concern. Currently there are two categories within this group:

- Schools subject to special measures are those that, when inspected, were failing to give their pupils an acceptable standard of education and in which the persons responsible for leading, managing or governing the school were not demonstrating the capacity to secure the necessary improvement in the school.

<sup>117</sup> *Coasting schools meeting: Newsletter*, No.10 Downing Street, 2012

<sup>118</sup> “Not good enough: how should the system respond when schools need support?”, Speech given by Sir Michael Wilshaw to Policy Exchange, 20th March 2012

- Schools requiring significant improvement are those that, when inspected, although not requiring special measures, were performing significantly less well than they might in all the circumstances reasonably be expected to perform. Ofsted gives such schools a notice to improve.<sup>119</sup>

Having concluded its consultation, the new inspection regime will see the ‘satisfactory’ category of inspection result (scoring 3 out of 4) being scrapped and replaced with schools previously rated as ‘satisfactory’ being told they ‘require improvement’. Schools would then be re-inspected up to two more times in the following four years. Any not demonstrating improvement over that time will then be put into ‘special measures’ – the category in which the DfE’s strong intervention powers kick in and which, in the vast majority of cases, leads to a school being turned into a sponsored academy.<sup>120</sup>

### Underperforming academies

The potential for a dramatic increase in the number of schools being told to seek help to improve is worrying enough on its own to cause us to reconsider whether the academy programme is up to the task. But this concern is amplified by existing methods for dealing with underperformance in the existing sponsored academy sector, which poses a genuine threat to the reputation of the programme. According to the DfE’s Performance Tables, there are 44 sponsored secondary academies which were at or below the GCSE floor target in summer 2011, defined as 35% of eligible pupils securing five or more A\* to C grades, including English and Maths.<sup>121</sup> These 44 academies are listed in Table 9.1, along with their GCSE performance in previous years.<sup>122</sup>

The newest of these academies might be expected to improve in future years, and the DfE is right to point out that the number of secondary academies below the floor target fell from 64 in 2010 to 39 in 2011.<sup>123</sup> Nevertheless, 29 of these academies have been open for two years or more, and nine have been open for at least four years yet are still at or below the floor target. These academies pose a dilemma for the DfE, as they were created to replace previously failing maintained schools and yet their performance is still sub-standard. If they were local authority-controlled schools they would be liable for being turned into academies, but by definition this option is not available. The funding agreements that have been signed with the sponsors of these academies do, in extremis, allow for the Secretary of State to flood the governing body and forcibly change the ownership of the schools, but for practical and political reasons the DfE prefers not to invoke this power. Instead it favours negotiated solutions with these schools, persuading the sponsors either to cede control voluntarily to other sponsors (for example, when the Emmanuel Schools Foundation Academies in the North-East joined the United Learning Trust group<sup>124</sup>) or to bring in school improvement partners to raise standards. In was in this vein that, on 1 March 2011, Michael Gove wrote to academy sponsors asking those whose schools fell below the performance floor targets to submit an improvement plan to the Office of Schools Commissioner within six weeks.<sup>125</sup> In the letter he said:

“Where there are Academies below the floor standards, we need to work together to address barriers to improvement. I am therefore asking all sponsors of Academies below the floor standards to submit a plan outlining the action they will take to secure improvement. It’s important we show how the momentum for improvement is accelerating across all schools.”<sup>126</sup>

119 <http://www.ofsted.gov.uk/resources/data-schools-causing-concern-summer-term-2011>

120 The framework for school inspection from September 2012, Ofsted, 2012

121 <http://www.education.gov.uk/schools/performance-tables-2011>

122 NB these are new ‘sponsored’ Academies that replaced previously failing schools, which is why performance data is not always available for previous years.

123 *Academies Annual Report*, Department for Education, London, 2010\11

124 <http://www.ucst.org.uk/news/view/344/Emmanuel-Schools-Foundation-Academies-to-join-the-United-Learning-Trust>

125 Letter from Michael Gove MP – Sponsors of Academies, Department for Education, March 2011

126 Letter from Michael Gove MP – Sponsors of Academies, Department for Education, March 2011

**Table 9.1: Sponsor academies failing to exceed the GCSE floor target in 2011**

	School name	Location	5 A*–C GCSE '08	5 A*–C GCSE '09	5 A*–C GCSE '10	5 A*–C GCSE '11
1	St Aldhelm's Academy	Poole	-	-	-	3%
2	Bishop of Rochester Academy	Chatham	-	-	-	16%
3	Red House Academy	Sunderland	-	-	30%	19%
4	The Marlowe Academy	Ramsgate	13%	12%	14%	20%
5	The Milton Keynes Academy	Milton Keynes	-	-	19%	20%
6	Havant Academy	Havant	-	-	-	22%
7	Unity City Academy	Middlesbrough	18%	23%	28%	25%
8	The Bulwell Academy	Nottingham	-	-	35%	25%
9	South Leeds Academy	Leeds	-	-	29%	26%
10	University Academy Keighley	Keighley	-	-	-	26%
11	Manchester Creative and Media Academy	Manchester	-	-	28%	27%
12	The Oxford Academy	Oxford	-	18%	31%	28%
13	Dover Christ Church Academy	Dover	-	-	-	28%
14	Dartmouth Academy	Dartmouth	-	-	-	28%
15	The Thetford Academy	Thetford	-	-	-	28%
16	New Line Learning Academy	Maidstone	13%	19%	37%	30%
17	Excelsior Academy	Newcastle-upon-Tyne	-	12%	25%	30%
18	Oasis Academy Brightstowe	Bristol	-	22%	29%	30%
19	Parkwood Academy	Sheffield	-	-	28%	30%
20	The Bushey Academy	Bushey	-	-	21%	30%
21	Grace Academy Solihull	Birmingham	28%	20%	37%	31%
22	John Madejski Academy	Reading	23%	18%	28%	31%
23	Spires Academy	Canterbury	32%	30%	32%	31%
24	City of London Academy – Islington	London	-	38%	43%	31%
25	Richard Rose Central Academy	Carlisle	-	27%	32%	31%
26	The John Wallis CofE Academy	Ashford	-	-	-	31%
27	Sheffield Springs Academy	Sheffield	22%	23%	32%	32%
28	Corby Business Academy	Corby	-	21%	36%	32%
29	Merchants' Academy	Bristol	-	17%	25%	32%
30	University of Chester CE Academy	Ellesmere Port	-	-	38%	32%
31	North Shore Health Academy	Stockton-on-Tees	-	-	-	32%
32	Gloucester Academy	Gloucester	-	-	-	32%
33	The Basildon Upper Academy	Basildon	-	-	31%	33%
34	The Eastbourne Academy	Eastbourne	-	-	-	33%
35	Freebrough Academy	Saltburn	-	-	-	33%
36	The City Academy Bristol	Bristol	24%	34%	36%	34%
37	Bedford Academy	Bedford	-	-	-	34%
38	Brompton Academy	Gillingham	-	-	-	34%
39	Malcolm Arnold Academy	Northampton	-	-	-	34%
40	Shireland Collegiate Academy	Smethwick	30%	38%	34%	35%
41	Richard Rose Morton Academy	Carlisle	-	28%	34%	35%
42	Academy 360	Sunderland	-	17%	21%	35%
43	The Open Academy	Norwich	-	32%	33%	35%
44	The Isle of Sheppey Academy	Minster-on-Sea	-	-	30%	35%

It might be argued that this system of intervention with academies has been effective. The December 2011 compendium of Ofsted inspection results lists only five sponsored academies that have been given the lowest rating for the overall effectiveness of their school (on a scale where 1 is outstanding, 2 is good, 3 is satisfactory and 4 is underperforming) and put into an Ofsted category:

- **Sir Robert Woodard Academy** (West Sussex), which achieved above the floor target at GCSE but was placed in special measures;
- **Oasis Academy Mayfield** (Southampton), which achieved above the floor target and was on a notice to improve;
- **The Isle of Sheppey Academy** (Kent), which achieved at the floor target and was on a notice to improve;
- **The Marlowe Academy** (Kent), which achieved below the floor target and was in special measures; and
- **Academy 360** (Sunderland), which achieved below the floor target and was on a notice to improve.<sup>127</sup>

Since then, at a select committee hearing in April 2012 the Education Secretary was forced to admit that eight sponsored academies were on a ‘notice to improve’ from Ofsted – the category just above ‘special measures’.<sup>128</sup>

### Is the regulatory system up to the task?

It can be argued this is a very small number compared to the total number of sponsored academies (501 at September 2012<sup>129</sup>). In my view this is to miss the point of the changes currently going through the system. While writing to the 40 academy sponsors telling them to up their game and submit an action plan is a viable way to work when dealing with a few hundred schools, when faced with thousands of failing schools it is simply not viable. The Office of Schools Commissioner, whose responsibility it is to prompt improvement and find durable solutions from every sector, has only around 25 members of staff. While the Schools Commissioner herself is excellent and has a superb understanding of how to turn schools around, it is unrealistic to expect her team to be able to broker school improvement in the huge number of schools that the new Ofsted inspection regime will be reclassifying as failing. As Caroline Whalley, chief executive and founder of the Elliot Foundation, a primary-focused MAT said: “The Office of the Schools Commissioner shouldn’t just be about finding and matching sponsors, but should also be given wider responsibilities to lead on national education strategy; for example developing accountability systems for various categories of schools”.<sup>130</sup> Several of my interviewees thought that the DfE as currently constituted is not up to the task of managing the change that the new Ofsted regime will require.

The Labour Party has spotted this problem and has issued a consultation paper seeking views on the creation of local school commissioners to deal with this problem. In the introduction to the consultation document, Labour schools spokesman Stephen Twigg suggests:

*“However hard working and dedicated civil servants are, they are not best-placed to monitor the performance of thousands of schools across the country, nor to pick up on parents’ early warnings before failure is allowed to take hold.*

<sup>127</sup> <http://www.ofsted.gov.uk/resources/official-statistics-maintained-school-inspections-and-outcomes>

<sup>128</sup> “Gove admits eight academies are on notice over failures”, *The Independent*, 25 April 2012

<sup>129</sup> *All Open Academies*, Department for Education, 2012, see <http://www.education.gov.uk/schools/leadership/typesofschools/academies/b00208569/open-academies>

<sup>130</sup> Interview with Caroline Whalley, 2012

“In meetings with those working in education, concerns are often raised with me about this democratic deficit, the increasing fragmentation of our school system and the absence of mechanisms to spot warnings of falling standards and performance. There is also a real need to respond quickly to failure – where a school is letting down its pupils we must have a clear process to be able to intervene without delay.”<sup>131</sup>

I take issue with this idea of a broad ‘democratic deficit’. There is no reason whatsoever in my view for local politicians to have anything to do with what goes on in good schools; indeed all the evidence of history suggests that politicians of any sort, national or local, should be kept out of well-run, effective schools. Opponents of the academy programme who resent the fact that they are no longer able to use their presence in local authorities and the trade unions usually promote talk of a democratic deficit in order to interfere in the way schools are run. In the case of schools, where competition is possible, real democracy is achieved by devolving autonomy to institutions and choice to parents. But the rest of the extract is a reasonable description of a real world problem, namely does the DfE have the capacity to deal with the new underperformance challenge that Ofsted is setting them?

*131 Policy Review Consultation:  
Devolving Power in Education  
– School Freedom and  
Accountability, Rt Hon Stephen  
Twigg MP Labour Party, 2012*



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# 10

## Conclusion

The White Paper *The Importance of Teaching* sets out a broad and bold agenda for change which will undoubtedly raise standards in coasting schools.<sup>132</sup> Universalist policies are needed to improve the quality of teaching, which is why Teaching Schools are so important. Rebooting the National Curriculum to focus on knowledge, analytical skill, deep understanding and rigour will help. Similarly, the impulse to decentralise power to governing bodies, heads and teachers within a properly constructed social market is the right one. Free Schools offer a disruptively innovative force that challenges the assumptions and expectations of many within the state sector, raising sights and ambitions to where they should be. And the DfE's preferred option of simply expanding the progressive element of their policy-programme – in essence, the 'sponsored academy' programme and the pupil premium – will take us some of the way.

But the last thirty years shows us that this will not be sufficient to address the long tail of underachievement. There is a world of difference between the department managing change in around 500 of the worst secondary schools and trying to do the same with five times as many schools. My fear is that the new Wilshaw reforms will be turning out thousands of unsatisfactory schools which have been told to sort themselves out but which, by definition, lack the capacity to do so. And, without significant changes to government policy, these schools will look outwards for support and find only a department struggling with the scale of the task.

<sup>132</sup> *The Importance of Teaching*,  
Department for Education, 2010

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# Part Three

Helping School Chains Deal with  
the Long Tail of Educational  
Underperformance

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# 11

## Introduction

Even the most optimistic view of England's educational performance should cause alarm. There is a long tail of underachievement in our schools and it is now the most urgent issue for the government to tackle. But because policymakers have only very recently begun to understand the nature of the problem the policy framework designed for this very purpose does not yet exist. That is what Part III of this report attempts to provide. Sir Michael Wilshaw is not alone in expressing concern about the monitoring of schools and the brokering intervention in an increasingly autonomous system, given the demise of many local authority school improvement services.<sup>133</sup> A full suite of policies is needed.

The good news, as this report has shown, is that a new policy tool has emerged that can help us – the academy chains. How can the benefits of chains outlined in the first part of the report be brought to bear on the (un)satisfactory schools most in need of support? And what additional policies should the DfE consider if school chains cannot provide the complete answer?

My suggestions are an addition to and development of the DfE's agenda, not an alternative. But there is a reluctance within the political team at the DfE to talk about bringing in new regulation or new rules; they are always on the look out for new routes by which 'the blob' could try to reassert its grip on schools. Besides, as Lord Hill has argued, the sector is developing so quickly in an organic fashion that stopping to create a new regulatory framework would mean the reform plan lost momentum.<sup>134</sup>

My answer to their objections is threefold. First, I am quite clearly not a member of the blob and my pro-reform credentials are pretty clear. Hopefully my pedigree is reliable. Second, any set of reforms has different stages. When it comes to school autonomy and the instances of collaboration that are emerging from it, the sector is moving from the ultra-creative early phase into something a little more stable. To use an astronomical metaphor, the grains of dust circling around the Sun have started to coalesce into planets and a different physics is needed to describe their motions. While a lot that has happened so far is good, there are some problems too – the re-creation of local monopolies, federations being created which lack the capacity to improve member schools, weak governance structures emerging – which need addressing in a systematic way that goes beyond a small team of people in the OSC dealing with things on a case-by-case basis without a clear set of rules. Finally, there is a big new challenge coming down the tracks – turning around thousands of coasting schools – and the current programme is not yet up to that task. The absence of much structure in the market until now has been productive. Several people interviewed for this report, from all backgrounds, felt

133 "Not good enough: how should the system respond when schools need support?", Speech given by Sir Michael Wilshaw to Policy Exchange, 20th March 2012

134 Interview with Lord Hill, 2012

that it was because the DfE was not pushing the concept of federation that schools felt free to experiment with new forms. But a suitable new regulatory regime is needed both to ensure the successful continued development of academies and school chains and to point these policy tools more effectively at the problem of coasting schools.

The most important feature of any new regime is that it is proportionate and predictable. By and large it should leave well alone, only seeking to intervene where there is sustained evidence of weakness. In these instances it should act swiftly and ruthlessly. It should resist the temptation to impose forms of operating but be proactive in promoting best practice. And it should be rules- rather than relationship-based, so that everyone knows in advance the consequences of failure. The proposed new Ofsted regime fits this description well, but it is only concerned with the diagnostic side. The real conundrum is what happens once a problem has been identified.

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# 12

## An 'Industrial Policy' for the Schools Market

The attitude of the DfE towards the conversion of schools to academy status and the creation of chains has been purposefully “permissive”, to use Lord Hill’s expression.<sup>135</sup> That is an understandable strategy because their priority has been to create the kind of rapid transformation in the governance of schools that has evaded previous governments. It was designed to break the mould, and it is well on the way to doing so. However, this strategy must be seen as a means to an end, not an end in itself, and its shelf life is nearly over. Having let a thousand flowers bloom, the time has come for the DfE to develop a more proactive ‘industrial policy’ for academies and chains.

The positive reason for adopting an industrial policy is that the sector is maturing and there is now enough high-level knowledge about the most effective forms of collaboration to allow the DfE to adopt a more structured approach to the development of the sector. One of the major opponents to the reform, teaching union the ATL, has tried to claim that, “[s]ince the majority of chains consist of groups of between two and four schools, their school improvement work is no more or less than the kind of school-to-school collaboration which is now commonplace across the system, but with a formal structure. Such groups do not generate the economies of scale to enable a middle tier structure that could monitor and lead improvement”.<sup>136</sup> The evidence outlined in this report shows that they are simply wrong. The DfE needs to mobilise this knowledge about what works and provide a fast-developing market with greater direction.

More negative reasons for acting are that schools are increasingly concerned about the almost anarchic regulatory environment and are desperate for some direction, particularly primary schools for whom operational autonomy is seen as a threat as much as an opportunity. Anomalies are emerging, such as new local monopolies, vast pan-national chains with little evidence of educational impact, or the ‘beauty parades’, much cited by my interviewees, whereby governing bodies of failed schools are choosing weak sponsors who will not challenge the *status quo*. These and other inefficiencies could, if left unchecked, harm the interests of children.

Policy Exchange has been in the forefront of calling for policies to support the creation of schools chains, calling in 2008 for the government to, “radically re-imagine how we formally network schools. Here, Hong Kong offers a potential way forward, as their mid-tier governing bodies are not defined by geographical boundaries but by subscription to a particular mission and ethos.”<sup>137</sup> Another Policy Exchange report said:

<sup>135</sup> Interview with Lord Hill, 2012

<sup>136</sup> *Education needs a democratic, accountable middle tier so why reinvent the wheel?*, ATL Union, 2012

<sup>137</sup> Davies C and Lim C, *Helping Schools Succeed. Lessons From Abroad*, Policy Exchange, 2008

“We want schools to form joint ventures or merge with another school – so that good management practice and approaches can be spread across the system

“We expect schools increasingly to choose to work together with other schools, including independent schools, colleges and services to deliver the full range of opportunities which children and young people should be able to access.”<sup>138</sup>

As I have demonstrated in this report, there is now a strong enough evidence base to justify these pioneering proposals.

### Making the market work better would boost chains

The first part of the industrial policy must be about making the market work better. Gilbert describes evidence from the World Bank that, in 22 evaluations in 11 countries, the following are important for better pupil outcomes: the information to strengthen the ability of students and their parents to hold providers accountable for results, schools’ autonomy to make decisions and control resources, teacher accountability for results.<sup>139</sup> There is ample evidence about the effectiveness of properly structured school markets, and the vast majority of school chains have emerged organically as an inevitable consequence of a more autonomous school market. A report on school chains is not the place to examine what further policies the DfE could pursue in this regard, but it is reasonable to assume that a further set of supply-side measures to increase market rigour would hasten the rates at which chains are created and expand.

### Boosting the power of school chains

As one of my interviewees said, “Nothing will kill the idea of chains quicker than the DfE decreeing that every school should be in one”. Yet one of the major lessons to draw from international experience is that while it would be a mistake for government to force the issue of collaboration – there is no surer way to debase a policy than for it to have the imprint of political will – a purely *laissez faire* approach is not sufficient either. Instead, government has a role in creating a positive environment in which schools are encouraged to come together. Any barriers or financial disincentives for doing so should be removed, leaving professional organisations to be proactive in promoting the benefits of collaboration to their members. This is broadly the experience in England over the last ten years, but the movement has accelerated dramatically in the last two.

It is promising to see both the main headteacher unions actively promoting collaboration and membership of chains and federations among their members.<sup>140</sup> It is also very encouraging to see the National College emerging as a source of learning and information for this nascent part of the school ecosystem, something that should be strongly encouraged and supported by the DfE. As someone who is in the very early stages of trying to create an academy group I can testify that there is a huge amount of helpful information and experience available to guide budding education entrepreneurs, although tracking it down is not straightforward. Regardless of your views on my recommendations this literature is invaluable to anyone aspiring to run a successful school chain. One very practical recommendation from my research is that the DfE, National College and

138 *Higher Standards, Better Schools for All*, Education White Paper, 2005

139 Gilbert C, *Towards a self-improving system: the role of school accountability*, National College for School Leadership, 2012

140 Interviews with Brian Lightman and Russell Hobby, 2012

Ofsted (which has also published research on successful federations) should add to its National and Local Leaders of Education programmes by creating training, forums, qualifications and resources targeted explicitly at the non-educational executives in the burgeoning academy chain sector. There is much to be learnt from those who have already blazed a trail.

Because of their record and pedigree school chains have a big contribution to make to the transformation of educational standards in this country. The second part of the industrial policy therefore involves extending the transformative power of the best school chains to take on and turn around weak schools. These chains, often ‘hard’ forms of partnership like multi-academy trusts, are proving themselves to be even more effective at raising standards than single academies because they provide economies of scale, dispersal of best practice, and school improvement challenge and support. I take seriously warnings from schools that pushing them to come together too forcefully would be counter-productive, so my solutions are more about providing nudges and carrots than wielding sticks.

#### Proposal 1: Capitalising the best chains

Many school groups I talked to complained about the inadequacy of the funding available from the DfE to turn around weak schools that come into their groups. This has an inevitable impact on the effectiveness of their turnaround capabilities and the speed at which they can expand. Hill *et al* point out that: “CEOs recognised the desire and urgency of the DfE to use chains as agents of school improvement but several felt they were at the limit of their capacity in terms of what the academy chain could manage at that time”.<sup>141</sup>

In the first instance the DfE should create a new School Chain Growth Fund, modeled on BIS’s Regional Growth Fund, whereby chains apply for additional investments of matched funding in return for commitments to take on a certain number of failing schools and improve standards in them by a specified rate – for example, a premium on the average improvement rate in peer group schools. This would be a competitive process, ensuring that money goes to the groups best able to raise standards with a clear link between funding and outcomes – unlike now. A £10 million fund to help create new primary academy chains is very welcome,<sup>142</sup> but the DfE needs to be more ambitious in helping the best chains to expand.

#### Proposal 2: Creating the next wave of chains

The DfE rightly wants the new chains mainly to be based around successful schools. Despite promising in their 2010 White Paper that “We will expect every school judged by Ofsted to be outstanding or good with outstanding features which converts into an Academy to commit to supporting at least one weaker school in return for Academy status.”<sup>143</sup> The DfE has not yet fully utilised the opportunity presented by the converter academy programme to spark a new wave of chains, although the OSC has now been given responsibility for driving school-to-school partnership and Schools Commissioner Liz Sidwell now reports growing interest from schools, including grammar schools.<sup>144</sup> Much greater pressure needs to be applied to outstanding converters to take on weaker schools. But there are other options that should be pursued:

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141 Hill R *et al*, *The growth of Academy chains: implications for leaders and leadership*, National College for School Leadership, 2012

142 *Primary Chains Grant*, Department for Education Press Notice, July 2012

143 *The Importance of Teaching*, Department for Education Schools White Paper, 2010

144 Interview with Liz Sidwell, 2012

- **Base new chains around Teaching Schools:** so far around 100 Teaching Schools have been designated and few of them are chains. The DfE plan to designate a further 400 Teaching Schools in the coming years; from this point forward at least half of newly designated Teaching Schools should be chains – either established or new chains.
- **Re-gear National College to support the growth of chains:** the National College is a much-improved body but it does little to promote the creation of harder forms of chains or provide would-be chain leaders with the knowledge and training to do so. It should be given a new mandate to support education entrepreneurs as one of its core activities.
- **Use professional status to drive chain formation:** the National College awards outstanding heads and others with Local or National Leader of Education status, which has great standing in the profession. From now on, for successful leaders to be re-awarded this status they should have to show systemic leadership across a chain of schools.
- **Link Ofsted reports to working in a chain:** in a similar vein, for a school to be awarded the 'outstanding' grade for leadership and management for a second consecutive time the headteacher should have to demonstrate systemic leadership across a chain of schools.

### Proposal 3: Fund a 'Collaborating Schools Network' to promote best practice

It is difficult for the DfE to perform both the positive 'good cop' role of encouraging schools to join collaborative arrangements while also performing the 'bad cop' role of imposing the failure regime and, in some cases, forcing failing schools to join chains. Browne Jacobson found that more than half of all academy head teachers (57% ) stated they need some degree of support when it came to sponsoring a further academy (rising to 73% of those who said they will look to become an approved sponsor in the next 12 months). Support and knowledge about establishing formal collaborations with other academies also appears to be inadequate with half (46% ) requiring some degree of support.<sup>145</sup>

The DfE should follow the successful example of the New Schools Network and outsource the OSC's 'cajoling, encouraging and brokering' function to a national educational charity, which would work with schools that are proactively looking for academy, chain and other collaborative solutions. The aim should be for all schools to convert to academy status and join some form of collaborative partnership, with weaker schools encouraged towards harder forms of federation like multi-academy trusts.

### Proposal 4: Allowing academies to experiment with new forms of governance

On leaving government I have been shocked by the widespread disillusionment among academy leaders with the quality of governing bodies. Many have commented that the requirement to have teachers, other staff and parent representatives can inhibit open discussion and make the process of decision-making more difficult. This view has been reinforced by two other sources:

- In interviews with *Reform*, several headteachers expressed concerns that the strong inward focus of many governors can inhibit collaboration with other schools.<sup>146</sup>

<sup>145</sup> *Academies – driving success through autonomy*, Browne Jacobson Academy Survey 2012

<sup>146</sup> Bassett D et al, *Plan A+ Unleashing the potential of academies*, The Schools Network and Reform, 2012



- Ofsted has found that, in some federations, good or outstanding governance was instrumental in holding leaders to account for the strategic ambition for the federation. In others, governing bodies were less effective at challenging leaders to be accountable for strategic development.<sup>147</sup>

Peter Hyman, the head of a new Free School in Newham called School 21, has suggested that there “should be some professionalisation of governors. It is a real commitment to be a governor. Governors should challenge the head”.<sup>1478</sup>The DfE should allow the best academies and chains to pilot new approaches to governance, including smaller remunerated governing bodies that mirror the boards of private companies.

### Better regulatory oversight of chains

The third and final part of a new industrial policy for schools should be about providing academies and chains with joined up, better-resourced and more powerful regulatory oversight. This would hasten, not hinder, the development of the sector by allowing the DfE to deal with weakness and promote and learn from success.

A presentation by DfE officials at a ‘leading sponsors’ forum made the following points and questions about how the regulatory function needs to develop:

- Growing need for strong, successful and sustainable sponsor organisations.
- Can the Department spot the potential of sponsors to grow and meet the needs of an expanding academies programme?
- Can we spot the signs of stress and guard against organisations growing too far, too fast, with the risk that they may fail?
- Develop a light touch, differentiated approach based on risk that analyses sponsor capacity holistically.
- Support and challenge.
- Pause growth.
- Comparative performance of sponsors.
- Measures to establish the difference that academy sponsors and academy chains are making
- Analysis will help inform the future brokerage strategy, monitor the performance of sponsors and promote the success of the academy programme in bringing about transformational change.<sup>149</sup>

I would add another issue – the potential emergence of local monopolies, especially in rural areas where choice is more limited. And while it is good to know that the DfE has started thinking carefully about whether it is geared up for the task ahead, much more is needed.

### Proposal 5: A beefed up Office of Schools Commissioner

It is not at all clear, even to those who do frequent business with the DfE, who is responsible for what regarding the academy programme. There is the Office of Schools Commissioner (OSC), the open academies division, an underperformance division, the Free Schools division and the Education Funding Agency (EFA) to name a few. This may have been workable when dealing with a few hundred

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<sup>147</sup> *Leadership of more than one school – An evaluation of the impact of federated schools*, Ofsted, 2011

<sup>148</sup> Interview with Peter Hyman, 2012

<sup>149</sup> Leading Sponsors Event PowerPoint, Department of Education, 2008

academies, but with the number poised to go over the 2,000 mark and likely to be much higher by 2015 this needs to change. This is confusing for everyone involved.

To rectify this confusion all the relevant divisions and functions associated with the oversight of academies and chains should be brought together under one directorate headed by the Schools Commissioner, at director-general level in the DfE. Sitting below Ministers and the Permanent Secretary, this beefed up OSC would be responsible – often acting indirectly through third parties (see proposal 3) – for ensuring as many schools as possible become academies and move into collaborative arrangements like chains; ensuring all academies and chains are financially viable and their educational performance transparent; and brokering interventions into schools and academies when Ofsted has diagnosed failure. The OSC should also take on explicitly some of the other functions that a genuine regulator – like Monitor in the NHS – would be expected to fulfill, such as looking out for local dominance and other market failures and ensuring consumers' (i.e. parents') interests are not being harmed.

The OSC will need considerably more resources than the 25–30 people currently in the team to perform this function. Ultimately Michael Gove will be judged by the success of the academy programme and how it adapts to the need to sort out weak schools, and he should commit a substantial or even majority share of the 2,000 strong civil service staff at his disposal to this programme. Given that an increasing number of academy operators have a range of schools in their groups – sponsored and converter academies, Free School, Studio Schools and University Technical Colleges – all chains should be provided with a single account manager to assist and monitor them across the range of their activity.

#### Proposal 6: More powers to regulate the quality of sponsors

The DfE has hesitated to set the bar for academy sponsorship too high for fear of erecting barriers to entry and discouraging innovation. Again, this is an understandable attitude for the early stages of a programme like this, and previous efforts by the predecessor department to regulate sponsor quality appeared to be concerned with limiting the growth of academies rather than promoting them.<sup>150</sup> But a more nuanced approach is now needed.

There is no need to go as far as Hill *et al* propose and demand that all sponsors and academy chairs are asked to provide clear and definable strategies along with a description of their capacity and key personnel.<sup>151</sup> The DfE should be encouraging market entry and innovation by operating a light-touch approach when it comes to sponsors of single schools and groups of two schools. But with some chains growing dramatically with little evidence of impact, it seems reasonable to require this higher regulatory barrier for sponsors wanting to create chains of three or more schools. Setting a higher quality bar for sponsors would also allow the OSC to be more assertive in imposing sponsors upon discredited governing bodies, thereby ending the 'beauty parades' that are a waste of time and money.

#### Proposal 7: Better oversight of the chains

The time has come for Ofsted to start inspecting school chains for their effectiveness and financial sustainability. Hill *et al* quote Ofsted as stating that being part of a chain is “no guarantee of success or insurance against areas of weakness”.

150 *Guidance on becoming an Accredited School Provider or an Accredited Schools Group in the secondary phase. Information on the accreditation system*, Department for Children, Schools and Families, 2010, see <http://dera.ioe.ac.uk/771/1/criteria.PDF>

151 Hill R *et al*, *The growth of Academy chains: implications for leaders and leadership*, National College for School Leadership, 2012

All three of the academies judged by Ofsted to be inadequate during 2009/10 were in federations or sponsored groups with much stronger schools, including one which shares an executive principal with an outstanding academy.<sup>152</sup>

The Centre for Market and Public Organisation at Bristol University has shown that Ofsted inspection has a moderate to large positive impact on school performance.<sup>153</sup> The same logic should be applied to chains, something Lucy Heller of ARK believes could act as a way to prevent underperforming chains expanding before they have put their house in order.<sup>154</sup> My research suggests that good quality chains would welcome this development because they feel that, at the moment, too many weak chains are being allowed to expand too quickly which tarnishes the programme overall. A light-touch inspection with frequency linked to quality is a feature of more mature public sector markets; there is nothing to fear from introducing such a regime so long as it is proportionate. This regime could be based around the emerging best practice in the sector, which would encourage weaker chains to adopt operating procedures employed by the best.

#### **Proposal 8: Sharper accountability for failing academies and chains**

As more and more schools become academies the DfE needs to become less and less tolerant of their failure. At the moment the failure regime for community and voluntary schools is fairly sharp, yet for many of the older academies the ability of the DfE to deal with failure is rather weak – with seven year notice periods for ending sponsor control, and the clumsy device of allowing the Secretary of State to flood the governing body in order to wrest back control of an academy in an emergency. The DfE should embark on a one-off change to all funding agreements, also applicable to all future funding agreements, which ensures that any school that goes into special measures under the new Ofsted inspection regime is automatically removed from governing body, sponsor or chain's control and handed to a new operator of the OSC's choosing. Sponsors and chains which have had an academy go into special measures, and therefore lost control of it, should not be allowed to take on a new school until they have demonstrated their capacity to raise standards among their remaining schools.

152 Hill R et al, *The growth of Academy chains: implications for leaders and leadership*, National College for School Leadership, 2012

153 Allen R and Burgess S, *How should we treat under-performing schools? A regression discontinuity analysis of school inspections in England*, Centre for market and Public Organisation (CMPO), Working paper series No. 12/287, 2012

154 Interview with Lucy Heller, 2012

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# 13

## A New Failure Regime – Including Local School Commissioners

This new industrial policy for schools will help expand the chains and crack down on weakness within the academy and chain sector. But Ofsted’s new performance regime could lead to a fivefold increase in the number of schools told they need to improve, and combined with the dramatic increase in the number of academies it is doubtful whether the DfE alone has the capacity to organise the solutions needed to raise standards in these schools. A new failure regime is needed.

### The middle tier

At this point it is fashionable to talk about the need for a ‘middle tier’. This piece of jargon has several possible meanings, but the most common involves the creation of a new layer of the regulatory structure that sits between national government and schools. Almost everyone I interviewed outside of the DfE professed the need for one, with various reasons cited:

- The simple inability of a government department to regulate 20,000 schools.
- The lack of a local democratic mandate for the DfE or Ofsted when it does attempt to impose change.
- The need to give local people a say on the shape of their local school provision.
- The desirability for the central regulatory body to have a more sophisticated view of local school markets.

Solutions vary, reflecting the range of motivations. In our 2005 report for Policy Exchange Charlotte Leslie and I floated the idea of directly-elected schools commissioners.<sup>155</sup> Sir Michael Wilshaw has proposed the idea of local commissioners within Ofsted.<sup>156</sup> The Labour Party is now looking at this issue and has issued a consultation paper on the creation of a ‘middle tier’, while former Labour special adviser Robert Hill has already published his proposals for the RSA.<sup>157</sup> ASCL General Secretary Brian Lightman has suggested that National and Local Leaders of Education have a part to play in filling this role.<sup>158</sup> And the DfE’s White Paper itself promises to “consult with local authorities and academy sponsors on what role local authorities should play as strategic commissioners when all schools in an area have become Academies”.<sup>159</sup> Box 13.1 outlines some of the functions that, separately, Robert Hill and Labour Shadow Education Stephen Twigg have proposed for a middle tier. In that table I explain why, in my view, there is almost nothing in their suggestions that cannot be performed better by the market, civil society, and central or local government.

155 O’Shaughnessy J and Leslie C, *More Good School Places*, Policy Exchange, 2005

156 “New Ofsted chief proposes creation of team to identify failing academies”, *The Guardian*, 28 December 2011

157 Hill R, *The Missing Middle: The Case for School Commissioners. Developing a System of Great Schools in England*, RSA, 2012

158 Interview with Brian Lightman, general secretary of ASCL, 2012

159 *The Importance of Teaching*, Department for Education Schools White Paper, 2010

### Box 13.1: For and against a middle tier

#### What do people mean by a middle tier?

In his consultation on school policy for the Labour Party, Shadow Education Secretary Stephen Twigg makes his case for a middle tier:

*“Concerns are often raised with me about [the] democratic deficit, the increasing fragmentation of our school system and the absence of mechanisms to spot warnings of falling standards and performance. There is also a real need to respond quickly to failure – where a school is letting down its pupils we must have a clear process to be able to intervene without delay... It is neither desirable, nor practical for so many schools to be directly accountable to no one but Central Government.”*

The answer, he suggests, is a new tier within the education system that sits between schools and the government, providing shared services between schools and democratic accountability to the local community. Robert Hill for the RSA suggests a range of responsibilities for new local school commissioners, which can be divided into two broad categories encouraging greater collaboration at every level, and intervening in the case of failure.

So between them Twigg and Hill identify three over-arching functions for the middle tier:

- Providing shared services and a collaborative environment
- Providing democratic accountability to local stakeholders
- Intervening in the case of failure

The range of specific functions that these two proponents of a middle tier suggest are listed below. Hill suggests that these functions should be performed by new sub-regional commissioners, whereas Twigg is more ambivalent, reflecting the fact that his document is a call for evidence.

Robert Hill	Stephen Twigg	Critique
Developing local education development and improvement strategies	Developing local strategies for managing performance and creating school improvement	This is the core task that local authorities have failed to fulfil – why should a new bureaucracy be different? Academies and chains do this better.
Publicising local education priorities and progress to parents	Representing the needs and demands of parents	Best achieved by parental choice, genuine freedom to set up a state-funded school, and better data.
Work with chains, teaching schools, local authorities and others to support improvement across all schools	Developing collaboration between schools	Chains do this better because they temper collaboration with competition. Plus civic society solution to ‘brokering and cajoling’ function.
Providing data on school place demand and co-ordinating competitions for new schools	Commissioning school places in response to changing demand	Liberalising planning rules to allow the Free School programme to flourish would achieve this more effectively.

Robert Hill	Stephen Twigg	Critique
Identifying failing schools and finding alternative providers	Powers to trigger inspection of weak schools and to recommend a school closure	Diagnosis done well by Ofsted, but definite need for more capacity to find alternative providers.
Commission specialists services at a sub-regional level	Providing shared services	Best achieved through the market or through chains.
Review operation of admission arrangements	Enforcing fair admissions	Currently done effectively by local authorities or academies, no need to change.
Support the development of school travel plans		Currently done effectively by local authorities, no need to change
Preparing comparative data so schools can benchmark themselves		Best done with national 'report cards' as recommended above.
Challenging local authorities that are not fulfilling their scrutiny role		Best achieved by putting power in hands of parents through choice and data.
	Recommendations for school capital investment	Currently done effectively by local authorities, no need to change.

**The middle tier – a solution in search of a problem**

The main problem with both sets of proposals is that almost every proposed middle tier function is either unnecessary, duplicative or could be performed better elsewhere. As this report has shown, the provision of shared services can be performed much better by school chains or by schools going to the market themselves. Sir Michael Barber, one of the towering figures of English school reform, has said “We don’t want another bureaucracy – there’s a lot of residual local authority anyway”.<sup>160</sup> It is precisely because locally appointed bureaucrats have proved so bad at delivering school improvement and other strategies that the academy and chain movements have developed. This function is much better fulfilled through the development of chains and government policy should seek to use every carrot and nudge available to encourage chains and other collaborative formations.

Hill calls on evidence from Ontario, New York and London to support his claim that a regional or city-region tier of government can perform this function effectively and combine that role with democratic accountability, but he misses the point that all three of these cases have directly-elected political leadership – something that is missing from every single other potential sub-regional jurisdiction in England. He blithely says that: “Building on the experience of other jurisdictions, education would become a function of city regions and other sub-regional structures”, but these do not exist outside London and would have to be created, at significant cost. Without direct election they would look like the ineffective and unaccountable Regional Development Agencies that the Coalition scrapped. Hill refers to Greater Manchester and imagines a commissioner appointed by the ten authorities compromising the Greater Manchester Authority, but how would a person appointed by an Authority which in itself is appointed by elected councils provide accountability? The political leadership of the DfE is more democratically

160 Interview with Sir Michael Barber, 2012

accountable than that! Anyway, as I have outlined elsewhere in this report, democratic accountability does not equate to elected people telling schools what to do. To the extent that politicians do have a role local authorities and MPs perform it perfectly adequately. Ultimately schools should be accountable to parents – something Stephen Twigg, as his quote above shows, seems to have forgotten since his time as a Blairite Schools Minister. This is best done through policies to improve the functioning of the school market, such as the publication of better data and liberalising the planning system to allow hundreds more Free Schools to be built to challenge underperformance.

Finally, Hill and Twigg highlight the need for some agency to intervene in the case of failure. It is certainly true that local authorities have not done this well, and since the beginning of the sponsored academy programme Ofsted and the DfE have performed this function. As the scale of England's underperformance challenge multiplies more capacity is undoubtedly required. But does anyone really believe it can be done effectively by a new bureaucracy consisting of autonomous and unaccountable sub-regional commissioners acting to their own rules? Even in London, with its directly-elected Mayor, does anyone really think a London schools commissioner would have been as tough as Ministers in dealing with Downhills School in Haringey? More likely they will tend to be softer, as local authorities have been. That is why any extra capacity in the system to deal with failure should be tightly directed by and accountable to central government, which almost alone in the last 30 years has demonstrated the willingness to confront underperformance.<sup>161</sup>

Despite my own record in this debate I am concerned that proposals for a new middle tier are a solution in search of a problem. It is a rare issue on which I find myself in agreement with the ATL teaching union, although inevitably for differing reasons.<sup>162</sup> I worry that setting up a new bureaucratic structure would be both time-consuming and expensive, and more importantly could act as a Trojan horse for 'the blob' to reassert its thankfully much-reduced grip on our schools. In particular, I contest the idea, expressed by Jon Coles, the former Director General for School Standards in the DfE and now the chief executive of the United Church Schools Trust and United Learning Trust, that the DfE should be responsible for holding every state school to account:

*"[W]e can easily foresee a time when that 1,800 could be 18,000 as Academy status becomes the norm nationally. Now, if there's one thing I know about my former colleagues in the Department, it's that they love a challenge. So, I don't deny that they would give the task of holding to account and intervening in 18,000 schools a pretty good go. But in the end, that isn't a sensible job to give anyone."*<sup>163</sup>

That comment could only have been made by someone with a background in central government, because surely the correct position is that those schools should be made accountable to parents? No central body can be responsible for monitoring 18,000 schools simultaneously but nor should it try – the aim should be to give parents the information, choices and powers they need to hold heads and teachers accountable for their performance.

<sup>161</sup> Twigg S, *Devolving Power in Education School Freedom and Accountability*, Policy Review Consultation, 2012;

Hill R, *The Missing Middle: The Case for School Commissioners. Developing a System of Great Schools in England*, RSA, 2012

<sup>162</sup> *Education needs a democratic, accountable middle tier so why reinvent the wheel?*, ATL Union, 2012

<sup>163</sup> Jon Coles, speech to The Academies Show, 16 May 2012

## The role of the state in addressing school failure

Where the state undoubtedly has a role is dealing with failure when parents face having their children trapped in weak schools. Any new regulatory structure must be focused on tackling underperformance. Where a school is good or better the state should have no role in interfering in its operation other than to provide regular information to parents on its performance and to ensure that children are safeguarded. Together with the existence of public exams, the Ofsted inspection regime and making it much easier to set up new schools, this is more than enough to ensure good schools are accountable to parents.

My research suggests that DfE is not capable on its own of designing and delivering interventions across thousands of weak schools. It is simply impossible to imagine the DfE, in its current form, being able to replicate many times over, and simultaneously, the time and effort involved in converting the infamous Downhills Primary School in Tottenham. This view was widely shared by interviewees. A new failure regime is needed. Former head of Ofsted Christine Gilbert, in a paper for the National College that is sceptical about the necessity of a middle tier, suggests creating ‘excellence networks’ on a regional basis.<sup>164</sup> There is the nub of a good idea here, but these networks are rather bureaucratic sounding. They would create local operational monopolies and would involve compulsory arrangements for perfectly good schools – breaking the rule of leaving well alone and also bringing with it the risk of ‘forced collaboration’, something my interviewees were against. I believe it is better to use nudges and carrots to promote growth in the number and size of chains to drive improvement, while using powers of state compulsion only where there is failure.

“My research suggests that DfE is not capable on its own of designing and delivering interventions across thousands of weak schools”

### Proposal 9: A clear and universal failure regime

At the moment the failure regimes facing academies and other maintained schools vary. Apart from the inefficiency involved this sends out a message that academies get preferential treatment. A new universal failure regime is needed that everyone understands and which is aligned to the new Ofsted inspection regime:

- **On the first occasion of receiving a ‘requirement to improve’:** the school should be forced to become an academy. If the governing body refuses it should be replaced with an Interim Executive Board (IEB) which will make that decision. The OSC has the right to impose a sponsor. If already an academy, the OSC will go immediately to the next stage.
- **On the second occasion of receiving a ‘requirement to improve’:** the academy is obliged to join a successful chain. If it refuses the OSC has the right to impose the chain of its choice. Labour’s 2005 White Paper proposes just such a power for local authorities, although it was never properly implemented.<sup>165</sup> As Fazackerley, Wolf and Massey suggested in their 2010 Policy Exchange report, the OSC should maintain a list of successful chains and sponsors in each region that are prepared to step in and rescue failing academies.<sup>166</sup>

<sup>164</sup> Gilbert C, *Towards a self-improving system: the role of school accountability*, National College for School Leadership, 2012

<sup>165</sup> *Higher Standards, Better Schools for All*, Education White Paper, 2005

<sup>166</sup> Fazackerley A et al, *Blocking the Best. Obstacles to new, independent state schools*, Policy Exchange, 2010



In placing failing academies into chains, the DfE needs to be aware of the growing literature on what effective chains look like. Hill *et al* point out that: “Hard federation provides a strong basis for delivering and sustaining school improvement. Given enough commitment on the part of key players and the support of a co-ordinator role, a looser partnership of schools can make excellent progress on issues of mutual interest and can sustain partnership, though it may find it harder and take longer to tackle tougher issues of standards and performance.”<sup>167</sup> As all researchers in this field are finding, harder forms of federation are more successful than softer ones. That means that only chains with the appropriate governance structures to drive transformation – generally multi-academy trusts – should be eligible for this role.

#### **Proposal 10: The OSC to regulate quality in the chains**

The OSC should take responsibility for regulating quality in school chains with three or more schools. Robert Hill estimates that there could be nearly 50 of these by September 2012, a number that my research suggests could easily double within a year. Like Monitor in the NHS, the OSC would take responsibility for ensuring the financial stability and durability of the chains themselves, that is the multi-academy or umbrella trusts at their heart, and brokering solutions for failing schools within these groups or failing groups themselves. This makes sense because these chains often straddle local authority boundaries and a purely local approach to regulation will be insufficient. This increased responsibility will likely involve transferring some of the current audit functions from the Education Funding Agency.

#### **Proposal 11: Local school commissioners to apply the failure regime on single schools and groups of two schools**

It is not feasible for the DfE to apply the failure regime on its own in a world where local authorities have largely withdrawn from the school improvement process and there are thousands of schools identified by Ofsted as needing to improve. Therefore, local school commissioners should be appointed by the DfE to perform the role of the OSC at the local level. These local commissioners would be legally obliged to operate exactly the same procedure for dealing with failure outlined above. The fulfillment of this function should be put out to tender, with a series of sub-regional performance-related contracts designed and let by the OSC. This is a similar arrangement to the way Ofsted outsources many of its inspection functions. Third parties from any and every sector would be encouraged to apply, including private companies, educational charities, and councils or city mayors that have relinquished their role as a local provider of education.

As the regulator of the market the OSC – and ultimately therefore DfE Ministers – would take responsibility for ensuring these local regulators are complying with their responsibilities and the prescribed process for dealing with failure. Schools and parents would retain the ability to refer their cases to the OSC if they felt that their local commissioners were acting improperly. Similarly, local commissioners should have the ability to refer schools belonging to the larger chains to the OSC if they are concerned about their performance.

Over time I expect school chains with three or more schools to become the norm and the OSC would take responsibility for dealing with the consequences of failure in the majority of schools. At this stage it would be worth considering

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167 Hill R *et al*, *The growth of Academy chains: implications for leaders and leadership*, National College for School Leadership, 2012

whether – as Peter Hyman suggested in my interview with him – the OSC should be spun off as an executive agency. This was proposed as long ago as 2008 by PwC in the Academies Evaluation Fifth Annual Report,<sup>168</sup> but that stage has not yet been reached. The essential point here is that any creation of any regulatory middle tier must be proportionate to the task in hand, which is school failure, defined by central government and not used as an excuse for the opponents of reform to re-tighten their grip on the mass of perfectly good schools.

**Proposal 12: Using data to improve accountability**

Rachel Wolf of the New Schools Network has called for the publication of deeper, more nuanced data that would give parents a better impression of a school’s performance, such as likelihood to go to university.<sup>169</sup> Simon Burgess of the CMPO has suggested publishing anonymised histograms showing the distribution of teacher performance so that parents and teachers can encourage heads to address weakness in a way that doesn’t demonise individual teachers.<sup>170</sup>

Amanda Spielman, the director of education at ARK Schools and chair of Ofqual, has proposed new accountability measures for school chains, consisting of three elements:

- The same aggregated pupil data that is published for local authorities, with one extra element to make the operator’s prior attainment profile visible (in order to account for the very low historical performance of many academies).
- Supplementary progress data for sponsored transition academies in their first three to five years as an academy.
- A list of schools under an operator’s control which should be reviewed for possible funding agreement termination.<sup>171</sup>

Building on this, the DfE should also publish performance reports for academy chains as a way to demonstrate which chains are, and which are not, adding value to their schools.

Even with the much better information now available it is still difficult to judge a school’s performance against its peers. Introducing sophisticated annual performance reports for each school that include comparative data, as suggested recently at a Fellowship Commission meeting at the National College,<sup>172</sup> would help parents push schools harder to improve. Davies and Lim proposed such a report card in 2008, which is featured in Box 13.2.<sup>173</sup>

**Box 13.2: Davis and Lim’s proposals**

We propose that a new accountability and reporting system, such as a report card, be developed.

1. It should use a broad range of indicators to assess school quality. We suggest that the potential set of indicators might include:
  - i. Average student progress between key stages. If the New York system of giving extra credit for the improvement of the weakest cohort is found to being effective, it would be worth considering a similar weighting mechanism in England

168 Academies Evaluation Fifth Annual Report, DCSF, Price Waterhouse Coopers, 2008

169 Interview with Rachel Wolf, 2012

170 Interview with Simon Burgess, 2012

171 Email from Amanda Spielman to James O’Shaughnessy

172 2012 Fellowship Commission Meeting, National College, see [http://www.thegovernor.org.uk/freedownloads/recentreportsongovernance/good-governance-2012\\_1.pdf](http://www.thegovernor.org.uk/freedownloads/recentreportsongovernance/good-governance-2012_1.pdf)

173 Davies C and Lim C, *Helping Schools Succeed. A Framework for English Education*, Policy Exchange, 2008

- ii. Student performance in baseline literacy and numeracy assessments (for secondary schools)
  - iii. Parent, Teacher and Student Satisfaction Surveys on the:
    - a) Overall quality of education
    - b) Range of programme of studies on offer (for secondary schools)
    - c) Extent to which students are being prepared for success in working life
    - d) Extent to which students are enabled to be active citizens
    - e) Extent to which schools provide students with a safe and healthy environment
    - f) Extent to which schools engage parents and students in decisions regarding each child's education.
  - iv. Teacher turnover rates (although a baseline would first need to be established, as no turnover at all could be unhealthy for the school)
  - v. Student absences (unadjusted for authorised absences)
  - vi. Annual drop-out rates at 16 (for secondary schools)
2. School performance should be measured over time (e.g. three years, as in Alberta and Ontario) to enable the identification of trends, as well as to encourage schools to constantly raise the bar on their own performance.
  3. Schools performance should be compared to schools with similar student intake and prior attainment. If comparison to the national average is included, a weighting system such as that employed in New York's accountability system should be considered.
  4. The results from the set of indicators should be summed up and reported in a clear, unambiguous manner (e.g. A–F grade, or a traffic-light system).

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# 14

## Using the Capacity of the Private Sector to Help the Weakest Schools

### Does the academy programme have the capacity needed?

Until now the main policy options available to the DfE for dealing with failure have been turning schools into academies and handing them over to sponsors or handing weak schools or academies over to school chains with a good track record. In their interviews with me Lord Hill, Liz Sidwell and Sam Freedman all reported a good flow of potential sponsors coming forward, which is encouraging, and the new industrial policy and failure regime I have set out will go a long way towards helping the academy programme cope with the scale of transformation needed in England's large minority of 'satisfactory' schools.

Increasing the capacity of existing and emerging school chains to take on additional schools, combined with a clearer and better-resourced regulatory structure, will dramatically increase the capacity of the state school system to address the wave of underperformance that the new Ofsted regime will create. However, my research, particularly the qualitative interviews I have carried out, suggests that even with these changes the academy programme will struggle to deal with the task in hand. The analysis in this report suggests that there might be an optimal chain size when it comes to performance, and while this probably increases over time there appears to be ample evidence that too rapid an expansion can reduce average performance. The experience of the United Learning Trust is salutary, and it is significant that the flag-bearers for rapid expansion – former School Commissioner Sir Bruce Liddington's E-ACT – have curtailed their ambitions. Most of the chains I spoke to expected to expand organically, possibly reaching a natural ceiling of around 30–40 schools from all phases, although often much smaller. There is a common belief that rapid expansion was neither desirable, effective nor financially viable.

Meanwhile up to a third of schools will be told they require improvement and several thousand may end up in special measures. In which case, where do these struggling schools turn to for support, particularly when the fiscal environment means that significant new public funding will not be available for this task?

### How the private sector can contribute

If turning weak schools into sponsored academies or forcing them to join successful chains will only take us part of the way, what then? At this point it is usually fashionable for some on the political right to say: "Bring in the for-profits! Only by handing over failing schools to private owners with the financial

incentives to deliver improvements, or by allowing new private provision into the market, will we get the change we need”. And having made that point almost everyone on the left glazes over and starts jabbing their fingers at conservatives’ ‘ideological’ obsession with the profit motive.<sup>174</sup> Both responses are misguided. I believe the for-profit sector has an important role to play in improving our school system, just not in the way most people would anticipate.

Virtually everyone now agrees that addressing the long tail of underperformance in our school system is an urgent priority for reasons of economic efficiency and

“It is perfectly reasonable to ask whether, if the public and charitable sectors may not be enough on their own, the private sector can play a significant role in dealing with underperformance”

social justice. It is therefore perfectly reasonable to ask whether, if the public and charitable sectors may not be enough on their own, the private sector can play a significant role in dealing with underperformance. That is not to say it is a panacea that will work in every circumstance; rather that the private sector can make – indeed,

already is making – a positive contribution when the policy framework is properly constructed, as Policy Exchange has documented.<sup>175</sup> I would hope that all but the most ideological opponents agree that excluding the contribution of an entire sector towards this task is entirely counter-productive, so long as it can be done in a way that addresses most people’s concerns. Encouragingly the public seems to agree. Polling for Policy Exchange by YouGov has found that when it comes to improving public services, a majority of those polled (60% ) approved of letting more charitable and business providers take over the running of underperforming services or create new options. Even more encouragingly, a majority of people actually working in the public sector (53% ) supported this proposition.<sup>176</sup>

Patrinos and Lewis for the CfBT provide ample evidence to show that private provision – which they define as all non-state actors – of public education services can produce several real benefits, including competition in the market for education, autonomy in school management, improved standards through contracts, and risk-sharing between government and providers. These benefits depend on the right regulatory environment – strong accountability, informed parents, autonomous schools and competition – thereby demonstrating that private provision is no magic bullet.<sup>177</sup>

There are three main ways in which the private sector could, in theory, make a contribution:

- **The asset sale model:** this involves private companies taking over existing state schools by purchasing the asset from the state, and then taking responsibility for a school’s operation while being funded to do so by the state.
- **The pluralism model:** this involves private companies creating additional capacity within the state-funded sector, operating parallel to and in competition with existing state-funded provision.
- **The operating and managing model:** this involves the owners and operators of state-funded schools, be they local authorities, diocese or academy trusts, procuring school improvement or operating and managing services from private sector providers known as Education Management Organisations (EMOs).

174 Muir R, “The ideological row over profit-making schools”, The Spectator CoffeeHouse Blog, 15 August 2012 see <http://blogs.spectator.co.uk/coffeehouse/2012/08/the-ideological-row-over-profit-making-schools/>

175 Laird A and Wilson J (ed Groves J), *Social Enterprise Schools. A potential profit-sharing model for the state-funded school system*, Policy Exchange, 2012

176 Worth S, *Do the public back more reform of public services?*, Policy Exchange, 2012

177 Lewis L and Patrinos H, *Impact evaluation of private sector participation in education (Research Report)*, CfBT Education Trust, 2012

### The asset sale model is not an option

There are two objections to this model that carry weight. First, imposing private ownership – which is permanent – onto the children already being educated in a school and onto their parents is held by some to be counter to belief in parental choice. Furthermore, private sector ownership means that ultimate responsibility lies with a board of directors that is motivated by satisfying and delivering dividends to shareholders, rather than a governing body whose ethical purpose is the education, development and welfare of the children. Education is generally viewed as a public good and school leaders are expected to act *in loco parentis*, and there is legitimate concern about the compatibility of these responsibilities with for-profit ownership. In my view this model is a dead end, not least because it is politically impossible.

### Pluralism can deliver choice and capacity, but slowly

The pluralism model overcomes the first objection because it is new provision that nobody is forced to choose – it is additional capacity, not the transfer of existing publicly held assets to private ownership. This is a critical point. The trumping power of choice also helps overcome the second objection: personally I might have an issue about sending one of my children to a profit-making school, but if others do not share my qualms then who am I to stop them? It is still possible to object that such new provision would attract pupils away from other state schools, thereby contributing to their decline, but if this is what parents want then it is hard to gainsay their choices, especially if a growing school age population means more school places are needed in aggregate. This was the experience with the creation of for-profit Free School provision in Sweden.

Unlike the asset purchase model, I can perfectly well envisage the creation of additional for-profit provision in the state sector. It seems the public support diversity of provision too: polling for the Confederation of British Industry and the Association of Chief Executives of Voluntary Organisations showed a clear majority of people (75% of those polled) supported having a variety of different providers delivering services rather than monopoly government provision.<sup>178</sup> There is no doubt that bringing additional private sector capacity into the school system is politically risky, but the combination of the massive demographic bulge the UK is experiencing (the birth rate for England and Wales has increased by over 20% in the last ten years<sup>179</sup>) combined with the UK's deep and long fiscal retrenchment means that the government will probably have to reach for this solution in order to avert a school places crisis. Writing for Policy Exchange, Laird and Wilson suggest that employee-owned schools could deal with some of the political objections.<sup>180</sup> So the pluralism model can help with capacity problems, but by its very nature building new schools is a slow cumbersome way to challenge failing schools to improve – especially with our sclerotic planning system, the main reason why so many approved Free Schools struggle to find permanent premises.<sup>181</sup>

### Allowing education providers to operate failing schools

More encouraging is the operating company model. Unlike the other two models, which are essentially forbidden in the current system, schools are already able to purchase school improvement services from any provider from

178 Provider diversity poll, Confederation of British Industry, 2012

179 *Birth Summary Tables England and Wales 2010*, Office for National Statistics

180 Laird A and Wilson J (ed Groves J), *Social Enterprise Schools. A potential profit-sharing model for the state-funded school system*, Policy Exchange, 2012

181 "Half of 2012 free schools have not secured a site", *Times Educational Supplement*, 13 April 2012

any sector. This is entirely legal, and there is already a healthy industry in school improvement services that features providers from every sector: state, charitable and for-profit. In contrast to the asset sale model, ownership of the asset remains public or charitable and the operating contract is straightforward to terminate by using either performance-related break clauses or simple time-limited contracts.

The operating company model has several benefits. First, it can be used now. Second, it is much more politically acceptable than any of the other options, judging by the opinions of my interviewees. Third, it leaves ultimate responsibility in the hands of the governing body and the asset in public ownership, thereby overcoming the issue about the motivations of those owning and operating a school. The job of the EMO is to carry out the objectives set by the governing body, not to design the objectives. And finally it offers the opportunity for very sharp, performance-based contracts that offer much greater improvement incentives than the funding agreements currently being signed with academies.

Bodies like the Hackney Learning Trust, set up to run Hackney's schooling when that authority was in deep trouble, are now looking to provide services to schools beyond the borough's boundaries. And most encouraging of all, trade union The National Association of Headteachers (NAHT) is creating a school improvement service with the blessing of the DfE. Russell Hobby has commented that, in his view, while for-profit ownership of schools in the public sector is not acceptable there is no reason why companies should not provide school improvement services.<sup>182</sup> The NAHT's service starts with a pilot of around 30 schools in September 2012, with the aim of scaling up significantly if successful. The trigger is the 'three strikes and you're out' revisions to the Ofsted framework, which Russell Hobby, the general secretary of the union, believes could affect thousands of schools and for which the academy movement lacks capacity). The aim is to help satisfactory schools get to achieve 'good' status within three years. They will work with clusters of between ten and twelve schools, beginning with the primary sector, with an NAHT member coordinating and a third party 'delivery partner' to bring in extra capacity at the start. They would also expect to work with other partners where the need was identified, such as the National College.<sup>183</sup>

Hill et al report that several sponsored chains are trademarking their school improvement systems, although he raises concern that this could be detrimental to the system as a whole if this were to prevent teachers and schools sharing ideas and thinking on teaching and learning and school improvement. But there is no reason why that should be the case. Similar protections on intellectual property in the private sector pose no risk unless there are genuine monopolies, and the protection of school improvement systems would enable these groups to compete as EMOs. So this should be seen as a very welcome development.<sup>184</sup>

### The potential of EMOs

There is a host of domestic and international EMOs with superb credentials for running schools that want to enter the English market. The world's leading education company, Pearson, have created a new school improvement business in the UK to bring their expertise to bear on schools in need of support.

<sup>182</sup> Interview with Russell Hobby, 2012

<sup>183</sup> Email from Russell Hobby Re: NAHT school improvement, 18th May 2012

<sup>184</sup> Hill R et al, *The growth of Academy chains: implications for leaders and leadership*, National College for School Leadership, 2012

EdisonLearning, Kunskapsskollan, IES, Mosaica and other Free School and charter school operators are already active in the English state schools market, as well as a host of start-ups. The Commercialism in Education Research Unit (CERU) at the University of Arizona found that, in the US, the size of the EMO presence has quadrupled since 1998/9, and there is no reason why – if the regulatory environment is right – the same could not happen here.<sup>185</sup>

In a study on school choice reforms for Policy Exchange, Evans and Meyland-Smith report a range of evidence supporting the impact of EMOs and charter management organisations (CMOs, which are not-for-profit) in the US:

- 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).
- The Edusource 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.
- 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.
- 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.<sup>186</sup>

It is perfectly true that some private sector providers are better than others, and indeed that some are worse than average. But it is absurd and counter-productive to prevent, for purely ideological reasons, successful school improvement businesses from turning around those schools which have proved resistant to other interventions. The National Alliance for Public Charter Schools researchers put it succinctly, in a quote which neatly rebuts the IPPR’s absolutist position: “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”.<sup>187</sup> It is clear that, operating within the right policy framework, EMOs can deliver good quality education to some of the hardest-to-help communities.<sup>188</sup> The DfE should unlock the capacity of the EMO sector to deal with chronic underperformance.

185 Meyland-Smith D and Evans N, *A guide to school choice reforms*, Policy Exchange, 2009

186 Meyland-Smith D and Evans N, *A guide to school choice reforms*, Policy Exchange, 2009

187 Meyland-Smith D and Evans N, *A guide to school choice reforms*, Policy Exchange, 2009

188 Wilson S, *Learning on the Job: When Business Takes on Public Schools*, Harvard University Press, 2006



## Policy proposals

### Proposal 13: Create a procurement framework for EMOs

The EMO market is fairly immature. There is little information about who provides a good service except through informal networks. There is no procurement framework for schools that want to draw up contracts that exceed the EU thresholds. This is why the contract let by the Breckland Free School – eventually awarded to Swedish Free School operator IES – took nine months to design and deliver, a prohibitive length of time for most schools. By forcing EMOs to go through the standard EU-wide pre-qualification procedures, the DfE would be able to provide weak schools with an approved list of trusted education providers that could be brought in within weeks to run the school.

### Proposal 14: Design a standard contract for schools wishing to appoint an EMO

The EMO model offers the chance to build in much sharper performance-related contracts than is the case with the master funding agreements signed between the DfE and academy trusts. Many of the problems experienced with EMOs in the US market stem from the lack of a suitable accountability framework, so getting this right is crucial. The contract should include an element of payment by results, an approach already being used in welfare-to-work and prisoner rehabilitation contracts elsewhere in the public sector. For example, providers might only be paid in full if their schools improve at above the average rate for peer group schools. Providers should also be obliged to publish a broad range of performance indicators and financial data. Schools do not have the ability to design these contracts from scratch so the DfE should take responsibility for designing a model contract.

### Proposal 15: Provide better information on the performance of EMOs

Markets work best when those buying services are able to draw on objective data on the outcomes delivered by suppliers. The range of outsourced school improvement services makes establishing impact difficult, and over-regulation could harm the potential of this sector, but at the very least EMOs wishing to be on the procurement framework should be able to demonstrate the impact their services have had on educational outcomes. Ofsted could play a role in this assurance programme, and EMOs not on the framework could also choose to pay Ofsted to inspect and validate the quality of their services.

### Proposal 16: Add the EMO option to the new failure regime

In the new failure regime outlined above the first option for a weak school is transformation into a sponsored academy, because the evidence suggests the sponsored academy programme is effective in raising standards. The next option would be for a school to join a high-performing chain, again because it is now known that on average these perform even better than single academies. But it is unlikely that, in the short-term, chains will have the capacity to take on all the weak schools being presented. In addition, some weak schools are already members of chains. So what then? In these cases I believe that the OSC and local commissioners need a third and final option. Once failing schools that have been through the academy and chain routes receive a third and final 'requirement to

improve', i.e. they have gone into special measures, the governing body should be replaced and an EMO employed from the procurement framework to run the school on their behalf. Of course, a school could also choose to employ an EMO at any time.

Harnessing the power of EMOs to turn around our weakest schools is the best way to use the power of the private sector, and in particular its ability to raise risk capital, to drive educational improvement. It is clearly targeted at the worst and most intractable schools rather than allowing private operators to cherry-pick the best or easiest cases, and it leaves ultimate decision-making power in the hands of governing bodies whose over-riding obligation is to pursue the best interests of pupils not shareholders.

**Proposal 17: Support ways to use private or public sector capital to create not-for-profit EMOs**

For the contribution of the EMO sector to realise its potential it is vital that the best school operators from every sector are able to play a part. It should feature the best chains, the best local authorities and the best independent schools as well as the best for-profits. But would-be EMOs from the public and charitable sectors face an inbuilt disadvantage compared to the private sector – the inability to raise risk capital to help them expand. As Steven F. Wilson has said, “If they choose to be non-profit, entrepreneurs avoid the political controversy that profit-making arouses, but it may be very difficult to raise the capital that the organisation requires”.<sup>189</sup> The research and development costs of formalising a school improvement model are significant even with those operators used to running a number of schools well.

Therefore the DfE should work with Big Society Capital to create new hybrid or joint venture funding models to enable not-for-profit EMOs to develop. If this proves impossible, then the remit of the School Chain Growth Fund should be extended to provide investment capital to help public and charitable sector providers develop operating models that they can export into other schools.

189 Wilson S, *Learning on the Job: When Business Takes on Public Schools*, Harvard University Press, 2006

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# 15

## A Final Thought – Properly Funding the Turnaround of Weak Schools

More fundamentally, the DfE needs to consider the level of funding it makes available to support turning around weak schools. In his 2012 report for the National College Robert Hill says: “The pace of chain formation and expansion is formidable and ministers and officials need to assure themselves that chains have the capacity to deliver each new project and that cumulatively a chain’s growth at any one time is realistic and manageable.”<sup>190</sup> Browne Jacobson’s Academy survey found that capacity is being weakened by a lack of funds: “For most chains, DfE funding or the lack of it is becoming a key constraint to the acquisition of

new schools. Reductions in DfE project funding make it extremely difficult to make a transition school project self-funding, unless the school is well-funded and requires little upgrading or intervention of any kind.”<sup>191</sup>

Having worked for the Coalition government and been deeply involved in the Comprehensive Spending Review

“Having worked for the Coalition government I am very wary of calling for new money at a time of fiscal restraint and demographic growth, but the evidence from interviewees and others cannot be ignored”

I am very wary of calling for new money at a time of fiscal restraint and demographic growth, but the evidence from interviewees and others cannot be ignored. It has been estimated that sponsors need to spend at least £150,000 per school, averaged across secondary and primary, to turn a weak school into a good one. More market rigour, better regulation, philanthropic donations, new expertise coming from EMOs, and scale economies provided by chains, may well make up this entire shortfall by making the sector more productive. I hope so – that is the purpose of this report, after all. But it may not. Many sponsors are increasingly frustrated by the lack of support they receive from the DfE and are talking about scaling back their plans or even exiting the market.

On the assumption that another 3,000 failing schools need to be turned around in the next three years then the DfE would need to find £450 million to plug the gap. This is a lot of money, but the annual resource (as opposed to capital) funding for English schools is projected to be nearly £54 billion by 2014/15.<sup>192</sup> So by diverting 0.3% of the schools budget for each of the next three financial years the DfE could provide an adequate level of financial support to help turn

190 Hill R et al, *The growth of Academy chains: implications for leaders and leadership*, National College for School Leadership, 2012

191 *Academies – driving success through autonomy*, Browne Jacobson Academy Survey 2012

192 *DfE Spending Review*, Department for Education Press Notice, 2010

around the new flow of weak schools. In addition to implementing the proposals in this report that would all but guarantee the success of the academy programme. It is at least worth considering.

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## List of Interviewees

I am grateful to the following for agreeing to be interviewed for this report:

Wendy Marshall, David Ross Education Trust

Rachel Wolf, New Schools Network

Professor Simon Burgess, Centre for Market and Public Organisation,  
University of Bristol

Peter Hyman, School 21

Michael Marchant, The Mercers' Company

Sir Michael Barber, Pearson

Dr Elizabeth Sidwell, Department for Education

Lord Hill, Department for Education

Rt Hon David Laws MP, Department for Education

Sam Freedman, Department for Education

Craig Baker, Boston Consulting Group

Ian Walsh, Boston Consulting Group

Dr Caroline Whalley, The Elliot Foundation

Anders Hultin, JB Education



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