

**ADCS response to the White Paper *Educational Excellence Everywhere*
(Department for Education, March 2016)**

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1.0 Introductory comments

1.1 The White Paper *Educational Excellence Everywhere* (published in March 2016) set out the government's intention that all schools will be expected to become, or be in the process of becoming, academies by 2020, with all converted by 2022. On 6 May 2016 however, the Secretary of State announced that, having listened to the concerns of the education sector and parents, she would not now seek to legislate to compel all schools to convert to academy status.

1.2 ADCS welcomes this re-think on the issue of enforced academisation, in the light of which it would now seem unfeasible for the government to withdraw all school improvement funding from local authorities. Those schools that wanted to be academies have already converted, and the schools that remain maintained do so because they see no additional benefits of being an academy. ADCS looks forward to continuing to engage in conversations with the Secretary of State about the detail of the proposals in the White Paper, which cover much ground, though most attention has understandably focussed on the compulsion and timeframe for achieving full academisation.

1.3 There are several aspects of the proposals in the White Paper that are welcome:

- Focus on and investment in school-led improvement and school-to-school support, resourced from core DfE grant funding, delivered largely through teaching schools, expansion of NLE programme and the establishment of a centralised leadership programme to develop the next generation of headteachers and leaders
- The proposed tightening of accountability for teaching school alliances
- The proposal to consider extending the statutory remit of Virtual School Heads to include children adopted from care
- That mainstream schools will commission and fund alternative provision (AP) and crucially, they will remain accountable for the educational outcomes of pupils in alternative provision (AP)
- The intention to work with schools to produce an action plan for improving PSHE is welcome but sits uncomfortably alongside the stated ambition that the national curriculum will "...no longer be a decree, but a benchmark."
- The intention to launch new accountability measures for MATs, publishing MAT performance tables in addition to the continued publication of, and focus upon, inspection and performance data at individual school level
- The commitment to continue the two phases of the £4.4billion Priority School Building Programme by rebuilding or refurbishing 500 schools is welcome as is the additional capital funding of £200million to support the expansion of existing provision and the development of new schools to create new specialist places. £200million is unlikely to be sufficient given the intense pressure within the system for school places
- Plans to simplify the complaints system are welcome as is the consideration being given to the ways in which parents might be able to petition Regional Schools Commissioners (RSCs) for their child's school to move to a different MAT
- The intention to develop a competency framework defining core skills and knowledge needed for governance and governors in different contexts– the skills and knowledge required by any governors serving on a MAT Board that crosses more than one local authority's boundary will be significant. We see no rationale however for removing the

requirement to have elected parent governors on governing bodies. This move would be counter to the trajectory of the last 30 years or more, towards increased parental involvement in schools

- The intention to establish a College of Teaching, run for teachers by teachers is most welcome. ADCS urges caution however, about the voluntary membership nature of the organisation. Lessons must be learnt from the recent demise of The College of Social Work
- We wholeheartedly agree with the government that no single education reform is more important than fostering and supporting a high quality teaching profession. The government has not however provided any evidence that Qualified Teacher Status (QTS) is ineffective. The White Paper proposes that QTS will instead be replaced by a challenging, **non-mandatory** accreditation scheme; however, academy headteachers will remain free to determine what requirements they make of any potential teacher including whether they need to be accredited. It seems to us unlikely that parents will welcome the introduction of headteacher flexibilities that may result in many more children being taught by unqualified teachers. Moreover, we are not aware of any evidence which shows that the use of unqualified teachers raises standards in schools. Recently published research by the Social Market Foundation's Commission on Inequality in Education¹, found that the quality of teaching is the most important school-based factor for educational outcomes. Previous research shows pupils, particularly those from poorer backgrounds, make less progress when they have a teacher who does not have a formal teaching qualification; they have a less experienced teacher or one without a degree in the relevant subject; and, staff turnover is high
- We welcome the acknowledgement of the important continuing role of LAs in coordinating admissions, particularly in-year admissions.

2.0 Core principles for ADCS

2.1 ADCS opposes enforced academisation, and the transfer of significant powers relating to education to civil servants whom parents and local residents are unable to hold to account. Expecting parents to take up their concerns with remote Regional Schools Commissioners or with the Department for Education will be no substitute for their current ability to raise concerns with local councils and councillors who know their local schools and the communities that they serve.

2.2 We are concerned that removing from councils a significant part of their role in promoting high standards in schools is a retrograde step. Moreover, since the Secretary of State's welcome announcement that she will not legislate for the "...blanket conversion of all schools", it seems unfeasible now to withdraw all school improvement funding from local authorities.

2.3 The government's definition of what constitutes a 'poorly performing local authority' – which will remain a trigger for enforced academisation – must, in the interests of equity, also be applied to poorly performing MATs. ADCS members would be delighted to engage in dialogue about how, if headteachers and schools are to be given a 30 months period of grace from Ofsted inspection in order to turn around weak or failing schools, how this will impact upon the definition of a 'poorly performing local authority'.

2.4 We oppose the new powers for the Secretary of State to seize local land and hand it to academy trusts. The complexities and scale of this task are underestimated in the White Paper, which also fails to recognise that local authorities hold this land in trust as a

¹ <http://www.smf.co.uk/press-release-poorer-pupils-facing-a-cocktail-of-disadvantage-in-the-classroom/>

community asset. This transfer of land away from a local authority will significantly hamper a LA's place-shaping efforts. A modest calculation of the totality of the land value of maintained schools is in the region of £100billion. Loosing these assets will impact significantly on the ability of councils to raise capital for other civic developments, for example building affordable houses.

2.5 We oppose the proposed new duty on councils to facilitate the process of voluntary academisation. If enacted, this would be a new burden and new burdens funding must be provided.

2.6 Outstanding maintained schools should be able to become Teaching Schools without having to become an academy. The government's touching faith in school structures as a means of improving standards, should not stand in the way of improving outcomes for children and young people.

2.7 Maintained schools in good LAs should not be compelled to become academies even if a critical mass of schools in that area has already converted.

2.8 ADCS strongly believes that MATs cannot possibly replicate what a good local authority does in terms of its education function unless LAs are involved in establishing and running MATs.

2.9 LAs must have a role in forming and shaping MATs, and in the oversight of de-coupling arrangements when an individual institution wishes to extricate itself from a MAT. This will be particularly important if we are to see from the Taylor review of the youth justice and secure estate the replacing of YOIs and STCs with secure schools. LAs must have a significant role in the MAT overseeing secure schools in order to ensure that the educational, safeguarding and welfare needs of these particularly vulnerable pupils are met.

2.10 MATs are not the only solution – other forms of school-led partnerships, particularly at primary phase, need to be in view. We need good local oversight and support, in a framework that allows schools and teachers to do what they do best – educate children.

2.11 Schools that exclude, or otherwise 'off-roll' pupils should remain accountable for pupils' outcomes, not just in relation to alternative provision.

2.12 In May 2010, the DfE had direct responsibility for 217 academy schools; if it achieves its ambition of full academisation it will have direct responsibility for 24,000 schools. A significant expansion of DfE's central infrastructure, its arm's length bodies and its Regional School Commissioners will be necessary in order to achieve AcademyMax. The attendant cost to the public purse will be astronomical, not to say incredible in times of austerity. The infrastructure, expertise and systems leadership already exists in the local authority.

2.13 We have no confidence in the EFA to provide effective and timely financial oversight to MATs or academy chains. The National Audit Office (NAO) has recently reported² that the rapid expansion of the academies programme has made it difficult for the DfE and its agencies, to keep track of spending and land.

2.14 Local authorities ensure that schools have an effective internal control framework and policies that comply with legislative requirements, make accurate census returns, and let contracts according to the rules. These are not bureaucratic shackles but a proper approach to spending public money. Without such oversight, we may see more debacles akin to the recent Perry Beeches Academy Trust scandal.

² <http://www.bbc.co.uk/news/education-36090672>

2.15 The introduction of the statutory roles of Directors of Children's Services and Lead Members for Children was intended to ensure that decisions about educating and protecting children and young people were taken in a holistic way, focused on the needs of the whole child rather than on institutional silos. Schools provide universal services and as such are the 'eyes and ears' of children's safeguarding system.

3.0 The case for a continuing role for local authorities working with schools to improve standards

3.1 The best local authorities have and will continue to do everything in their power to ensure the children and young people living in their area receive a good standard of education by working with all schools to drive up standards. While academy trusts perform some of these functions, there are inherent risks in a piecemeal approach and serious questions remain about the assurance and oversight of standalone academies and single academy trusts.

3.2 There is no evidence that MATs have the capacity to become the primary agents for school improvement. There is, therefore a legitimate ongoing role for local authorities with schools and in school improvement and support:

3.2.1 A successful school improvement service has to know its schools well. LAs analyse performance data such as test results, exclusions, attendance but more importantly their staff visit all schools and get into classrooms. School improvement is all about classroom performance and knowing schools well in that regard is all important. *To what degree would small MATs be able to do this both in terms of capacity and expertise? Who will keep a watchful eye over the performance of a standalone academy or a single academy trust?*

3.2.2 Building strong, trustful relationships is fundamental. The best LAs work closely with school leaders to help them critically assess the strengths and weaknesses of their school to make sure they are focused on the things that matter most. There is a limited track record of schools successfully challenging each other without the aid of an orchestrating hand. Honesty and integrity are key and schools know that when their local authority is critical it is only because they care about children's education. *How can we be assured that this honest critical analysis would take place within MATs in which schools are co-dependent on each other?*

3.2.3 Based upon the school's diagnosis of areas for development LAs are able to broker effective school-to-school support because of their expert knowledge of each school. Many LAs also employ advisers who have been successful classroom practitioners and headteachers that can offer expertise based upon years of school-based experience. It is all too easy for schools within a small MAT to fall behind national levels of attainment because their focus is too narrow. *How would MATs be able to broker such support if they only really 'know' their own patch?*

3.2.4 The best LAs are able to offer support before a school declines because they know the trigger factors, they can recognise the antecedents of failure - change of leadership, turnover of staff etc. - and act quickly and decisively. *How would MATs address such issues? Indeed how can remote RSCs, each of whom covers a vast geographical area, identify antecedents of decline?*

3.2.5 Good LAs offer high quality training for staff on a range of issues. These include courses for NQTs and aspirant headteachers. LAs work in partnership with their schools to organise these and they are delivered by headteachers, teachers and LA staff. *Small MATs would not have such capacity?*

3.2.6 Good LAs believe in autonomy and allow headteachers to run their own schools. LAs work with their schools on a partnership model not one where the LA seeks to

control. Successful schools have ownership of their own improvement journey but they also seek support and challenge from a highly performing LA. *To what degree will changes in school governance mean that individual schools are less open to challenge and support? How would local parents be able to hold academy chains or MATs, or 'their' RSC to account?*

3.2.7 Democratically elected councillors hold LA officers to account for school performance in their area and officers work within a locally determined framework. Local authorities, even small local authorities operate at a sufficiently large scale to employ school improvement teams and also have access to a larger range of schools to secure the right school-to-school support. *Small MATs won't be able to do this.* Small MATs and single academy trusts simply do not have access to the support needed, and larger academy chains are often too geographically spread to allow for the local oversight and knowledge needed. Inevitably, in the absence of local support, poor practice develops.

3.3 The White Paper proposes to preserve LAs' duties with respect to some education/school-related functions. ADCS members have very serious concerns about whether councils will have adequate powers and resources to properly discharge their remaining education duties, namely:

- **Ensuring every child has a school place.** The government will continue to provide 'substantial funding' to councils to do this. Councils will keep a duty to work with schools and parents on home to school transport; giving schools the opportunity to provide school transport services where that makes sense locally. Councils will take a lead in crisis management and emergency planning.
- **Ensuring the needs of vulnerable pupils are met.** This includes retaining current responsibilities for pupils with Special Educational Needs and Disabilities (SEND) and children in care; school attendance and tackling persistent absence; alternative provision for excluded children; safeguarding, radicalisation and extremism.
- **Acting as champions for all parents and families.** This includes a continuing role in coordinating admissions; supporting parents to navigate local SEND arrangements and provision; and championing high standards locally for all pupils and, where necessary, calling for action from the Regional Schools Commissioner to tackle underperformance.

4.0 Functions that must be fulfilled by a local agency above school level

In addition to the functions above, there is a series of crucially important functions that must be carried out above school level that MATs, as currently constituted without LA involvement, simply do not have the experience, expertise nor capacity to fulfil. The local authority, singly or in partnership with other LAs is not only well placed to fulfil these functions, but also the most cost effective means of doing so.

4.1 Safeguarding in schools

This is clearly the legal responsibility of the LA. DCSs have a statutory duty under the Children Act 2004 to secure the best outcomes for all children and young people in their local area, whichever educational establishment they may attend, and education is a key facet of this work. Academies' freedoms do not extend to safeguarding duties and responsibilities - ambiguity about roles to act in safeguarding matters is always a recipe for disaster. Recent serious case reviews (SCRs) into safeguarding incidents in independent schools must serve as a warning that absolute clarity is required on the primacy of the role of the LA, in relation to the safeguarding of pupils in all schools. The health, safety and wellbeing of children and young people must not be compromised by ill-

defined roles and responsibilities – currently spread across LAs, DfE, EFA, Ofsted, RSCs, headteachers, MAT Boards and so on.

In the interests of fairness, the educational placement of children in care and in need, and the monitoring of their progress and the support they receive from schools, should be undertaken locally at a level above the school. The local authority, as corporate parent for children in care and the agency responsible for supporting children in need, is the appropriate local agency.

The local authority and the Local Safeguarding Children Board are the local agencies responsible for multi-agency policy and practice on safeguarding and should continue to work to ensure that schools (and colleges) play a full part in setting and delivering local arrangements to keep children safe, and to inform and reassure parents and communities.

In the interests of cost efficiency and a timely response, local authorities should continue to work in partnership with the police and other local agencies to provide support for schools with vulnerable children, and in particular on the 'radicalisation' agenda and in preventing and tackling child sexual exploitation.

4.2 School place planning

School planning needs to be carried out locally at a level above the school to ensure that changes in local demand are met in a timely, financially efficient and locally accountable way. The siting of free schools and UTCs must be in areas of need. In the interest of fairness and public accountability, and the long-term educational outcomes of children who might not be admitted properly and promptly, there needs to be a local agency that considers, on behalf of local communities, the overall pattern of local provision, and has the power to take direct action. For example, specific powers requiring existing academies to expand in areas where more places are needed; and the corollary upon which the White Paper is silent – there must be absolute clarity as to whom is responsible for closing schools in areas of surplus places, this is particularly relevant to free schools, the unchecked siting of which could lead to system failure.

4.3 School funding

The government is consulting on a national funding formula for schools and ADCS has responded to the first of those consultations. Local oversight is required to ensure that the national agency setting the funding arrangements is properly informed about local issues, and to ensure that parents are properly informed of funding arrangements so that they are aware of what schools should pay for from core funding, what should attract extra funding, and what can legitimately be sought from parents on a voluntary basis. As noted earlier in this letter, the proposal to cut £600million from ESG paid to LAs must surely now be re-visited in the light of the Secretary of State's change of path with regard to compelling all schools to become academies.

4.4 School admissions and exclusions

In the interests of transparency, fairness and economic efficiency, the administration of school admissions should be undertaken locally at a level above the school, by the local authority, including responsibility to co-ordinate in-year admissions as is the power to direct academies to admit priority vulnerable children and young people.

There needs to be a local agency that reviews exclusions, having the interests of the child at the centre, and ensuring that parents (supported where appropriate through advocacy) and schools have a voice, and ensuring that excluded children are placed in another school or alternative provision promptly. The local agency should have the power to require schools not to exclude. This will help to minimise 'gaming' by covert selection. Moreover, the local authority's duty to meet the needs of

vulnerable children and young people is significantly hampered if the local authority cannot direct a school to admit a pupil.

4.5 Careers advice

The present government is not the first to seek to legislate to require schools to offer such advice and support to pupils. The specialist knowledge required to deliver such advice effectively – from how to complete a personal statement for entry to a Russell Group university to what apprenticeships are available locally – is not easily available to school staff. And the incentives for the school to promote particular courses of action, such as staying on in the sixth form, are powerful both financially and in terms of performance measures. There are many better models for delivery than simply expecting and requiring schools to deliver effective and unbiased advice. In the interests of fairness, objective support and cost efficiency, careers advice and support should be delivered locally at a level above the school, and a local agency needs to ensure that such arrangements operate effectively. Further education and the skills agenda are, at present, almost the only aspects of Devolution discussions that directly relate to children and young people. The ability to influence a place's educational offer is essential to the economic success of that place. That influence must extend from the early years up through to further education.

4.6 Home education

The high and rising numbers of children electively home educated is of deep concern to ADCS members, in terms of educational standards, additional needs, safeguarding and potential exposure to extremism and radicalisation. We are concerned that in some cases schools are encourage parents to home educate as an alternative to excluding children. This is becoming particularly prevalent at KS3 & 4. This results in an increased risk of a home educated student becoming NEET at age 16.

ADCS has already had some engagement with DfE officials on these issues and we would be pleased to intensify those engagements. We have recently conducted a survey amongst our members about the numbers of EHE student which we will share with the department. The survey provided evidence of the practice of informal exclusions being used to off-roll pupils in the run up to exams; EHE learners being sent to unregistered schools; growing numbers of home educated pupils with SEND; and, parental dissatisfaction with support available in schools – all of which is extremely worrying.

With a growing child population and a shortage of school places it seems likely that the numbers of EHE learners will continue to rise and ADCS suggests a more robust approach is urgently required.

Elective home education should be regulated, home educated pupils should be registered with the local authority and LAs must be resourced to monitor and establish systems and safeguards to assure themselves that home educated pupils are receiving a good standard of education delivered in a suitable learning environment, and that they are safe. These conclusions were first drawn in the Badman review of elective home education in England³ in June 2009; ADCS firmly believes that many of Badman's recommendations remain pertinent and should be adopted.

³ <https://www.education.gov.uk/consultations/downloadableDocs/PDF%20FINAL%20HOME%20ED.pdf>