

PROPOSALS FOR STRENGTHENING LOCAL ACCOUNTABILITY OF STATE SCHOOLS IN ENGLAND

There is little to contradict the view that the current government intends that all state schools should operate as academies, preferably inside multi-academy trusts (MATs).

We take the view that the provision of education should be a public service, accountable to those who fund and use it. We see current government policies and practices as not serving this interest.

The current governance model

The governance model of multi-academy trusts is determined by their articles of association as charitable trusts and by their funding agreements with central government. The object of each charitable trust is *establishing, maintaining, carrying on, managing and developing schools offering a broad and balanced curriculum*. (Extract from current model Articles of Association, DfE)

At the core of a MAT are its Members. Usually a group of no more than five, these persons include the signatories to the memorandum of association of the charitable trust and any other persons that by majority vote, they choose to include. They are not elected and, initially, they are normally self-selected. Their role is analogous to the shareholders of the company. They appoint non-executive directors onto the Board whose responsibilities accord with company law. The Board establishes committees which may include “local governing bodies”, whose composition and constitution is determined by the Board. For multi-academy trusts, there is only little reference in the articles of association and funding agreement to the inclusion of parents or staff on the Board or its committees. Lines of accountability are clearly “upstream”: from academies to the Board to the Members.

Broadening the definition of accountability and reversing its direction

DfE argues that public accountability is demonstrated through the publication of school information and performance statistics, an inspection body, the Office for Standards in Education (Ofsted), and the regulatory body, the Education and Skills Funding Agency (ESFA). We argue, as above, that the accountability of schools and the wider education service, should be to those who use and fund them. For schools and academies, this means accountability to local stakeholders, who include parents and carers, employed staff and local community members. In other words, we argue for the flow of accountability to be “downstream”. In addition to making schools answerable to the local community, the community should have the authority to influence the values and strategic direction of its schools.

A different governance model

To achieve this, the current model of governance should change. Charitable Trusts should be replaced with Public Benefit Corporations (PBC). This model has been used to good effect in the governance of NHS Foundation Trusts. NHS Trusts that met certain conditions could become Foundation Trusts, at which point direct accountability to the Secretary of State was redirected to direct accountability to the community being served by that Foundation Trust

Translating the model from Health into Education would bring about the necessary changes in governance. Instead of a self-selected small group of Members, any community citizen may choose to register as a Member of the Trust that runs its local school or academy. Employed staff of the Trust would become a Member on appointment, with the right to opt out. Members would elect non-remunerated governors to sit on their local academy Local Governing Body (LGB), at least one of whom would sit on the MAT Council of Governors (CoG). See below for more on this. Local Governing Bodies, associated with each academy, would include the Principal of the academy, *ex officio*, and up to two other members of staff employed at the academy. Elected Local Governors would be in the majority, and they might invite particular expertise or

further parent representation should they feel that these are insufficiently represented in their own number. The local authority should nominate one councillor to sit on each LGB. The role of the LGB would be to hold the academy to account for the safety, welfare, and outcomes of all learners. They would represent the needs and aspirations of the local community and act as a bridge between academy and its locality. Their representation on the wider MAT CoG would ensure their voice is heard by the MAT Board.

A Multi-Academy Trust Council of Governors

The MAT CoG would be made up of those elected by the local community Members from each constituent academy. The role of the MAT CoG would be to hold the MAT to account by supporting and challenging its work, by influencing its direction, and by ensuring that it strives to meet the needs and aspirations of all the communities served by its constituent academies. The MAT Board would be composed of the Executive Directors of the MAT – (for example, CEO, COO, CFO, HR, Primary Phase Lead, Secondary Phase Lead, IT & Communications), as well as a roughly equal number of remunerated non-executive directors (NEDs), appointed, after open advertisement and competition, by the Council of Governors. The Chair of the Board would be a NED appointed in a similar fashion. The Chair of the Board would act as the Chair of the CoG. The terms and conditions of NEDs, and their performance review, would be determined within nationally benchmarked parameters by the CoG. The appointment of the CEO would be made by the Board, subject to the approval of the CoG. Other executive director appointments would be made by the Board. The role of NEDs would be to add value to the business of the Board through both supporting and challenging the work of Executive Directors. Thus, committees of the Board would normally include both executive and non-executive directors.

Together, this Unitary Board (Executive and Non-Executive Directors) would act as the MAT decision making body, and would be accountable to the CoG, Trust Members, service users and the wider community.

Inspection and Regulation

As in any service that is spending tax-payers' money with the intention of benefiting societal objectives, there is a need for inspection and regulation.

Ofsted, as an inspection organisation, may well be best placed to continue in this role. However, we would wish to see changes to its focus and ways of working. Simplistic categorisation into Outstanding, Good, Requires Improvement, or Inadequate, may not be encouraging schools to research and innovate, in order to best meet the needs and aspirations of their pupils. Interpretations of the Ofsted "grade" criteria risk becoming the scope and ceiling of the performance ambitions of schools. Shifting the emphasis from an inspection being a process done to a school to a process being conducted with a school, including a role for local governors on the team, opens the possibility of an inspection being viewed as a time to learn more about the school, and to re-focus its continued development.

ESFA, as the regulatory body, clearly has a continued role. Beyond its function of ensuring proper financial management we would wish to see more interventions where the wider spectrum of control measures, including those related to accountability to local communities, may not be fully in place.

We note that in the independent sector, there are two layers of inspection, one related to compliance and the other to quality. In the public Health Sector, we note the complementary roles of NHS Improvement (NHSI) and the Care Quality Commission (CCG). There may be lessons to learn from these models.

Commissioning

Under its school place planning duties (s13-14 Education Act 1996) a Council, as an education authority, has a duty to promote high standards of education and fair access to education. It also has a general duty to secure sufficient school places in their area, and to consider the need to secure provision for children with

Special Educational Needs (SEN). This includes a duty to respond to parents' representations about school provision. These are referred to as the school place planning duties.

Regional School Commissioners (RSC) have a role in, *inter alia*, intervening in and supporting underperforming schools or academies, commissioning new schools (typically free schools), and advising on schools joining or moving between multi-academy trusts. We notice a role that increasing overlaps that of Ofsted and aspects of ESFA, and a role that may conflict directly with the local authority, in terms of ensuring the supply of necessary and sufficient school places. We would propose the abolition of RSC, recoupling the local authorities' responsibilities for planning with commissioning, and returning RSC funding to local authorities so that they have the capacity to undertake the full range of their statutory educational responsibilities, especially to those most vulnerable children and young people in their communities.

Relationships

With responsibilities for the education and welfare of all children and young people in their area, local authorities have a wider, and arguably more demanding, role than schools, in meeting those responsibilities. In this regard, the relationship between a local authority and all the schools in its area is critical in meeting those wider responsibilities.

Whilst schools maintained by the local authority have governance structures that allow for productive cooperation, standalone academies and those inside MATS do not. Past rhetoric of "breaking free from local authority control" has not helped. The proposals above are not about returning academies to local authority control, but reengineering MAT Charitable Trusts as Public Benefit Corporations, in the way described above, which would ensure that each party could co-operate as mutual enablers to ensure the best outcomes for all children and young people.

Conclusion

This proposal is principled and progressive. It moves things forward rather than backward. It deals with changing the system from within rather than costly cosmetic name changing. There is no reason why the terminology of academy and multi-academy trust should not remain. At its heart, the Membership of a trust or multi-academy trust has moved from a small number of unelected Members to open community Membership, with local citizens scripted into, rather than out of, decisions regarding the nature and direction of their school provision.

Peter Lacey is an independent education consultant who has been a governor of an NHS Foundation Trust.

See also:

<http://bit.ly/NES0001>

A National Education Service?
Restoring Good Governance & Accountability in Schools (2017)
A personal and polemic reflection

<http://bit.ly/NES0003>

Returning Schools to Their Communities
A First Step to Achieving Educational Equity (2018)
A historic perspective

<http://bit.ly/NESMATgov>

A National Education Service
Accountable to the many not the few (2019)
A PowerPoint presentation explaining re-engineered governance, related to this article