

Leaders' Committee

Delivering excellence in the education system in London

Report by:	Caroline Dawes	Job title:	Head of Children's Services
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Contact Officer:	Caroline Dawes		
Telephone:	020 7934 9793	Email:	Caroline.dawes@londoncouncils.gov.uk

Summary

This paper outlines the key proposals in the Government's *Educational Excellence Everywhere* White Paper, and subsequent Education for All Bill, announced in the Queen's Speech on 18th May. The Government is clear in its intention to move towards an education system where all schools are academies. The proposals set out in the Bill include a commitment to convert all maintained schools to academy status in underperforming or under capacity local authority areas. This report sets out the main implications of these proposals for London local government and potential next steps in developing a London Councils position.

Recommendations

London Councils' Leaders' Committee is asked to consider a collective response to the proposals to inform lobbying work around the Education for All Bill, particularly in relation to:

- Increased academisation of the education system
- A newly defined role for London local government in relation to education as set out in paragraph 12
- Removal of responsibilities from local authorities including school improvement and alternative provision
- Ability of local authorities to deliver their remaining duties in relation to education

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Introduction

1. On 17 March 2016 the Government published its White Paper *Educational Excellence Everywhere* that set out plans to convert all local authority maintained schools in England to academies by 2022. The Government believes that the reforms set out in the White Paper will improve standards across England, place school leaders at the heart of the decision-making process and reduce complexity and duplication in the school system.
2. On Monday 9 May 2016 the Secretary of State for Education issued a statement confirming that she was no longer going ahead with plans to force academy conversion on all maintained schools. However, she has committed to moving towards an all-academy system in the next 6 years.
3. The proposals in the White Paper necessitate a changed role for local authorities in education. London Councils has been exploring the potential roles that local government could continue to play in relation to education since the Academies Act 2010 introduced a greater level of academisation into the school system. This has included dialogue with key stakeholders, such as the Minister for Schools, Chief Inspector of Ofsted and Multi Academy Trust (MAT) Chief Executives. There has been general support and agreement for the need for local authorities to play an ongoing oversight role of schools locally.
4. The Education for All Bill was announced in the Queen's Speech on 18th May. It confirmed the Government's commitment to continue towards an all-academy education system. It intends to do this via legislation to convert maintained schools to academies in poor performing local authority areas and those that can no longer viably support their remaining schools. It makes it clear that the Bill will lay the foundations for an all academy system by making the process of conversion smoother for schools. The Bill also asserts that it will shift responsibility for school improvement from local authorities to head teachers.

5. This report examines the proposals set out in the White Paper, which are to be taken forward in the Education for All Bill. It also considers the implications for London schools and local government.

Educational Excellence Everywhere White Paper proposals

6. The White Paper sets out a number of proposals aimed at driving up standards across all schools in England. The most pertinent proposals for London local government include:

Achieving greater academisation of the education system

7. The Secretary of State has announced that she will no longer take forward the plans set out in the White Paper to force wholesale academisation of the system by 2022. However, she has reaffirmed her commitment to oversee the transformation of the education system to an all academy system in the next six years. This will be delivered through a range of measures. The DfE will continue to encourage good schools to convert to academy status. Using powers enshrined in the Education and Adoption Act, the Government intends to continue converting all inadequate schools to academy status, and convert coasting schools (defined as schools that have failed to support pupils to reach their full potential for three consecutive years) if they cannot demonstrate the capacity to improve.
8. In addition, legislation has been announced in the Education for All Bill that sets out the Government's intention to trigger conversion of all schools within a local authority in two specific circumstances:
 - Where it is clear that the local authority can no longer viably support its remaining schools because a critical mass of schools in that area has converted.
 - Where the local authority consistently fails to meet a minimum performance threshold across its schools, demonstrating an inability to bring about meaningful school improvement.

9. The majority of academy conversions will be expected to form or join existing Multi Academy Trusts (MATs) which formally bring together leadership, autonomy, funding and accountability across a group of academies. Local authority staff are encouraged in the White Paper to set up new academy trusts or join existing ones, subject to Regional School Commissioner (RSC) approval as with all academy conversions.
10. In order to speed up the process of academy conversion when a school converts to academy status, the ownership of the land held by the local authority for this school will transfer to the Secretary of State who will grant a lease to the academy trust. However, for foundation schools and charitable trusts that own their land, there will be no transfer of ownership of land to the Government.

A reshaped and clearly defined role for local authorities:

11. The Government intends to legislate to change local authorities' powers and duties to focus on core functions rather than the running of schools or school improvement. Local authorities will continue to have duties and powers relating to maintained schools before they convert to academy status, such as the ability to direct schools to take on vulnerable pupils. Local authorities do not have these duties and levers in respect of academies.
12. As well as duties relating directly to maintained schools, local authorities will retain a number of other duties relating to all schools in the local area which correspond to the three roles that the White Paper set out for local government in relation to schools going forward. These are:
 - *Ensuring every child has a school place:* including in mainstream and special schools, as well as alternative provision. Local authorities will not be given any additional powers to ensure academies and free schools deliver places as required, which they currently can do with maintained schools. Instead, local authorities will be expected to broker relationships with academies and free school providers in order to expand or develop new provision.
 - *Ensuring the needs of vulnerable pupils are met:* including identifying, assessing and making provision for children with Special Educational Needs

and Disability (SEND) and Looked After Children (LAC); promoting school attendance and tackling persistent absence; ensuring that alternative provision is available for schools to commission; leading on safeguarding responsibilities including for pupils in unregulated settings, missing from education or home educated as well as children at risk of radicalisation; working with schools to ensure they understand and discharge their safeguarding responsibilities; supporting vulnerable children e.g. acting as the corporate parent for LAC and using the Virtual School Head role to work with schools. However, local authorities will not be given any additional powers to direct academies to support vulnerable pupils, for example by taking on SEND pupils, as they can do now with maintained schools.

- *Acting as champions for all parents and families:* including listening to and promoting the needs of parents, children and the local community, e.g. supporting parents navigate through the admissions system or SEND arrangements; and championing high standards locally for all pupils, e.g. by encouraging high performing providers to establish new school places and where necessary calling for action from the RSC to tackle underperformance. Local authorities will lose the responsibility for delivering school improvement in the local area and will gain no new powers to hold schools to account for performance.

A review of the local authority's remaining responsibilities in relation to children

13. The Government plans to consult on local authorities' remaining duties relating to education, including the implications for the role of Director of Children's Services and Lead Member for Children and any changes to statutory guidance.

Making schools accountable for the education of pupils in Alternative Provision

14. Schools will be accountable for the commissioning of high quality alternative provision for pupils excluded from their school, rather than local authorities.

Shifting responsibility for school improvement from local authorities to schools:

15. The Government intends to legislate to ensure that the responsibility for delivering school improvement lies with schools. Where schools are performing well they will be responsible for delivering their own improvement; where they are

underperforming the Regional School Commissioners (RSCs) will be tasked with taking action as promptly as possible.

Delivering a commitment to open 500 new Free Schools by 2020

16. The White Paper sets out an intention for Government to continue to work with local authorities to secure sites for new free schools. It also plans to introduce measures that will enable the Secretary of State to require the use of local authority land for free schools, as well as clarifying and strengthening how the free school presumption works. DfE will also consider providing funding for schools that are part of housing developments to be built in advance of contributions from developers being paid, to bridge the gap between places being required and funding being available.

Re-designing the legal framework for academies

17. Academy conversion transfers autonomy to school leaders in a number of areas, such as curriculum and staffing, but the Government concedes that on other occasions, particularly with regard to safeguarding, it may need the flexibility to take action to place new requirements on schools. Government plans to consult the sector on any changes in this area.

Implications for schools policy in London

18. London's schools, including those maintained by local authorities, have consistently outperformed their counterparts in the rest of the country. 88% of maintained schools in London are either good or outstanding, with only 1% categorised as inadequate. London has the highest share of outstanding maintained schools and lowest share of inadequate maintained schools of any region in England.
19. Given London's performance success, the drive towards converting all maintained schools to academy status in local authority areas that are underperforming or with insufficient capacity should impact areas outside the capital most significantly first. Without clarity around how these authorities will be defined, however, the scale of additional academisation that this proposal could result in for London is also not yet clear. Therefore it is difficult to understand the full impact of this policy on the London education system.

20. The drive towards an all-academy system is focused on improving standards. Underperforming schools, identified as inadequate by Ofsted, can already be forced into academisation as well as coasting schools that fail to demonstrate improvement progress. The DfE is also now proposing to convert all maintained schools in areas in which the local authority has failed to meet minimum performance thresholds. It is important that these thresholds are fairly set to ensure that they capture any real weaknesses in the system, but do not hinder the ability of successful improvement efforts and schools to thrive. If an outstanding maintained school is deemed to be in an underperforming local authority area, it could be forcibly converted to academy status, even though no performance issues have been identified at that specific school.
21. In London there is a risk that forced academisation on any scale risks destabilising an already high performing school system, particularly coming at a time when the Government plans to introduce a new National Funding Formula that is likely to see significant funding reductions to London's schools.
22. Given that the White Paper proposes that local authorities no longer have the responsibility for school improvement, which is confirmed in the Education for All Bill, it is not clear how the school improvement system will work in the future for maintained schools. At present Regional School Commissioners have responsibility for overseeing performance in academies, but their role may be expanded to include maintained schools. Given that the significant improvement in London's schools has been delivered in large part by local authority school improvement teams, any loss of this expertise risks setting back London's improvement work. There is a case to be made to retain these services for maintained schools, however local authorities would also need to retain sufficient funding to be able to run them effectively.

Implications for London local government

23. A clearly defined role for local authorities is helpful when there has been a lack of clarity around roles and responsibilities up to this point. However, it is not clear how local authorities will be able to fulfil the three identified roles and corresponding duties without sufficient powers or funding. At present local

authorities can direct maintained schools in order to deliver their wider educational statutory duties. With these powers not being transferred to local authorities in respect of academies it will become extremely challenging to deliver on these wider duties in an increasingly academised system.

24. For example, it would be very difficult for local authorities to fulfil their places planning duty that is dependent on schools expanding provision where they have spare capacity, if academies have no obligation to respond to proposals from local authorities. Similarly, duties around SEND, safeguarding and admissions will be hard to deliver if an academy does not want to share information and co-operate with a local authority. And it is not clear how local authorities can champion high standards in schools locally when they have no official oversight role or responsibilities to hold schools to account.
25. There may be scope to consider these challenges and opportunities in a London context in order to ensure that the system can still deliver excellence. It is important that London local government is in a position whereby it can protect London's improvement success and support its ongoing progress, as well as mitigate some of the significant challenges facing London's schools, such as disadvantage and mobility. London Councils could scope out different models and discuss with partners to see if there is wider appetite to develop a London model.
26. Schools currently pay business rates, unless they are exempt due to registered charitable status. Academies are able to apply for this status. Therefore, it is likely that in an increasingly academised system many more schools will be exempt from business rates which could represent a significant loss to local government income streams at precisely the point when Government intends fully to devolve business rates to local government. Any reduction in councils' capacity to raise future revenues arising from the Academisation programme would need to be fully recognised in the level of spending responsibilities transferred at that point.
27. The transfer of land from local authorities to the Secretary of State for Education represents a significant loss of assets which could have a considerable long term impact for local authorities in terms of managing resources, particularly school

places. It is not clear why local authorities should have to transfer land to the Secretary of State when a school converts to academy status, when schools and charitable trusts would be exempt.

Next steps

28. London Councils has been lobbying extensively on the introduction of the National Funding Formula (NFF), calling for government to find additional funding to level up allocations rather than reduce funding to London's schools.

- Mayor Jules Pipe wrote with the Mayor of London to the Secretary of State for Education calling for the need to continue to invest in London's schools
- A second letter with Sir Richard Leese, Chair of Core Cities, was sent to the Chancellor of the Exchequer calling for him to make available sufficient additional funding to level up school funding allocations.
- London Councils has supported the APPG for London in leading a debate in the House of Commons on education funding in London on 4th May. The APPG and London Councils are now seeking meetings with the Minister to discuss the impact of the NFF on London's schools.

29. London Councils has not yet taken a public position on the White Paper, the Education for All Bill and their implications for local government. This report sets out concerns with the Government's proposals in order to facilitate a discussion at London Councils' Leaders' Committee to inform the lobbying work it will take forward in relation to the Education Bill.

30. Given the changing education landscape, there is also an opportunity now for London Councils' Leaders' Committee to consider the potential for discussions with the Mayor of London to secure his support for our education work going forward.

Recommendations

31. London Councils' Leaders' Committee is asked to consider a collective response to the proposals to inform lobbying work around the Education for All Bill, particularly in relation to:

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Financial Implications for London Councils

32. None

Legal Implications for London Councils

33. None

Equalities Implications for London Councils

34. None