

## **Unleashing greatness: getting the best from an academised system** Academies Commission (Pearson / RSA, January 2013)

The Academies Commission, set up by the Pearson Group and the RSA, was expected to be a whitewash. It was set up not to question the academies programme but to help them work better.

As it turns out, its report reveals very serious problems of achievement, school admissions, school improvement, how sponsors are chosen, financial irregularities, and poor management. It condemns the casual attitude of the Coalition Government towards academies, which are clearly a law unto themselves.

The Commission chose to ignore the strongest evidence that academies were not improving achievement (see [www.changingschools.org.uk](http://www.changingschools.org.uk), under *Research*) but even so it concluded that 'they have not performed markedly better than similar schools. Academisation alone does not guarantee improvement.' It points out that Ofsted has judged almost half of sponsored academies as inadequate or 'requiring improvement'. It accepts that a lot of the apparent improvement in results came about by reducing the number of disadvantaged pupils and by using easier alternatives to GCSE. Some sponsored academies have shown 'stunning success, but this is not common.'

Witnesses to the Commission were angry about the admissions procedure, in academies and some other types of school. Already in 2010 a quarter of schools decided independently which pupils they would allow in. The Report reveals a situation which is out of control. Less educated parents find it hard to use and almost impossible to appeal against. Many academies were dodging the rules, by using complicated forms or telling parents their 'child would not be happy here'. Canary Wharf College, a 'free school' in a Borough where half the children receive free meals, allowed in just one child with a free meal entitlement. It is also too easy for academies to expel pupils or shunt them into 'alternative provision'. Academies have made matters worse in a country which already had one of the most segregated school systems, with richer and poorer children in different schools.

The Commission raises serious questions about quality control and school improvement: governors who are not up to the job, and a casual attitude from the government in choosing sponsors. The report condemns the government's minimal 'fit and proper person' check on potential sponsors, and its slowness in dealing with problems. The Department for Education has 'red-rated' 40 academies, and the Office of the School Commission was monitoring 166,

but few sponsors have been removed. Even organisations running large chains of academies are not being properly monitored. 'The DfE should operate hard powers in relation to failure.' The Government has been equally slack in supervising how academies use public money. Taxpayers' money is being siphoned off to pay huge salaries to academy heads and chief executives. Finances are being kept secret, and academies seem to be getting more than their fair share of funds. According to the Commission, the government have over-used the argument of 'commercial confidentiality' to hide the truth, and buried academy budgets by 'consolidating' them into the Department for Education's accounts.

A picture is built up of academies which are out of touch with parents and local communities, and of a system which doesn't help schools to improve. The emphasis on 'autonomy' and 'freedom' has been at the cost of co-operation and serving the community.

The report makes many recommendations to try to sort out the mess. Many of these are attempts to substitute for what local councils used to do before academies were introduced. Michael Gove's policies are leading to the extinction of democratically elected local authorities, but the Commission wants them to have important new roles. They should be involved in planning school places, choosing who is allowed to run local schools, and blowing the whistle when things go wrong. They should be 'champions' and 'guardians' of the needs and interests of families in their area. This is a crucial step and we should demand that it is carried out. Even so, it is hard to see how independent academies can collaborate well with other schools in the area, with nurseries and colleges and adult education, as well as other council services for children and families.

Another key recommendation is that the government should stop pressurising struggling primary schools to become academies, and instead encourage them to 'federate' with other local schools.

Finally, questions are raised about England's tough system of school surveillance, including Ofsted. It leads to 'basic adequacy' rather than 'unleashing greatness', and schools are afraid of introducing changes to make learning interesting. The Commission says that, if schools can show they are working together well to evaluate and including 'peer review', Ofsted inspectors should stay away.

## Briefing note (T Wrigley, Jan 2013)

### Summary

The Commission was explicitly set up not to question the academy programme but to discover how to make it work more effectively, especially if it becomes a 'fully academised' system. Despite this, the report presents substantial evidence of the damage from a laissez faire free-market system which is not working well in terms of raising attainment, social justice or school development.

The Commission proposes a large number of fixes, many of them substitutes for the previous role of local education authorities – in other words, the remedies are solutions to the problems which academisation itself has caused. Some of these answers appear tame or even rhetorical, whilst others will reduce problems and may even deter more schools from becoming academies.

In what follows, I have tried to provide a faithful summary of the text, with direct quotations marked, but with further comments of my own in [square brackets].

### Summary of major issues and conclusions

- The impact on attainment has been limited and uneven, with no clear benefits for disadvantaged pupils. [evidence summarised on page 6 below; also Ofsted has judged half of sponsored academies inadequate or in need of improvement (page 13 below)]
- The system shows serious systemic inadequacies in terms of improving the quality of education, including provision for teacher CPD (pages 7-9 below).
- Admissions arrangements are complex, difficult for parents to navigate, subject to manipulation, and hard to appeal against (pages 9-10 below).
- There are serious shortcomings of transparency and accountability to parents (e.g. page 12).
- There are problems of quality control of academies and chains (pages 12-14).
- There are serious difficulties in terms of governance and financial management (pages 11-14).
- There has been a major emphasis on 'autonomy' but little thought as to schools can relate to and secure the trust of their pupils, parents and communities (pages 7-9).
- The role of local authorities must be strengthened and redefined, as a 'guardian' of access and quality and a 'champion' for children (pages 10-11).

### Key proposals (complete list on pages 4-6):

- A fair and rigorous process for selecting sponsors, with clear criteria; agreements to last 5 not 7 years; and a stricter approach to removing sponsors, but schools forced into academisation no longer to be involved in choosing future sponsor
- Systematic monitoring of chains, publicly reported for parents
- Low-achieving primary schools to be encouraged into federation, without pressure to academise
- An independent appeals process on admissions, and academies to produce data on applications and admissions, including socio-economic categories
- Stricter requirements on financial reporting, with more frequent auditing visits

- LAs to have clearer roles, to ensure local needs are met, in terms of planning and commissioning schools, support services, accountability and information for parents, and alerting government on poor provision
- LA provision of ‘school improvement services’ to be replaced by school-led partnerships with private, public or third sector partners and a potential contribution from professional associations and teaching unions
- A Royal College of Teachers, pump-primed by DfE but independent of it, to promote collaboration in staff development
- A stronger emphasis on research and reflection in ITT and CPD
- Chairs of Governors to be advertised and appointed, with compulsory training, and governing bodies to be convinced of their responsibilities for financial management and school improvement
- Academies to publish an annual report and hold an annual meeting for parents
- Pressure on converter academies to support other schools (Ofsted should only declare leadership ‘outstanding’ if they do so)
- Ofsted should reduce inspection for collaborative self-evaluation underpinned by external peer review.

[There are clearly also some problems the Commission has identified which it is unable to resolve, particularly:

- how to re-connect the different stages of education, including nursery, FE and adult, with each other and with other services for families and communities
- how to overcome the problem that tightly prescribed and controlled school systems prescribe a ‘basic adequacy’ rather than ‘unleash greatness’.

Also, some of the proposed measures seem problematic:

- There is still too much trust in the goodwill of academy governors and heads.
- There is no clear mechanism to ensure that sponsors are well chosen, to avoid current patronage or the notorious rail franchise problems.
- Most governors unelected, and will be difficult to recruit chairs.
- Parents will still have to submit multiple applications for school admission.
- The removal of a school improvement / CPD role from LAs, along with reduced funding in recent years, will make it difficult to maintain the professional expertise needed for its new roles as ‘champion’ and ‘guardian’.
- Teacher unions must take care not to become compromised in their involvement with a draconian high-stakes ‘accountability’ system.
- The Royal College of Teaching could easily go the way of NCSL, which divorced itself from university-based expertise to pursue untheorised approaches.
- The proposal to compare data on admissions with applications on SES grounds does not deal with earlier manipulation by deterring parents from applying.
- There is no clear response to the problem of exclusions.]

The following pages provide a more detailed account, with salient quotations, relating to the sections of the report. Italics are used for particularly revealing statements (many collated in the Annexe). Page numbers in the Report are shown to enable verification before quotations and other details are republished in other documents.

### **Foreword (p3)**

The Commission decided from the start that it would ‘not engage in debates about the decision to develop the programme’. It points to the danger raised by witnesses that the Secretary of State will be unable to manage 20,000 directly. It concedes that academies cannot self-manage without considerable support. They have to work as a ‘community of schools’. [The meaning is unclear.]

### **Overview and recommendations (p 4-12)**

The initial claim is that ‘The introduction of academies has provided much-needed vitality to the school system’ [I can find no evidence in the report to support this rhetoric.]

It points to the unevenness of improvement by academisation:

‘The evidence... does not suggest that improvement across all academies has been strong enough to transform the life chances of children from the poorest families’. p4

Some academies and chains have been ‘stunning successes’ but ‘academy status alone is not a panacea’. (p4)

In fact, *Ofsted has judged almost half of sponsored academies as inadequate or satisfactory (now, ‘requiring improvement’)*. (p4)

The report points to three critical issues:

- teaching and learning
- fairness and accessibility
- accountability

#### *Teaching and learning*

This is seen as a priority in ‘the most successful academies and academy groups’ [which implies only a minority]. The solution is academies as a ‘community of schools, each independent but working best if connected’. p5 It speaks of this collaboration happening nationally [which is difficult to imagine].

Converter Academies are not, in the main, fulfilling their commitment to help struggling schools improve. [This was much easier in LAs.]

Remedies include:

- i) a Royal College of Teachers
- ii) governing bodies must engage in school improvement, not just see themselves as company directors, with formal selection and compulsory training for Chairs [extraordinary, since sponsors were originally seen as a panacea, along with small undemocratic governing bodies]
- iii) a clear role for local authorities as ‘*guardians and champions of all children’s needs and interests*’. [A positive step to rescue a bad situation, repeatedly proposed by Tim Brighouse, but it will need funding and expertise.]
- iv) but they should ‘*phase out their own provision of school improvement services*’ [why?], and be replaced by school-led partnerships with ‘private, public or third sector partners’. ‘Professional associations and teaching unions would have much to contribute...they are uniquely placed to help improve and develop schools’. [Welcome recognition, but difficult to combine with a punitive system, without compromising the unions. Will the school improvement organisations be set up on an ad hoc basis, without external guidance?]

### *Fairness and accessibility*

Some academies ‘manipulate admissions’ to feign improvement (p7). There needs to be a ‘level playing field’ with academies and maintained schools ‘on a common footing’, including an *independent appeals service*. [Each LA used to have one.]

Academies should publish data, including socio-economic, on applications and admissions, aggregated and analysed by the Office of the Schools Adjudicator.

### *Accountability to pupils, parents and other stakeholders*

The Commission found a mixed picture, with some academies actively engaging parents and communities, but others unresponsive. ‘Some parents ... felt their views and involvement in the school were no longer valued.’

Recommendations are ‘regular and formal reporting’, perhaps as an ‘annual report’ and open forum (public or online). [Surely this was made statutory by ERA.]

A better process is needed for choosing sponsors, a process which should be ‘open, fair, rigorous’, not the current ‘beauty parade’, to ‘*facilitate the more vibrant entry into and exit from the education market [sic!] by sponsors*’

Recommendations are presented under various headings, bringing together those which emerge later at the end of each of the specialist sections.

### *School Improvement (p10)*

- Government to present an implementation plan on academisation linked to school improvement, especially teaching and learning (p10)
- more collaboration on professional development within and across schools (p10)
- academies should ‘take greater ownership of accountability’ making themselves ‘more open and transparent’ (p10)
- Ofsted to promote school-led collaborative approaches to systemic improvement, judging leadership outstanding only if there is a contribution to system-wide improvement, and reducing inspection if self-evaluation looks sound and is underpinned by external peer review (p10)
- National College to trial some licensed, school-led ‘excellence networks’
- local and central government to encourage the federation of primary schools, *without pressure to become academies* (p10)

[Some of these are vague and hollow, relying on trust in self-regulation, but the final one is very welcome.]

### *Academy Freedoms (p10-11)*

- Government should articulate the case for innovation and a ‘vision for learning’ in the 21<sup>st</sup> Century, based on the ‘knowledge, skills and dispositions’ for ‘life and work’.
- DfE should pump-prime a Royal College of Teachers
- teachers should engage with research, and ITE providers should encourage trainees to see links between research and improved practice
- reflection and evaluation as part of the repertoire of good teaching skills.

[welcome rhetoric, but how will a Royal College secure its independence; no mention of the contribution of universities – could repeat the NCSL’s untheorised approach]

### *Admissions (p11)*

- A national organisation to provide for quasi-judicial independent appeals

- Chief Schools Adjudicator to determine appeals against directions and complaints regarding School Admissions Code
- Local Government Ombudsman to hear complaints about maladministration
- all schools and academies to publish data on applications and acceptances re. FSM or other socio-economic data (scrutinised by Schools Adjudicator)

[Very important safeguards, though limited in practice – academies can still manipulate by deterring families from applying while wooing others.]

#### *Impact of academisation on local provision (p11)*

- Local authorities should be ‘*champions for children*’ but not providers of schools or improvement services. They should ‘articulate a local and aspirational vision’, and scrutinise provision ‘to ensure it is meeting needs and interests’.
- Local authorities should report annually to Secretary of State to *warn of emerging issues*.
- Government to set out a coherent framework for planning and commissioning school places. *Local Authority to be the lead body for planning and commissioning sufficient places.*
- Academies and groups should ‘embrace a new relationship with local authorities’ re sufficientcy quality and children’s needs.

[Some of this is empty rhetoric, but the proposals may help remedy the worst features of the current situation. It restores some local control and planning, though requiring voluntary collaboration.]

#### *School governance (p12)*

- DfE should help governors see their role ‘not only as company directors of charitable companies’ [sic] but ‘also for wider system improvement’.
- National College to support governing bodies, especially Chairs
- *advertising and formal recruitment of new Chairs*, with one independent panel member
- National College to find ways to increase collaboration between governing bodies, training, and better value for money through shared procurement.
- academy trusts to publish an annual report and provide a forum for open discussion.

[This does little to compensate for what has been lost by shrinking governing bodies and removing selection by constituences i.e. teachers, parents, etc. Annual reports and annual meetings simply restore a standard practice.]

#### *Central government (p12)*

- end the ‘beauty parade’ whereby struggling schools help choose the academy’s future sponsor – ensure selection is open, fair, rigorous and supported by clear criteria
- DfE to make its monitoring of performance across chains publicly accessible, and sharpen its role in intervention
- Office of Schools Commissioner to produce an annual report to compare the performance of sponsors
- *reduce funding agreements from seven to five years*
- intervene to terminate agreements (i.e. remove sponsors) on the basis of data shared with / recommendations from LA.
- hold converter academies accountable for their commitment to support other schools
- tight systems of financial accountability, with routine visits to check compliance.

[These are critical in stopping abuse and patronage which is endemic in an academised system.]

## 1) Background

Membership of the Commission listed (RSA, Pearson, CfBT, Co-operative, with former Chief Inspector and Director of Institute of Education) [most are clearly academy supporters]

Major aim to look at implications of complete academisation

‘Speed commission’ methods, with no new research apart from through Teach First [again, partisan] but invited witnesses and some events convened by ‘stakeholders’ [?]

The key questions are presented [appear quite restricted and weighted] (p15)

Notes fast growth in secondary (half of secondary schools, but of these just over a fifth are sponsored i.e. *10% of all secondary*). *Primary 5%, less than Government anticipated*. (p16)

312 ‘chains’ but this includes light touch ‘collaborative partnerships’. Most just two or three schools. Only 9 chains have 10 or more schools. (p17)

## 2) School improvement

Presents a timeline of different stages (p22), which it calls Mark 1 sponsored by businesses; Mark II sponsored (wider range of sponsors, without funding); Mark III (Coalition Government) sponsored or converter, and new types such as free school; Mark IV (the future).

*Some sponsored academies have shown ‘stunning success, but this is not common’*. Stewart (2012) suggests ‘that many previously poorly performing schools in disadvantaged areas have done just as well’ as academies.

Improvements *cannot be disentangled from changing intakes / decline in proportion of disadvantaged pupils* (p23)

DfE 2012d: results *broadly the same as statistically matched schools*, but slightly worse without ‘*equivalent qualifications*’. Clearest improvement is in 33 sponsored academies open 5+ years. Chart on p24 shows 42% of FSM pupils in these older academies gained 5+EM with equiv.

Considerable reliance on *GCSE equivalence* (p25).

NB:

Even among older ones, many sponsored academies did not have effective school improvement strategies between 2008 and 2011

NB ‘*the only sponsored academies that improved more than non-academies in the same quintiles of attainment were those that had already benefited from City Challenge improvement strategies*’. (p25) (Hutchings et al.2012, for DfE but commissioned under previous government)

Agree with Machin that we cannot assume that evidence from the old programme will apply to the new Converter academies. p25

Lists 7 different kinds of academy. (p25)

Much critical evidence presented about the *lack of a rigorous process for choosing sponsors* – including weak schools choosing their own partners. p26

Relatively few Converters have taken on the expected role of supporting weaker schools, and just 4% of the converters are sponsors of other academies. p27

Recommendations discussed:

- a) Government should articulate a national vision dealing with poverty-linked underachievement, and related to 21<sup>st</sup> C needs, lifelong learning, collaboration, new technologies and performance-based assessment. [vague rhetoric]

- b) There is a need for professional ownership of accountability –tight central control guarantees mere adequacy, and greater autonomy needed to ‘unleash greatness’ (Joel Klein). Leadership is needed to encourage teachers’ sense of ownership. CPD incl. peer learning needs resourcing – time for teachers to work together, reflect on detail of their teaching and its impact. Schools need to evaluate better how they use pupil premium. (p30-31) [The Commission here align themselves with critics such as Ravitch, Sahlberg, and Hargreaves and Fullan]
- c) Academies need to provide parents with better data
- d) More collaboration needed e.g. teachers in different schools learning from each other; some chains working well (Ofsted: 25% of chain academies ‘outstanding’ compared with 8% of those not in chains) BUT Commission sees weak capacity of some chains, and academies complaining; NB primary schools value the ‘backstop’ of LAs and are reluctant to lose this by becoming academies. The Government should *encourage primary schools to federate, based on professional collaboration*. [Didn’t many LAs establish and support clusters, and arrange for heads of thriving schools to support or rescue schools in difficulty?]
- e) A need to support schools in taking responsibility for whole-system improvement – little evidence of this yet. Need to clarify role of LA as *champions not providers* but stop providing school improvement services [presumably including CPD?]. LA should take the initiative in preventing failure [this is remarkable, given the hammering they have been given – but having stripped them bare, it is expecting miracles for them to have expertise to do this well]. ‘Challenge Partners’ (p38) which use peer inspection to raise aspirations etc. – Commission argues that Ofsted should stay away from schools which had undertaken rigorous self-evaluation including peer review – this would lead to dramatic improvement [a remarkable claim, very useful] recommends regional Excellence Networks, not to replicate provision but to raise awareness of what is available and broker connections. [Again, assumption is to facilitate privatised provision] Unions urged to become more involved.
- f) Ofsted should promote school-led collaborative systemic improvement. e.g ‘outstanding leadership’ label should be withheld unless they engage in supporting other schools. *Inspectors should not visit schools which rigorously self-evaluate including peer review.*

NB In conclusion: despite significant resources and attention focused on 200 schools (established sponsored academies), ‘they have *not performed markedly better than similar schools. Academisation alone does not guarantee improvement.*’ p41

### 3) Academies and their freedoms

Lists academy freedoms:

- set the curriculum provided it includes En, Ma, Sc and RE
- length of school day and term
- appoint own staff, set pay and conditions [don’t others appoint staff]
- set and manage own budgets [other schools also set and manage own budgets]
- act as their own admissions authority and set criteria
- determine own governance structures provided there are two parents.

p45-6 lists more points seen by National College 2011 as valuable.

However, it concedes that many have not been used. These were *perceived* as associated with academy status, giving many academy leaders ‘*a sense of liberation*’, according to the Independent Academies Association. [The opinion provided by this source is used uncritically, as subsequently CfBT.]

Bassett et al 2012 discovers that *funding was the overwhelming reason for switching*. For two fifths it was the primary reason, though a fifth cited the sense of autonomy as primary. ‘Set against a backdrop of substantial top-down reform for schools over the last 20 years, the sense of permission to lead and innovate that academy status enables is significant. ‘ [This is ironic – in other words it isn’t LAs they’re seeking freedom from, but overregulation by central government. Out of the frying pan!]

p47 In reality, the Commission found little changed, and mainly administrative, particularly some chains and Challenge Partners e.g. economies of scale for financial efficiency [isn’t that also possible in LAs, but it is voluntary, unlike academy chains?] e.g. only a tenth had extended school day, only 12% changed terms and conditions, under a third using curriculum freedoms. recent MORI survey says half now reported using curriculum freedoms. [The Commission doesn’t evaluate whether these are for the good!] later (p49-50) cites a Teach First survey which found no difference re actual use of curriculum freedoms between academies and other schools, though more frequent re terms and conditions.

p48seq. Discusses various reasons why not using freedoms, e.g.

- early days yet
- schools already have considerable freedoms – even to extend school day through HW clubs and revision classes
- freedoms constrained by sponsors, especially chains, also School Admissions Code, TUPE, H&S, financial procedures. parents have to be consulted re change of school day etc.
- the national accountability system, including Ofsted, public examinations and recent stress on EBacc, inhibits risk-taking, as with other schools (good quote here)
- *individual academies find it difficult to muster the ‘resources and capabilities’ needed for innovation* [much better in LAs in former days]
- converter academies, incl. parents, quite happy with how things are – no point rocking the boat and leading to staff discontent e.g. Bassett et al survey found 40% of academy leaders say ‘no need to incentive / reward staff using pay’; academy leaders worried about nutritional standards or hiring unqualified teachers.
- leaders may not have skills and support to use these freedoms fully – esp given intensified accountability pressures – and there is a shortage of potential heads willing to take risks in such a context.

The Commission raises the problem what might happen if they do start to use these freedoms. looks at systems with ‘strong autonomy and weaker accountability’ e.g. US charter schools and Chilean independent public schools, which have ‘*brought some spectacular successes but also some spectacular failures*’. p55 Risk of dog-eats-dog competition, with *some schools swallowing up best teachers* through higher pay, problem of unqualified teachers, making wise choice more difficult for parents esp disadvantaged.

NB p56-7 ‘*The Commissioners believe that schools have sufficient freedoms to innovate and improve. Accountability measures, such as Ofsted and performance data, strongly limit the operation of some of this innovation in practice but also mitigate risks of dramatic failures. What is now needed is a drive towards innovation in teaching and learning, and practitioner collaboration to achieve this.*’

Cites authoritative sources to emphasize that developing teaching and learning is much needed, rather than administrative changes. Hence proposals:

- Govt to articulate a ‘vision’
- engage teachers in and with research, encourage them to be more reflexive and collaborative in exploring and sharing best practice

- a Royal College of Teaching
- universities and schools should help equip student teachers with ability to access, evaluate and design research
- some kind of national database of evidence on imaginative innovations
- chains, federations and other networks to support disciplined innovation, well evaluated and well supported through CPD
- government needs to change accountability system to increase incentives for collaborative innovation
- governing bodies need better understanding.

#### 4) Admissions

Refers to witnesses' *strength of feeling and angry anecdotes*. UK education system as a whole is one of *most segregated* in OECD (OECD 2010), with concentration of advantaged pupils in the best schools and disadvantaged over-represented in poorer ones.

Academies different as follows:

- bound to their funding agreements with Secretary of State, not the Admissions Code by Act of Parliament
- certain 'derogations' to admissions code may be granted to individual academies in their funding agreements
- procedures for academies applying to vary admission arrangements are distinct
- like some other e.g. VA and Foundation, academies are their own admission authority; for community schools it is the LA. p62

In 2010 *6000 schools (a quarter) were already their own admission authority*, most not academies.

Every school has to have an admissions code with clear criteria. However:

'research and evidence to this Commission indicate that some popular schools (including academies) are *setting and using criteria to select and exclude pupils*. (e.g. Anne West et al. research)

Intake of earlier academies has 'tended to change', with fewer disadvantaged. p64

Not necessarily deliberate manipulation – newly resources and thriving academy may attract families who would previous have gone elsewhere. the academy will have become more reflective of local community, with better mix.

Particular problem with Free Schools, few disadvantaged pupils. p64

p64 'Numerous submissions to the Commission suggest some academies are *finding methods to select covertly*.' e.g. may not interview or give priority on basis of any practical or financial support from parents. BUT ways of getting round this, e.g. *social events or pre-admission meetings*.

Academies are using additional information (a SIF, not just the CAF). can be lengthy, open questions, requests for information not permitted by the code. This can enable schools to select if 'parents have the requisite cultural capital to complete the SIF in ways that will increase their child's chances'. This is a problem for all schools which are their own admission authority.

Own admissions authorities: more of these in LA and greater segregation (Allen and Vignoles 2006) also Barnardo 2010

17% of objections are academies, though only 4% of schools at the time (Schools Adjudicator, 2011 report)

*Poorer parents find it hard to understand the procedure for the different schools.*

Derogations applied for:

*some free schools allowed to give priority to founding group of parents*

academies allowed to give priority to children with Service and Pupil Premiums, if funding agreements allow this etc.

DfE says derogations are rare, and none have been given to new academies since this govt p69 Free Schools. *Canary Wharf College admitted just one FSM in its first 60 entrants. (Borough where nearly half are FSM)*

some academies not playing fair re accepting hard to place and excluded pupils, despite the legal requirements.

LA can direct an academy to take a child but academy can appeal to SoS. p71

Situation, including appeal, is tortuous for SEN. Concerned include:

apparent trend towards *not appointing SENCOs*

determinantal effect on *LA provision* of services, with some *closures of specialist units*

possible emergence of pupils who cannot be placed

*chains setting up alternative provision e.g. 'alternative provision academies' to remove SEN pupils and the attached statistics.*

covert practice of saying '*your child would be happier elsewhere*'.

significantly higher rates of exclusion still a problem p74-5

some persuaded to move to avoid exclusion and bad record

many more details follow, e.g. Schools Adjudicator, EFA,

conclusions include:

- system unnecessarily complex, incl. separate arrangements for determining or challenge admission and individual appeals
- proliferation of 'own admissions' authorities a threat to social mixing
- own admissions schools should not run their own appeals.
- academies should be subject to Admissions Code in same way as other schools p83-4

## **5) Diversification and the impact of academies on existing provision**

*LAs should take lead for commissioning sufficient school places, and as champions for local standards.*

p88 Charter Schools and Friskolor.

In England, it's bringing increasing diversity of schools in many areas. Post 2010, DfE argues this will bring new collaboration as well as competition but Commission notes that '2010 Act does not actively incentivise collaboration'

Concern expressed at inefficiency both through duplication and missing provision, and lack of economy of scale. Bob Burstow (King's College) warned of the prospect that, without regulation, we might have 'suburbs, estates and towns without a school, [and] monopolisation by larger conglomerates'. p92

concern that EFA, Schools Commission, etc. will not have scope to deal with coordination to replace LAs. p92

*LAs retain over 200 statutory responsibilities; more have been added in last two years, but in the case of academies no longer have power to compel them.*

p92 *A critical issue, therefore, is for the government to articulate its view on the long-term responsibilities of those who support schools.*

Three main possibilities discussed: open market, a middle tier of school commissioners, and refocused LAs.

Commission rejects option 2, which has a ‘democratic deficit’. *It is ‘not persuaded ... that the local market, on its own, provides a satisfactory basis for securing a sufficient supply of quality school places in the medium term’* p95

*There is a need to plan school places, and hard to imagine government can do that without a local agency which knows the area.*

‘There must be sufficient local schools, sufficient local support services for pupils in need of additional support and sufficient local challenge to secure high standards. p95

p96 LAs ‘retain extensive statutory responsibilities but their power to fulfil those responsibilities differs in relation to different schools. This is unsustainable.

p96 Two challenges re commissioning: authorities’ relative lack of access to capital funding; their decreasing capacity to direct schools to admit particular pupils.

The Commission believes there should be a duty for academies to collaborate with the LA. p96

p97 touches on how academies can be ‘an integral part of local children’s services delivery and community planning’ but doesn’t pursue this.

Proposes a new mechanism for monitoring quality.

p99 exposes some false arguments on *autonomy* – e.g. *schools should be part of their local community and depend on a ‘web of local services and structures for the discharge of their missions’*. *Being part of a chain often weakens individual school autonomy.*

p99 repeats LAs should end their role of providing improvement services. [No reason given – why can’t they continue to operate in the market, since schools have the budget!]

Conclusion:

- Government needs to express confidence in LA as ‘the commissioner of school places’.
- LA has a role in quality. Its democratic base gives it ‘leverage to act as champions for the interests and needs of children, young people and, indeed, local communities.
- LA remains well-placed to commission services for children with additional needs, and money for this must be carefully maintained and ring-fenced. p99

## **6) Academy governance**

Governors have a key role for improvement (as before) and ‘as company directors’ [presented as new, but actually governors have had to manage budgets and plan for 20 years]

Problem of lack of time and expertise, and lack of engagement with local community. p104

Many are surprised or unaware at their duties under company law p105 Danger of impropriety, sponsors contracting-out support services to their own companies p105

Risk: that governors of converter academies *do not understand their new school improvement responsibilities* - only 26% of converter governors said conversion had improved educational standards in their schools. – see also earlier, re failure to support other schools.

Risk: academy governing bodies do not remain *democratically accountable*. p108

Centralisation in chains can militate against independent objective governance at a local level.

Charity Commission wrote: ‘only members are invited to the AGM’.

Can lose contact with stakeholders, including staff and pupils.

*‘It might be argued that, in addition to parent governors, one or more teachers should be represented’.*

*‘Academy trusts need to find innovative ways of engaging local communities.’* [BUT their proposed solution is weak: an annual report and meeting]

Concern about smaller governing bodies p111 and the need for systems of support beyond the school. Steps must be taken to ensure quality Chairs – suggests that they be paid to attend courses, they should be openly advertised, formally recruited. CPD for governors. Governors need to come together from different schools.

## **7) Governance and public accountability: the role of central government**

This section raises many serious issues, based around three key duties:

- commissioning
- monitoring/regulation
- intervention

[The tenor of this section seems to be that there has been a *lack of supervision from central government, with light touch regulation which encourages financial and other irregularities.* ]

‘Evidence presented to the Commission indicates there is a need for a better check on the due diligence of sponsors to ensure effective *school improvement*. The Coalition government decided not to continue with the system that had been put in place for the formal approval of accredited sponsors, and the DfE runs a *minimal ‘fit and proper person’* check on potential sponsors. The Commission was concerned that *so little about this, for example, the criteria for selection, is in the public domain*. Many submissions to the Commission suggested that this approach to something as fundamental to children’s lives as school and their improvement is inadequate. p115-6

*Transparent criteria* are important, especially in the case of the ‘forced academisation’ of schools that have been identified by Ofsted as inadequate.

DfE beginning to *monitor chains* ... this needs to be *accelerated and made public*. ...’because chains’ marketing information can *spin* different performance indicators in a range of ways. Established chains should be allocated further schools only if they can demonstrate good results with those they already have.’ p116

System is more consensual than earlier, with brokerage between DfE, local authorities and the struggling school. a *‘beauty parade’* of potential sponsors. ‘Governing bodies of struggling schools were felt to be ill-equipped to make decisions... and likely to be attracted to the sponsor that would least disrupt or threaten existing arrangements e.g. senior leadership team and/or governing body.

BUT There *should be meaningful consultation with parents*. clearly set out implications for school's legal status and educational provision.

Some submissions argued that Ofsted should inspect chains rather than schools. Commission didn't agree. Parents interested in their child's school. BUT should still be held to account. p118

*'DfE should operate hard powers in relation to failure.'* p118

p119 'The DfE also provided evidence that *40 academies were "red-rated" in 2011, and eight pre-warning notices were issued to academy sponsors.*' NAO (2012): OSC was monitoring performance of 166 academies, and *30 were classified as causes for concern.* 'Yet the public remains uninformed about this.'

*'Almost half of sponsored academies are rated by Ofsted as requiring improvement ('satisfactory' ; before September 2012) or inadequate (the latter standing at 8% of sponsored academies, raising questions as to the view that the number of academies at high risk regarding performance is 'very small'.*

p119 'Removing a sponsor in England may not be without difficulty, given problems about the *ownership of land*, and the need to dissolve a trust.'

The Centre for Public Scrutiny suggests that local councils might take a role in holding academies to account on behalf of the local community. The Commission makes a similar suggestion in relation to annual reports by local authorities in earlier chapters... role for local authorities in scrutiny of and reporting on school performance and raising any concerns.

OSC should produce an annual report on comparative performance of sponsors. OSC may not be able to operate intervention powers effectively on its own ... so re-focused role of LAs as champions... should include LAs involved in reviewing the contracts of sponsors. OSC might provide performance data to them.

#### *Efficient use of resources*

Need for greater transparency re what services schools get for the 'top slice' which in some cases is *higher than LAs*. p120 concern about '*huge salaries*' paid to senior staff. academy heads' salaries appear to have risen rapidly. Some witnesses expressed concern that the salaries for CEOs of chains are often being subsidised by schools. Inadequate information in the public domain.

#### *Accountability: information and transparency*

Charity Commission holds that academies should be accountable to a range of stakeholders, including pupils and parents, regulators, funders, a school's local community, and the wider public.

Concerns raised include:

- the removal of academies from the Register of Charities and, as a result, the lack of easily available, free public information
- some academies' submission of abbreviated accounts to Companies House or the claiming of exemption from the need to submit accounts
- high salaries and incidences of the misapplication of funds. (examples from the Charity Commission's submission. p121

#### *Funding*

There is *scepticism that funding of the academies programme has been competently managed.* ... NAO report 2012 confirms that the DfE's Impact Assessment 'contained simplistic assumptions

about some funding elements and omitted other costs, including sponsored academy start-up funding'. Particular concerns re LACSEG... suspicion that a *disproportionate amount of money has gone to academies*... a 'dash for cash' was involved in the speed of conversions. *Academies seem to have received twice as much as was recouped by top-slicing LAs*... p122 DfE is working on it.

In a fully academised system, there must be transparency of funding agreements. '*The DfE is seen to have over-used the argument of "commercial confidentiality" to obscure what funding is made available* (ASCL, written evidence).p123

Concerned about *high cost of insurance*, now that academies have to purchase individually. 'Seventy-one per cent of converter academy respondents to the NAO reported increases in costs for finance staff and/or services. The academies programme must not come to be seen as a *ready source of income for accountants and insurance companies*'. p123

#### *Financial oversight.*

'There is also a challenge of due oversight' need for a higher level of *external audit*, yet academies' finances are simply 'consolidated' into the DfE;'s accounts. 'This is *consolidation of an unprecedented scale in the history of UK government*, and especially unique (and potentially challenging) given that academies are autonomous institutions. p123

Some heads already feel that financial reporting is too complicated... NAO survey 2012 found nearly half of academies feel less free from bureaucracy than before, and esp. financial.

EFA now requires external audit, after 'several high profile cases' of alleged financial mismanagement at key academy chains, including Priory...

but access to this information is not straightforward - they don't have to submit accounts to the Charity Commission, but, as registered companies, to Companies House. Anyone can ask for them BUT doesn't apply to academies established before 2010. Only 16% publish accounts on their own or their sponsor's website. *Majority submitting their accounts late.*

NAO said '*it could not gain sufficient assurance that the money had been spent on the purposes for which it was intended*'. p125

Because whistle-blowers find it intimidating to go to central government, the Local Government Ombudsman should provide a mediating tier to receive any concerns about fraud to pass to EFA.

Sets demands for accounting standards.

ADCS: 'The capacity of the Department for Education and the Education Funding Agency to oversee an all-academy system remains in doubt;'. p126

sees three priorities: transparency, parity, policing

academies spending data should be published. as should other schools.

*criticises Treasury for proposing a 'light touch' approach to audit* p128

They should not have 'exempt charitable lstatus' but must be accountable to the Charity Commission.

#### *Redress:*

inadequate. parents can only go to Seretary of State via EFA, or possible to Ofsted. there is a 'democratic deficit' says LGO remit should be extended to accept complaints from parents.

## **Annex**

The following are particularly revealing statements from each page of the above briefing. If they are reproduced in other documents, they *must be checked against the original report*, particularly since the Commission has been cautious in protecting themselves by setting some distance between themselves and witnesses' statements, implying though not explicitly stating their agreement.

### Page 3 (of briefing note)

Ofsted has judged almost half of sponsored academies as inadequate or satisfactory (now, 'requiring improvement').

Local authorities should be 'guardians and champions' of all children's 'needs and interests'

### Page 4

A better process is needed for choosing sponsors to 'facilitate the more vibrant entry into and exit from the education market [sic!] by sponsors'.

### Page 6

Some sponsored academies have shown 'stunning success, but this is not common'.

Many previously poorly performing schools in disadvantaged areas have done just as well

Considerable reliance on GCSE equivalence

Improvements cannot be disentangled from changing intakes / decline in proportion of disadvantaged pupils

The only sponsored academies that improved more than non-academies in the same quintiles of attainment were those that had already benefited from City Challenge improvement strategies'

### Page 7

Inspectors should not visit schools which rigorously self-evaluate including peer review.

Despite significant resources and attention focused on 200 schools (i.e. established sponsored academies), 'they have not performed markedly better than similar schools. Academisation alone does not guarantee improvement'.

### Page 8

Individual academies find it difficult to muster the 'resources and capabilities' needed for innovation.

The Commissioners believe that schools have sufficient freedoms to innovate and improve. Accountability measures, such as Ofsted and performance data, strongly limit the operation of some of this innovation in practice but also mitigate risks of dramatic failures. What is now needed is a drive towards innovation in teaching and learning, and practitioner collaboration to achieve this.

### Page 9

Witnesses' strength of feeling and angry anecdotes on admissions.

UK education system as a whole is one of most segregated in OECD

In 2010 6000 schools (a quarter) were already their own admission authority, most not academies. Numerous submissions to the Commission suggest some academies are finding methods to select covertly.

#### Page 10

Some free schools are allowed to give priority to founding group of parents

Canary Wharf College admitted just one FSM in its first 60 entrants (in a Borough where nearly half are FSM)

Some chains are setting up alternative provision e.g. 'alternative provision academies' to remove their SEN and the attached statistics.

Covert practice of saying "your child would be happier elsewhere".

LAs should take lead for commissioning sufficient school places, and as champions for local standards.

#### Page 11

LAs retain over 200 statutory responsibilities; more have been added in last two years, but in the case of academies no longer have power to compel them.

A critical issue, therefore, is for the government to articulate its view on the long-term responsibilities of those who support schools.

The Commission is not persuaded ... that the local market, on its own, provides a satisfactory basis for securing a sufficient supply of quality school places in the medium term.

There is a need to plan school places, and hard to imagine government can do that without a local agency which knows the area.

Schools should be part of their local community and depend on a 'web of local services and structures for the discharge of their missions'. Being part of a chain often weakens individual school autonomy.

#### Page 12

It might be argued that, in addition to parent governors, one or more teachers should be represented.

Academy trusts need to find innovative ways of engaging local communities.

The DfE runs a minimal 'fit and proper person' check on potential sponsors. The Commission was concerned that so little about this, for example, the criteria for selection, is in the public domain.

#### Page 13

The DfE should operate hard powers in relation to failure.

Almost half of sponsored academies are rated by Ofsted as requiring improvement ('satisfactory' ; before September 2012) or inadequate (the latter standing at 8% of sponsored academies, raising questions as to the view that the number of academies at high risk regarding performance is 'very small'.

Removing a sponsor in England may not be without difficulty, given problems about the ownership of land [sic!]

There is a need for greater transparency re what services schools get for the ‘top slice’ which in some cases is higher than LAs.

Page 14

There is scepticism that funding of the academies programme has been competently managed.

The DfE is seen to have over-used the argument of “commercial confidentiality” to obscure what funding is made available.

The academies programme must not come to be seen as a ready source of income for accountants and insurance companies.

Academies’ finances are simply ‘consolidated’ into the DfE’s accounts... This is consolidation of an unprecedented scale in the history of UK government, and especially unique (and potentially challenging) given that academies are autonomous institutions.

The NAO said ‘it could not gain sufficient assurance that the money had been spent on the purposes for which it was intended’.