

Education Scrutiny Commission 24 May 2016

Update on Central Government Reforms to Education

Wards: All

Report Authorised by: Strategic Director, Commissioning: Helen Charlesworth-May

Portfolio: Cabinet Member for Children and Schools: Councillor Jane Edbrooke

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Report summary

This report outlines recent Government legislation and proposals affecting education provision in Lambeth and possible implications. These include the Education and Adoption Act 2016; the White Paper “Educational Excellence Everywhere” (March 2016); proposals for a national funding formula for schools (March 2016); new national structures including the new role of the National and Regional Schools Commissioners (February 2016) and the new National Curriculum and Assessment arrangements (2014).

It also sets out Lambeth’s successes and how these were achieved and can be maintained, along with the risks and opportunities.

Finance summary

There are no costs arising from this report, however, the proposals in the White Paper, should they become law, have significant financial implications for the Council.

Recommendations

- (1) To note the implications for the Council arising from the national proposed reforms and policy changes.

1. Context

- 1.1 Over the last five years there has been unprecedented change to the education system in England and local authorities have also undergone major upheaval and ongoing changes to their role and funding. Nevertheless, in Lambeth the close partnership between the Council and its schools/academies has been and remains mutually supportive and productive but the proposed national changes to education provision and specifically those arising from the recent Education White Paper have profound implications for the LA and our schools. In response, LA officers have initiated a debate with headteachers and governing bodies regarding the future of school governance; school finances; curriculum and assessment; support and challenge; sustainability and relationships with the LA and each other.
- 1.2 The new Conservative Government elected in May 2015 signalled a radical change in policy which will increase the number of academies, initially with the passage of the **Education and Adoption Act 2016** (see section 2 below) into law in March 2016, requires all schools judged by Ofsted to be failing or “coasting” to convert to academy status. But the biggest change to the school system in 50 years has been heralded by the publication of the **White Paper – Educational Excellence Everywhere** – also in March 2016 – which initially declared the Government’s intention to force all schools to have converted to academy status by 2020, or have plans in place to do so by 2022, thus largely removing the control and influence of local government on local schools (see section 2 below).
- 1.3 In addition, the DfE has recently concluded a consultation on a proposed **National Funding Formula**. This is currently under consultation but proposes that after a two year period all funding for schools will pass directly from the Department for Education to schools rather than via the local authority and the local Schools Forum.

2. Proposal and Reasons

Academies Act 2010

- 2.1 The initial enthusiasm for conversion to academy status after the Coalition Government’s **Academies Act 2010** came into force has tailed off. Conversion appealed mainly to secondary schools because of significant financial incentives, but these incentives reduced over time and were never particularly significant for smaller schools, including the majority of primary schools.
- 2.2 Currently around 82% of primary schools and 35% of secondary schools in England continue to be maintained by local authorities and receive funding in line with local funding formulae agreed by each local authority following consultation with their schools via their Schools’ Forum. In Lambeth, 50% of secondary schools are academies or free schools, but 94% of primary schools are still maintained by the LA. Academies continue to be publicly funded and most also receive their funding via the local authority.

Education and Adoption Act 2016

- 2.3 The Education and Adoption Act became law in March 2016. The Act creates new powers to tackle underperforming and “coasting” schools and academies. There is no definition of “coasting” in the Act but this will be provided in new regulations consulted on late last year -responses are currently being considered by the DfE. The criteria will be based on the numbers of children making good or better progress and the number reaching set standards in GCSEs or Key Stage 2 national tests. Schools will be deemed to be “coasting” if they do not meet the required standards for three years in a row. The

coasting judgment may be given retrospectively as results from the last 2 years will be taken into account. Judgments will be made later this year and schools deemed to be “coasting” will be notified.

- 2.4 Underperforming maintained schools will be “forced” to convert to academy status if Ofsted judges them to be inadequate. The process of conversion has been streamlined so that governing bodies will not be able to consult on the proposal. If there is any perceived delay, the Secretary of State is able to issue directions with time limits. Parents will not be able to object but sponsors of new academies must communicate their plans to parents.
- 2.5 Coasting maintained schools will be required to submit improvement plans to the Regional Schools Commissioner (RSC) and will only receive support if these are considered to be realistic, if not, they will be converted into academies. Coasting academies must also submit improvement plans to the RSC, who may transfer them to a new sponsor if the plans are not robust enough.

“Educational Excellence Everywhere” White Paper 2016

- 2.6 The White Paper proposed to give the Government power to direct all schools to become academies by the end of 2020, or have plans in place to do so by 2022, mostly in “MATs” (multi-academy trusts), so that local authorities would no longer maintain schools. However, no concrete proposals for how this would be achieved were published and there was an immediate backlash, including opposition from Conservative MPs and Council leaders. There were objections regarding unnecessary change in high performing local authorities; the removal of choice and the inevitable logistical, legal and financial difficulties, not to mention issues with land ownership and inclusion of vulnerable pupils.
- 2.7 On Friday 6 May 2016 the DfE issued a press release, heralded as a u-turn, in which it was announced that “the government has decided, while reaffirming our continued determination to see all schools to become academies in the next 6 years, that it is not necessary to bring legislation to bring about blanket conversion of all schools to achieve this goal”. Instead, it is proposed that legislation that “will trigger the conversion of all schools within a local authority in two specific circumstances” be brought forward. These are
- “firstly, 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. Under this mechanism a local authority will also be able to request the Department for Education converts all of its remaining schools
 - Secondly, where the local authority consistently fails to meet a minimum performance threshold across its schools, demonstrating an inability to bring about meaningful school improvement.”
- 2.8 There has not yet been any clarification from the DfE about how this mechanism might work or what the “minimum performance threshold” might look like; nor are there definitions for “viable” or “critical mass”. On Monday 9 May the Secretary of State announced in the House of Commons that the threshold which would define “underperforming” would be the subject of an “affirmative resolution” which would be put before the Commons for consultation.
- 2.10 This announcement does not change the Government’s intention that all schools will eventually become academies by 2022, but the approach will be incremental, local

authority by local authority. As more schools convert or are converted, the more local authorities will fulfil the new performance and/or viability criteria.

- 2.9 Schools judged “good” and “outstanding” by Ofsted will not now be forced to become academies, but the threat to schools that are not good, or who may meet the “coasting schools” definition/criteria in September 2017 is still real – “the Government will continue to require underperforming schools to convert to academy status where they can benefit from the support of a strong sponsor”.
- 2.11 If these proposals pass into law as planned, they will remove Council influence over schools. Elected members will ask themselves how they can justify spending money on education and additional school places if they have no influence on their local schools and schools will ask themselves how they can best provide themselves with a sustainable future away from the support of their local authority.
- 2.12 In addition, concerns expressed regarding the original proposals remain: there are issues regarding the lack of strong sponsors: some national sponsors have been found wanting. Other potential risks include; the dangers for small schools standing alone; lack of parental choice; lack of local democratic accountability; financial sustainability and parental representation. The new system will need to evolve slowly for Councils, schools and parents, who expect to be able to turn to their local elected representatives if they have problems with a school. These issues will be compounded by cuts to the Education Services Grant (ESG) and loss of the Dedicated Schools Grant (DSG) as schools become academies and pupil level funding is reduced. Councils will be unable to work with their local schools to mitigate against particular geographic factors, for example to support individual schools who find themselves in particular need such as growing or reducing in terms of pupil numbers, dealing with teacher shortages because of geographic factors or a temporary weakness due to staff turnover.
- 2.13 Another issue that is becoming increasingly apparent to school leaders and governors is that becoming an academy in a multi-academy trust, rather than providing more freedom is actually a threat to their autonomy and distinctive character - MATs allow their academies only as much freedom as the trustees are willing to allow and every MAT must have a CEO. Many headteachers, who are currently in sole charge of their schools, would be required to report to somebody else.
- 2.14 The White Paper also envisages other changes designed to create a schools-led system:
- replacing Qualified Teacher Status with accreditation based on teachers’ performance in the classroom
 - improving leadership training and encouraging the best teachers to serve in challenging areas
 - transferring responsibility for school improvement from local authorities to schools
 - encouraging successful school leaders to take over underperforming schools
 - a new national funding formula (see below)
 - a removal of the need to have parents on governing boards.
- 2.15 It is proposed that local authorities will be left with responsibility for ensuring every child has a school place, ensuring that the needs of vulnerable children (including those with SEND) are met, and acting as a champion for children and parents. Without the ability to require schools to expand or take vulnerable pupils local authorities will find it difficult to fulfil these requirements.

- 2.16 Another proposed change that has attracted controversy is the removal of the requirement for academy trusts to include elected parent representatives, although they would still be able to have elected parents if they so wished. Accountability to parents will instead be provided by an expectation that academies have in place mechanisms to seek and respond to the views of parents. Interestingly, a couple of weeks before the publication of the White Paper the DfE dropped plans to remove the requirement for elected parent governors on maintained school governing bodies. This proposal is unaffected by the 6 May announcement.
- 2.17 The White Paper also envisages strengthening governors' skills by developing a competency framework that defines the core skills and knowledge needed for governance and proposes a requirement that new governors are inducted and for academies to provide training and development for governors. The wording suggests that this will not go as far as making governor training mandatory.

National Funding Formula

- 2.18 In March 2016 the DfE launched its plans for the introduction of a National Funding Formula for schools to redistribute £31 bn of school funding. There were two consultations undertaken - one on a national formula for funding schools and a second one on the funding arrangements for High Needs (mainly special educational needs) and consultation closed on 17 April 2016. Related consultations on Early Years funding arrangements and for school improvement are expected later in the year.
- 2.19 From March – April 2016 the Government consulted on proposals to revise the funding arrangements for schools, creating a national funding scheme for schools from April 2017.
- 2.20 In line with the proposals on local authority powers contained in the White Paper, a fundamental change is that local authorities will no longer determine how core funds are distributed, instead they will go straight to schools. The role of local authorities will be limited to distributing high needs funding for pupils with Special Educational Needs and Disabilities. Currently, there are no proposals for transitional funding, but the new scheme is likely to be phased in over two years. By 2019/20 funding will go direct from central government to schools or MATs. Depending on size these MATs will be able to manage some internal determination of how funds are allocated to the individual schools within a MAT.
- 2.21 The press release issued on 7 March to announce the consultation states that four factors will determine how core funding is to be distributed:
- Basic per pupil funding – ensuring a core allocation for the costs of teaching all pupils.
 - Funding for additional needs – including deprivation, low prior attainment and English as an Additional Language (EAL).
 - School costs – including fixed costs and those related to schools serving rural communities.
 - Area costs – ensuring more funding goes to areas that face the highest costs.
- 2.22 Despite the last factor indicated, the consensus is that London schools, currently amongst the best funded in the country, are likely to suffer large cuts to their budgets as a result of the proposed changes. Lambeth currently receives the third highest funding nationally (£6,485.88 per pupil), compared to Wokingham, which receives the lowest, £4,166.51 per pupil.

- 2.23 Each Lambeth school is likely to receive at least an approximate 11% cut to its budget over four years, in spite of the fact that London is dealing with very particular pressures: an increasing pupil population, high levels of poverty; high levels of mobility and EAL (with up to 150 languages spoken); and a teacher recruitment crisis. In addition, schools in London have significantly higher staff costs than other parts of the country.

National Structures – National and Regional Schools Commissioners and Ofsted

- 2.24 A National Schools Commissioner (and Regional Schools Commissioner for South-West England), Sir David Carter, was appointed in February 2016. He will lead on the handover of underperforming and coasting schools to academy chains; lead a team of Regional Schools Commissioners (RSCs) and put existing academy chains under closer scrutiny.

- 2.25 In addition to Sir David, seven more RSCs are also now in place, covering eight geographical regions, three of which include parts of London. Dominic Herrington is the RSC for South-East England and South London, including Lambeth. The role of RSCs is to oversee academies and free school brokerage:

- taking action where academies and free schools are underperforming
- intervening in academies where governance is inadequate
- deciding on applications from local-authority-maintained schools to convert to academy status
- improving underperforming maintained schools by providing them with support from a strong sponsor
- encouraging and deciding on applications from sponsors to operate in a region
- taking action to improve poorly performing sponsors
- advising on proposals for new free schools
- advising on whether to cancel, defer or enter into funding agreements with free school projects
- deciding on applications to make significant changes to academies and free schools

- 2.26 Sir David Carter is proposing a hierarchical system of academy chains based on Multi-Academy Trusts (MATs) reporting to the RSCs. There will be:

- Starter Trusts- up to 5 schools in a local region
- Established Trusts- 5-15 schools in a local region
- National Trusts- 15-30 schools across regions
- System leader Trusts- 30 plus schools across the country, reporting direct to the NSC

- 2.27 Currently ten of the big Academy 'chains' have been inspected by Ofsted and nine have been found wanting. 100 of the weakest academies nationally are to be identified and supported by David Carter. In addition, a new Her Majesty's Chief Inspector of Schools (HMCI) will be in place in late 2016, following Sir Michael Wilshaw's retirement.

New National Curriculum and Assessment

- 2.28 Following the introduction of a new National Curriculum in September 2014, a radically changing school exam system is being introduced with new style tests for primary children, as well as new GCSEs and A Levels. A new numerical (instead of letter based) grading system for GCSEs is being introduced in phases starting with English and Maths and will first be reported in summer 2017.

2.29 Phase 2 subjects will follow in 2018 and all other subjects (phase 3) in 2019. The new scale will have more grades at the top and fewer at the bottom. Maths and English retain a special status in the new league tables and the proportion of pupils achieving a good pass in these subjects will be reported. League tables will also report the proportion of pupils entered for the EBacc as well as the proportions of pupils achieving a good pass in each of the 5 areas (English, Maths, Science, Humanities and Languages).

2.30 The new Attainment 8 and Progress 8 measures work by selecting a qualifying basket of pupil's best subjects and points are totalled with English and Maths scores doubled. The DfE is also expected to include destinations data in this year's KS4 and 5 league tables. The new GCSEs and primary tests are a big issue for schools and will change them profoundly. The A*-C grading has put huge pressure on C/D borderline pupils, with schools focusing on getting these pupils 'over the line'. The new system gives aggregated value-added for all pupils and means that schools will focus on those who can make most progress. A 'good pass' will, in future, be a 5 - a high C/low B- which raises the bar. What will be considered a "good" school is likely to change.

3. Finance

3.1 There are no costs arising from this report, however, the White Paper has significant financial implications for the Council.

4. Legal and Democracy

The implication of the legislation is passed as planned will be profound for schools and this will need to be carefully analysed.

5. Consultation and co-production

5.1 Officers have initiated a debate with headteachers and governors about the future of school governance and partnerships; finances; curriculum and assessment; support and challenge; sustainability of single and groups of schools and the relationship with the LA. Schools have been advised not to rush into any decisions until the picture becomes clearer: currently there is no legislation in place to enable forced academisation, nor is there any detail on how this might be achieved, although the Queen's Speech on 18 May 2016 should provide some clarification.

5.2 Rather, relationships with and between schools are being encouraged, building on established groupings, for example, clusters, partnerships, federations and Teaching School Alliances (these groupings could later become effective Multi-Academy Trusts if they choose to) and further development of high quality, effective traded Council services to schools.

5.3 Traded services will need to be protected or 'arm's length' to allow reinvestment of profit and development of a competitive offer and will also, in part, need to be commissioned by the Council to carry out the statutory functions. There will be need to continue provision of a small, high calibre strategic team overseeing schools and education in the borough and providing local services. The Council will continue to have a statutory role as champion of parents and children pupil place planning, SEND commissioning and provision, so excellent relationships with schools and education partners will need to be

maintained. Consideration of ways to keep the local family of schools working together and achieving very high standards is a key next step.

Close partnerships with strong schools

- 5.4 The Council has fostered good relationships and partnerships with and between strong schools – the Lambeth family of schools – giving officers, members, headteachers and governors working together the opportunity to influence this major universal service for children and young people. The Council’s flexible use of the Dedicated Schools Grant (DSG) has been used to support schools and a wider education and early intervention agenda, for example, investment in effective early intervention in children’s lives, saving costs later.
- 5.5 Our strong schools make Lambeth an attractive place for businesses and families wanting to move into area, which has been good for local economy. Schools are large employers, particularly of women, and support the living wage. School leaders address the wider community cohesion, Prevent and safeguarding agenda and work closely with colleagues in Children’s Social Care to safeguard children.

How excellent outcomes were achieved in Lambeth and how we can maintain them in the future

- 5.6 The transformation of Lambeth’s schools has been a success story which illustrates how, with strong leadership, a well-managed local authority can and does make a remarkable difference. The successes in Lambeth have been hard won – the transformation from one of the worst local authorities in the country to one of the best took over ten years – and were the result of successful partnerships between schools and the LA, reflecting the efforts of students, parents, headteachers, school staff, council officers, LA school improvement professionals and elected members. The Lambeth experience also demonstrates that LAs can and do make a significant contribution to the provision of effective learning experiences for all their pupils by tackling poverty and taking a lead in community cohesion. The key elements of the approach have been:
- Strong local authority leadership with the capacity to support, monitor and challenge and intervene in schools
 - Strong joint working with school leaders
 - Aiming very high as a borough and not tolerating failure
 - Respected well qualified LA staff and School Improvement Advisers who, as ex-headteachers and Ofsted inspectors, have credibility with schools and can challenge them.
 - Developing a very strong cadre of school leaders, future leaders and governors.
 - Ensuring all schools are structured in sustainable sized organisations that are efficient and can afford the best leaders: federations, clusters, partnerships and all through schools, along with specialist SEND units and satellite children’s centres.
 - Investing in early years education and early intervention.
 - Investing in effective use of rich data and good practice research, shared with schools.
 - Excellent levels of resourcing in schools.
- 5.7 Currently, the success of this approach can be seen in terms of Ofsted inspection outcomes and overall performance in national tests and the value added, i.e. the progress made by pupils between key stages, in our schools:

- Overall 94% of Lambeth schools are currently judged by Ofsted to be good or better, which puts us in top 10% nationally out of 150 local authorities.
- Lambeth has the fourth highest percentage of outstanding schools in Greater London over last three years.
- All nursery schools and Children’s Centres, secondary schools and special schools are judged by Ofsted to be good or outstanding. Only a handful of primary schools are judged to require improvement.
- Test results above the national at ages 11 and 16.
- ‘Value added’ for all groups, for example, SEND pupils, boys and girls, pupils from different ethnic backgrounds, “disadvantaged” pupils (those eligible for the Pupil Premium), is very good.

5.8 However, it is important to note that urban schools are always vulnerable and that this success needs to be constantly monitored: the Local Authority currently has the crucial role of oversight leading to early intervention and support where needed and before weakness becomes school failure. At any one time approximately 15% of schools receive additional support and intervention from the Local Authority’s school improvement service. This early intervention is crucial to avoid school failure.

6. Risk management

6.1 There are clear risks with a wholesale programme of forced academisation, in particular:

For the Council:

- Issues regarding the ownership and transfer of buildings and land and transfer of staff.
- Watering down of local accountability - distancing school management from local communities.
- Financial and logistical issues for LAs – the significant costs and the capacity of staff to deliver change within the Government’s stated timescales.
- The Local Authority will no longer have any role in school improvement and the Council’s influence over its schools will be curtailed. It will continue to be of crucial significance to Councils that schools provide effective education for their citizens yet they will have no role in ensuring this is the case. In the case of school failure this may lead to families and businesses wishing to move out of the area and a consequent loss of income and a lack of regeneration.
- As control of the schools is gradually transferred from local authorities, there is a danger that lines of responsibility and accountability could become blurred – there are already issues around the discrete responsibilities of Regional School Commissioners and the Education Funding Agency.
- As all schools become their own ‘admission authorities’ popular or successful schools may expand and succeed at the expense of other schools in less affluent or desirable areas leading to more entrenched inequality.

For Schools and Pupils:

- The creation of a market system, with competition between schools for pupils, increases the likelihood that vulnerable pupils – those with SEND, EAL, Children Looked After, less able pupils - may fall through gaps and that that smaller and less popular schools will become unviable.
- The loss of the oversight of a locally accountable organisation and the leadership to collectively achieve the best possible outcomes for the whole population in an area

- Flexibility in the use of budget and resources to support individual schools when needed
- Schools are uncomfortable with the pace and focus of change; there will be a huge shift from a coherent national policy for the delivery of standards which aimed to support the less advantaged.
- Issues regarding MAT structures, their leadership and capacity
- Financial and logistical issues for Government with implications for schools – the unknown consequences of the operation of a national funding formula in practice and the mechanics of providing funding centrally for all schools in the country.
- Increased numbers of free schools may lead to increased polarisation of provision and have an adverse impact on specific communities/ local economy.

7. Equalities impact assessment

7.1 Once final legislation is known a full EIA will be carried out.

8 Community safety

N/A

9.

9.3 N/A

10. Timetable for implementation

To be agreed once final legislation is through.

Audit trail				
Consultation				
Name/Position	Lambeth cluster/division or partner	Date Sent	Date Received	Comments in para:
Cathy Twist – Director, Education, Learning and Skills	Children, Adults and Health			

Report history	
Original discussion with Cabinet Member	26.02.16
Report deadline	16.05.16
Date final report sent	16.05.16
Report no.	N/A
Part II Exempt from Disclosure/confidential accompanying report?	No
Key decision report	No
Date first appeared on forward plan	N/A
Key decision reasons	N/A
Background information	
Appendices	None.