



Education Committee

Oral evidence: [School Places](#), HC 714

Wednesday 23 October 2013

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Written evidence from witnesses:

– [Rt Hon David Laws MP](#)

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Members present: Mr Graham Stuart (Chair); Alex Cunningham; Bill Esterson; Pat Glass; Siobhain McDonagh; Ian Mearns; Mr David Ward; Craig Whittaker

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Questions 1-120

Witness[es]: **Rt Hon David Laws MP**, Minister of State for Schools, Department for Education, gave evidence.

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Q1 Chair: Good morning, Minister. Thank you for joining us.

Mr Laws: Good morning.

Q2 Chair: Do feel free to take off your jacket.

Mr Laws: Thank you. I jumped the gun slightly. I was taking my lead from your Members.

Q3 Chair: And you are only very slightly late.

Mr Laws: Oh, sorry. I was here before, but I was told that you were deliberating.
[Interruption.]

Q4 Chair: If Members of the Committee are going to speak they will wait to be invited to do so by the Chairman. If we have established discipline across the piece, with the Committee's permission, we will carry on.

Thank you, Minister, for joining us today to discuss school places. Could you give us an overview of how serious is the shortage of school places, and the negative implications that you have identified?

Mr Laws: This is certainly a massive challenge for the Department, because this is a really significant and, we expect, prolonged increase in the student population in English schools. That is obviously now starting in the primary sector and will logically work through to the secondary sector.

It is worth putting it in some context. The birth rate has been rising at the fastest rate since the post-war baby boom. This is not just a blip for a few years; it is caused by an increase in the birth rate that we saw in the ONS data back in 2003. There has also been an impact from immigration in some areas increasing the number of children per household and the number of children coming into the country.

To give you an idea of the challenge that we and local authorities expect to face, the estimated demand in the 2010-15 Parliament is for an additional 417,000 places, most of which, 382,000, will be in the primary sector. In the next Parliament—the period 2015 to 2021—we estimate demand for an additional 500,000 places on top of that. There is a very considerable increase in the population working through.

I won't go on too long, but it is worth saying that part of the challenge is not just the large numbers of extra children that we have to accommodate but the fact that it is quite differentiated depending on the part of the country. To give you an idea, I have in front of me the 10 biggest increases in the expected pupil population between 2011-12 and 2016-17. Croydon, Peterborough, and Barking and Dagenham are the top three on the list. They are going to see a change of between 41% and 33% over that period. If we look at the other end of the spectrum, there are some parts of the country—this is primary population, by the way—where we are seeing either no increase at all or cases such as Dorset, where we expect a small decline. There is a very big range between those areas that have a very intense demand for extra places and those where there is no expected increase at all.

The general pattern is that inner and outer London face particularly serious pressures. The rest of the country, looked at in regional terms, is fairly similar, apart from the north-east, which probably has the lowest additional pressure. However, there are localised factors all over the country, where some communities are seeing big growth challenges and others are seeing less in the way of growth.

Q5 Pat Glass: Can you tell us the top 10? You gave us the top three—Croydon, Peterborough, and Dagenham and Barking.

Mr Laws: In terms of the primary population—the largest increase in primary population for LA areas between 2011-12 and 2016-17—the top 10 according to the figures I have are Croydon at No. 1, then Peterborough, Barking and Dagenham, Bristol, Hounslow, Manchester, Newham, Slough, Reading and then Bournemouth. Those will be the top ones for the primary population.

Secondary is slightly different. Hackney will be at the top of the list there, followed by Barking and Dagenham, and Hammersmith and Fulham. However, for the secondary population those at the bottom of the table are all seeing contractions over that period of time. So you have this very big difference in experiences across the country.

Q6 Chair: And what will the negative impact be?

Mr Laws: I wouldn't say that intrinsically there is a negative impact. The main impact is simply that we have to allocate, as a Department, a significant amount of money for these basic need places, and local authorities have a big challenge on the ground to deliver the places. Obviously that is particularly the case in areas such as London, where the constraints—

Q7 Chair: Can you spell that out? Pressure on the ground is Whitehall-speak. What does that mean? What are the realities of the negative impacts of this?

Mr Laws: It simply means that if you are a local authority in some of the areas I have mentioned that are going to have a large amount of growth, you will be looking ahead at your ONS data, at your housing data and your health data, you will be coming up with a requirement to have a significant increase in pupil places, and you basically either have to fund additional schools and build them in a timely way or you have to add on additional classrooms to existing schools.

Q8 Chair: Minister, I understand that. I understand what it is to have pressure to increase school places. I meant, what are the implications? Are we seeing an impact on the space in schools and, most importantly, on the quality of the pupil experience? How do you expect this to play out when people are under a lot of pressure and they are somewhere property is scarce and expensive, as it is in many parts of London?

Mr Laws: Personally, so far, I can't say that we have detected major impacts on the quality of the educational experience. You will know, Chairman, that there has been a small increase in the ratio of pupils to teachers in infant schools over the past few years. In part, that reflects these pressures in some parts of the country, but it has been pretty modest so far. The key thing for us and for local authorities is to make sure that there is enough money going into the system to build the places in time, so that children have the spaces. That is why, since the coalition started in 2010, we have had a massive increase in the amount of money that we have committed to basic need, both in absolute terms and relative to the rest of our departmental budget.

Q9 Chair: In retrospect, though, would you say that the coalition Government has behaved exactly as you would like it to have done? Given the information it had, has it responded in as good a fashion as it could have done?

Mr Laws: I think it has done. I don't want to turn this into too much of a party political session, but I think that if there was a mistake it was actually in the period prior to 2010, after the ONS started to warn that the population was growing quite rapidly. Over that period, from 2003 to 2010, about 200,000 primary school places were taken out of circulation. There was some pressure from the previous Government to do that, without them really understanding that we would have to put that capacity back in because of this primary bulge.

We have now, very rapidly, not only improved the methods that we use to allocate capital but also increased the amount of capital massively—two-fold or three-fold, compared with what it was under the previous Government. By this September, we reckon that we will have put back almost all the places that were extinguished over the previous seven years in the primary sector. In other words, our estimate is 190,000 new places by September 2013, compared with when the coalition started.

Q10 Ian Mearns: Minister, it is easy enough to bandy around a global figure for the country of 200,000 places taken out, when there are significant regional variations. In my borough of Gateshead, we have been taking out surplus places in the primary sector for about 15 years because we had a genuine drop in population. The population has stabilised, but we are not yet seeing significant growth in the requirement for primary places. Even in a borough like Gateshead, one ward is different from others roundabout. Using a global figure like that is not really fair, because there are significant regional variations, and in some places it was quite right to take out those places.

Mr Laws: There is an important point about local and regional variation, but when the Public Accounts Committee looked into this it was relatively critical about the failure to respond quickly over that previous period. While it is true that in the primary sector there are these big regional variations, there are virtually no parts of the country where we expect a fall in the primary population over the 2011-12 to the 2016-17 period. Excluding the Isles of Scilly, where they have only 152 pupils—we can almost set them to one side—only Dorset will see a contraction of the primary population. The ONS was signalling a pretty big increase in the primary population from 2003, and in most of the country that was eventually going to come through into a demand for extra places.

Q11 Ian Mearns: Yes, but the best authorities in terms of place planning, even where they had taken out significant numbers of surplus places, had kept the buffer within the system to plan for any growth into the future. In my own borough I think there were between 5% and 8% surplus places, where previously there had been as much as 20% in some schools, or even 30%. We did an awful lot of rationalisation of our whole school stock during that process.

Mr Laws: There may have been parts of the country that were doing sensible, rational things. You obviously know more about that area than I do. Our view as a Department, which seemed to be echoed in the Public Accounts Committee report, is that there are other areas that took out too much and have problems. They did not have an adequate buffer, basically. If

we had started with a more adequate buffer in some places in 2010, some of the pressures that we are seeing now probably would not be coming through.

Q12 Chair: You said that some areas may have done it correctly and not others. There is a joint responsibility between DfE and local authorities in the planning of school places. How much of the responsibility lies with DfE, pre or post-2010, and how much lies with local authorities?

Mr Laws: The legal responsibility is with local authorities and prior to the 2000s, national Governments tended to rely on local authorities to do most of the dealing with basic need. A lot of it used to be money that local authorities would borrow rather than get from central Government. Over the period from 2004 onwards, but stepping up a lot since 2010, central Government are, first, taking a bigger and bigger responsibility for funding the places directly, rather than leaving them to local authorities. Secondly, we are making sure that the mechanisms we use to disburse that money centrally are much more accurate in getting the money through to the right places. At times prior to 2010, bidding rounds would be used, with estimates of the increase in the population that were not tied in to the amount of spare capacity. Money was allocated on the basis of growth of pupil numbers, rather than growth of pupil numbers taking into account the needs at local level.

At the moment, we are in the middle of looking at the school capacity data that we are getting in for 2013, and refining the way in which we understand this data, making sure that we allocate it more sensibly and expecting more of local authorities in terms of the information that they give us. That will ensure that the money that is now increasingly coming from central Government rather than local authorities for this purpose is spent properly.

Q13 Chair: But in answer to my question, how much culpability for the current situation lies with the centre and how much with local authorities? Let us look at London, where there is a lot of pressure.

Mr Laws: The culpability prior to 2010 for failing to recognise that the primary population was eventually going to turn up lies with the Government, because the decision is a central one and the money would then percolate down to local authorities. If we look at individual local authorities, we find that different authorities dealt with these things in different ways. Some of them had higher buffers and some of them had lower buffers. They cannot escape all responsibility simply because the Government before 2010 was rather slow off the mark in responding to the signal that a big bulge in the population would come through.

Q14 Siobhain McDonagh: My experience, not only as an MP, but previously as a councillor, is that councils, under Governments of all persuasions, are incentivised to reduce the number of spare places. There was not much time for buffers. As a Londoner, the experience in places such as Barking and Dagenham and Croydon is that the changes in the population numbers and the numbers of young children have been totally unplanned, because

of the movement of people in and around London. If you look at the recent data on poverty in London—these are not my areas—both Enfield and Croydon have seen a complete transformation in their populations in the past three years, in terms of poverty, private renting and in-work poverty. We are seeing huge movements of people in and around outer London.

Mr Laws: Yes, I think there are a few points there. First, you are right: part of the problem prior to 2010 was that the previous Government incentivised local authorities to take out capacity even when it was going to be needed. One would, however, have to judge local authorities by how much they rammed down their buffer prior to 2010, and I suspect that there would be a dispersion of experience. In any case, local authorities are responsible for making the local forecasts about pupil population.

Where I agree with you more is on the movements of population that we are now seeing, particularly in areas such as London and particularly with the amount of immigration into the country and migration within the London and south-east area. There are some quite big changes taking place at quite short notice, which authorities need to ensure they plan for carefully. Those changes mean that there is a greater volatility in some of these areas, particularly, I suspect, in London, compared with some of our more rural counties. Those authorities need to take that into account and we in government need to be aware of it, too.

Q15 Bill Esterson: Following the point about what various Governments did, there was a significant primary capital programme under the previous Government, which had £400 million a year aimed at the hotspots from 2007-08 onwards. I was a councillor in the south-east at that time—like Siobhain had been, although she was an MP by then—and the money was sizeable and was there. The problem had been recognised. That programme ended when the coalition came in and there was a 60% cut in capital. I am not sure where you are going with your comments.

Mr Laws: You are right that at the end of the period of Labour being in power, there was a lot of capital expenditure on the schools estate. It was probably at record levels, but the vast majority of it was going into things such as Building Schools for the Future, which was trying to rebuild—

Q16 Bill Esterson: I was asking about the primary capital programme. It was significant.

Mr Laws: A lot of the primary capital was going to rebuild existing schools and to facilitate the mergers of existing schools, such as infant and junior schools.

Q17 Bill Esterson: But that was local decision making, was it not?

Mr Laws: Well, no. It was actually being driven by central Government. To get that primary capital—I had it in my area—you often had to be willing to merge some of the existing schools.

Q18 Bill Esterson: No, you had to demonstrate what your place needs were and come up with your programme on the back of that. That was how the programme worked.

Mr Laws: Let me cite the evidence. First, primary places still declined by some 80,000 between 2007 and 2010, even though we had known since 2003 that pupil numbers were rising. To go through the significance of what we did as a coalition Government on basic need, yes, we did decide to cut back on Building Schools for the Future, for rational reasons. On basic need, the previous Government funded basic need at around £400 million to £500 million a year. That stepped up in 2010-11 to almost £700 million. It then doubled to £1.4 billion. It has then been £1.3 billion and it will be £2.4 billion for 2013-15. We now have a settlement for basic need from the Treasury, which, as you will know, is going right through to 2021 and is very helpful. That is spending at the rate of between £2.25 billion early on and, even using the lowest figure for 2020, £850 million, which is twice the previous level. So there has been a massive increase in the proportion of our capital budget going into basic need, from 6% of the total capital budget—

Q19 Bill Esterson: That's the proportion, but—

Mr Laws: And in absolute terms.

Q20 Bill Esterson: You do recognise that there was a significant cut in the overall capital budget—the 60% figure. You do not dispute that.

Mr Laws: Oh, there certainly was. The total capital budget ran up very high at the end of Labour's time in office in 2007-08 and 2009-10, but it was not funding basic need. Any Government would have had to scale back on that capital programme because it was not affordable, but we multiplied two or three times the amount of money we were putting into basic need in absolute terms. We increased basic need as a share of the total capital budget from 6% in 2007-08 to what will be 39% in 2018-19. It is about 28% or 29% now, so we have spent way more as a share of total capital and we have also multiplied it in real cash terms.

Q21 Bill Esterson: Before we carry on with this topic, I want to ask you some questions about yesterday afternoon's debate in Westminster Hall. You might have been expecting this to happen. Right at the end of the debate, after spending a long time avoiding the question about qualified and unqualified teachers, you suggested that you proposed a motion at the Lib Dem conference.

Mr Laws: Yes.

Q22 Bill Esterson: It turns out that you did not. Lord Storey was the mover of the motion—I have the agenda here.

Mr Laws: Sorry, I do not think that I said I actually proposed it; I said I supported it.

Q23 Bill Esterson: You said, “when we passed a motion, which I think I proposed”.

Mr Laws: Well, I certainly had input into the drafting of the motion with Lord Storey beforehand. I fully—

Q24 Bill Esterson: You said, “which I think I proposed”.

Mr Laws: Well, I proposed it in the sense that I worked on it with Lord Storey beforehand. I didn’t mean—

Q25 Bill Esterson: Oh come off it!

Mr Laws: Well, given that I had drafted it along with him, that I am very happy with it, that I voted for it, that I sat in the front of the room next to Nick Clegg—

Q26 Bill Esterson: Anyway, I am not particularly interested in what happened at Lib Dem conference—*[Laughter.]*

Mr Laws: Oh, okay. You should be.

Q27 Bill Esterson: I am rather more interested in your views on qualified and unqualified teachers. The resolution that was passed stated that every child “deserves to be taught by an excellent and appropriately-qualified teacher, or a dedicated professional who is working towards such a qualification.” Is that your position?

Mr Laws: Yes it is.

Q28 Bill Esterson: But that is not the Government’s position, is it?

Mr Laws: No, it isn’t, but quite frankly we are—

Q29 Bill Esterson: So how can you sit there as the Minister of State and say that your position is to support that resolution?

Mr Laws: Because this is a coalition Government. *[Interruption.]*

Chair: Let the Minister answer.

Mr Laws: There is no secret as to what the Liberal Democrat position is. I voted for it, we had a conference thing—it is only because the Labour party appears not to have noticed it that everybody is now claiming that it is some great revelation. We were not trying to keep it secret; we had a great big debate at whatever the conference was. However, quite frankly,

although people are struggling to understand this, Ministers day in, day out, have to speak for a coalition position.

Q30 Bill Esterson: But it was not in the coalition agreement.

Chair: Bill, let him answer.

Mr Laws: There are lots of things that we agree with our coalition partners, routinely, every week, that are not in the coalition agreement. Sometimes both sides completely agree, sometimes we have differences of view. We have to come to compromise solutions. If I went into the House of Commons in Michael Gove's absence abroad to take an urgent question on free schools, answered questions from Members of Parliament and gave the view of the Liberal Democrat party, not the agreed coalition position, he would be entitled to be a bit upset when he came back. I can tell you what would also happen. The next time a Conservative Minister was required to stick to the agreement that we have on taxation policy, social security or a multiplicity of other areas, they would have no sense of responsibility to do so.

This is coalition government. There are times when you agree everything and sometimes there are differences of opinion. We have not kept anything secret—we had it at our conference. I regret the fact that nobody from the Labour party was paying any attention to it, but it was hardly hidden.

Q31 Pat Glass: Minister, you must be able to understand us being confused. You proposed one thing at the Liberal Democrat conference and yet you voted for something else in the House of Commons. Quite honestly, if my party asked me to vote for a policy where we had unqualified teachers, I would not do it.

Mr Laws: But I tell you that if the Labour party ever ends up in a coalition, in either this country, Scotland or Wales, and you are a loyal Member of Parliament—

Pat Glass: Even then I would not do it.

Mr Laws: You would find yourself occasionally voting for things that would not be your first preference, but coalition requires compromises. The Conservatives have made lots of compromises on policies with us. We have compromised with them. If there is a Liberal Democrat Government, you will have the motion that we passed at Liberal Democrat conference, which is not a state secret. If we had wanted to keep our position secret, we would not have debated it at our conference. We hope that people notice these things. We are disappointed that you did not come—I will be happy to send you a free ticket next time.

Q32 Bill Esterson: The difference between qualified teachers, or those moving towards a qualification, and unqualified teachers, and the growth of those, is a fundamental

issue. You cannot be comfortable about your position on something that your party feels so strongly.

Mr Laws: Well, it is an important issue, but let us get it in context. First, at the moment, something like 3% of teachers do not have qualified teacher status.

Q33 Chair: Is that over the whole stock of teachers?

Mr Laws: The whole stock of teachers.

Q34 Chair: So in secondary, where most academies are, it will be rather higher.

Mr Laws: Yes. I am happy to write to the Committee to update it on this.

Q35 Bill Esterson: The figure is much higher in free schools.

Mr Laws: I would have to get the figures on it. I admit that I came to the Committee prepared for questions on capital; I was not expecting this to be discussed.

Bill Esterson: We will get on to that.

Mr Laws: I am happy to answer whatever questions you want to put to me, but my recollection, from the last time I looked at the data, is that, for the stock of teachers teaching in state-maintained schools, it is about 3%, or slightly more than that. The proportion fell slightly between 2010-11 and 2012, I believe. That accounts for 3% or 3.5% of teachers. There is a difference of view, but there are loads of things that our coalition partners are not happy about. They have made loads of compromises from their manifesto and so have we, but that is coalition Government. If people cannot deal with that, they ought not to be in coalitions.

Q36 Bill Esterson: So, just to be clear, you are implementing a policy that you do not agree with.

Mr Laws: The Conservatives are implementing lots of things, while they would prefer to do something else.

Chair: I can heartily support that view.

Bill Esterson: Shall I go back to the questions on school places, Chair?

Chair: No, we will move on to Pat.

Q37 Pat Glass: On planning school places, can I come to the accuracy of your information? As somebody who worked in this area under a Conservative Government and a

Labour Government, I can tell you that there was just as much pressure, if not more, from a Conservative Government to reduce surplus places. On not moving fast enough, in the authority I was working in, the live birth rate halved between 2000 and 2001. You cannot move very fast in those circumstances, but I remember having very robust discussions with officials from the DfEE during the previous Conservative Government who were putting on just as much pressure to take out primary places. The accuracy of the information seems to be patchy, at best. There is a problem, and I accept—

Mr Laws: Which information do—

Pat Glass: The information that comes from local authorities to the DfE on planning school places. What does the Department do to check the accuracy of that data? It appears to be all over the place.

Mr Laws: Well, when we get the data, it comes from local authorities from a number of sources. It comes from: the ONS; localised data; and information that only local authorities will have, such as planning developments and military movements from overseas back to the UK. So it is absolutely right that we have to place a lot of weight on the local authorities because, frankly, they will know more than us at a local level and they have the statutory responsibility for what happens locally.

But we test carefully the nature of the data to see whether it looks right and sensible, and we see how it compares with other authorities. We are in the middle of doing that at the moment. As you probably know, we have the SCAP survey on school capacity, which we have collected for a number of years now. We get the data in from local authorities—we have been getting that in since the middle of the year—and then we spend quite a long time looking at that, testing it and going back to local authorities. Sometimes, they send us the wrong data and make very obvious mistakes, so we run some common-sense checks on it.

I should say, by the way, that without wanting in any way to be unhelpful to the Committee, I have been instructed clearly by officials that because the SCAP 2013 data that we are currently looking at, which will inform our next capital allocation, is being worked on and because it is ONS data, I am not allowed to know about all of it or comment on the precise data we have had in from local authorities over the last couple of months until that is revealed publicly. That is, in a way, consistent with ONS statistics.

We are heavily reliant on local authorities, but we cross-check against other sources. Increasingly, over the last few years, the laissez-faire approach of the past to local authorities—often local authorities just funded this basic need themselves from borrowing on the basis of their own estimates—has become a far more professional and rigorous process. We expect more of local authorities. We try to make the allocations more scientific. In exchange for that, we are basically taking on much more centrally in terms of a share of the basic need funding than used to be the case.

Q38 Pat Glass: Is there any spend to grow in the system? In the authority I worked in, even during the time of cuts under the previous Tory Government, we took out a lot of surplus places simply because schools were in the wrong place. You talk about local pressures. It is not just that the number of live births reduced, it is also that schools—large

capital assets—were simply in the wrong place. People move and therefore we replaced 10% of our primary stock even during the awful pressures under the last Tory Government. One of the reasons we did that, and we took spend-to-grow funding for it, was because we were spending something like £3 million on home-to-school transport because our schools were in the wrong place. You could build, in those days, a pretty good primary school with £3 million. Is there any slack in the system to allow that to happen?

Mr Laws: Yes, I think in two senses. First, a lot of local authorities are obviously doing that sensibly at a local level and making sure that they have not just got school places but that they are accessible. Last year, we made a long overdue change to the system, which is part of the process of developing something that is much better quality than we have had in the past. Instead of looking at the shortage of places at a local authority level—so we would look across the whole of Dorset to see whether there was a shortage of school places—we started to look at planning area data. The problem before was that there might not be any shortage in Manchester, Cornwall or Dorset, but there might be a massive shortage in one part of the county offset by a surplus somewhere else.

If someone came to your constituency surgery and said, “There is a shortage of places in my town,” and you replied, “Well, in the county there isn’t. You can travel an hour down the motorway,” they would be fairly upset. We are using planning area data as well as local authority data, so that if you have one part of a city or a county where there is a hot spot of growth, because there is a lot of local housing demand, but there is a surplus of places somewhere else, we are taking the hot spot into account. We will still give the local authority moneys in the knowledge that, unless they can close down the school and realise a capital asset elsewhere, they will need extra money to build the additional school places in the area that is a hot spot.

Q39 Pat Glass: Okay. Thanks. What action are you taking against local authorities where you give them money for primary and they choose to spend it elsewhere? I am thinking particularly of authorities like Wandsworth, where they have a chronic primary shortage, the Government have made money available for primary and they have spent it on secondary free schools.

Mr Laws: What we are going to do—I am not sure they will have spent it on free schools because we fund those centrally.

Q40 Pat Glass: They have given up buildings and capital money.

Mr Laws: You are right that in the past there was an expectation that local authorities would make these decisions themselves, without a great deal of central accountability. A lot of the money they were borrowing off their own backs rather than getting centrally. What we are now doing—I think the National Audit Office is keen on this at a cross-government level—is saying, “Look, it makes sense to give local authorities some freedom over the way in which they use their moneys, not just in education but elsewhere, but they have to be held to account.” We have to know what they are doing. If we give an area £100 million—we are giving some parts of the country really huge allocations for basic needs, as you know—and it turns out that they use it to fill in potholes and there is a massive shortage of school places,

we want to know that. We will be developing reporting over the next year where we not only do this annual process of collecting data from local authorities to inform our planning and allocation, but we publish data about what local authorities are doing with their money, so that while we don't dictate to them and micro-manage, we hold them to account. If a local authority decides that it will get £100 million for basic need and it wants to fill in potholes then it will have to explain that to us and, more importantly, to you as the local MP and to the local residents.

Q41 Pat Glass: To be fair, Minister, as a senior education officer, I don't think I would worry about that. I will be asked to explain. You will do nothing more than that to authorities that take money for primary places in areas where there are chronic shortages and spend it on something else?

Mr Laws: I think that you would be very worried if you were a senior local government officer, or a councillor for that matter, and you ended up with crisis of school places in your borough, and we were able to say that you were an area in London—there are a number where we have allocated £100 million over three years for basic need—and the data show that you spent it on roads and potholes, and as a consequence, you cannot find school places. I suspect that you, as a council leader or chief executive, would be heading towards the exit door fairly quickly.

Q42 Alex Cunningham: I believe that the Association of Colleges would join in the criticism of a greater emphasis on secondary school places, but they are concerned that we are in a world where the number of people going to sixth-form colleges and further education colleges is showing a drop in some areas, and yet, some schools that are being created—academies and free schools—have sixth-form provision within them, so there is an increase in the number of surplus places in the system. What are the data telling you? Are you planning on doing something about reducing the number of surplus places, rather than creating them at sixth-form level in schools?

Mr Laws: I think that, in terms of how we are allocating money at the moment, we are allocating it to where we see the pressures coming through, which are in primary at present, so we would not be allocating vast amounts of money for secondary places where there is not currently a pressure. At the moment, there is a greater amount of spare capacity in the secondary sector than there was even in 2004, because secondary rolls have been falling until recently. That huge primary bulge will turn around in a few years' time, obviously, and the primary bulge will become a secondary bulge. Some of that will be able to be dealt with by the spare capacity we have in the system, but I suspect that they will also need additional capital.

Obviously, we need to be aware, because of the capital pressures that we have, of the need to allocate scarce funding towards our priorities, and basic need is the first priority. Some colleges are worried about whether we will allocate money to support, for example, school sixth forms, where you already have colleges in place. We need to be very careful about that, but we also need to bear in mind parental preferences and the preferences of students. We are moving now, as you know, from an education system with an expectation

that pupils will leave at 16 to one with an expectation that they will go on, at least, to 18 or beyond. We have lots of educational institutions across the country that end at the old age of 16, and people are expected to leave and go to a college. Sometimes, they will be very happy about that. Sometimes, actually, they would rather have stayed in the school environment, and sometimes they will travel long distances to be in a school environment.

Q43 Alex Cunningham: But are you content, Minister, that with the new system of free schools and academies, allowing them to go through to 18 is creating additional surplus places of post-16 education in the system?

Mr Laws: I am content with it, provided that it is meeting parental demand, and provided that the amount that we allocate to free schools is sensible and does not compromise our basic need. We have been very clear with the Treasury—and the Treasury has been very clear with us—that basic need is our top priority. A very large amount of the free school programme is supporting basic need, but meeting our basic need requirements does not rely on the free school programme, which is about parental choice, innovation and improvements in standards.

Q44 Chair: Specifically, Minister, on the sixth-form issue: do you have any view there? You talk about parental choice, and there is a certain framework you can imagine. It is up to parents and schools, but it is not parental choice, I would say, that is leading to the growth of the sixth forms; it is sort of head teacher choice and an institutional choice to create a sixth form. You can have excellent sixth-form colleges, offering a wide range of subjects and excellent academic results, and then almost an expectation has somehow been created that if you are a good school and academy, you will just provide a sixth form. Do you have any feeling that, at a time of scarce resource, we are creating additional spaces that will lead to children staying on through inertia? You are quite good on all this nudge theory and the rest of it, but we all know about default positions—typically, if people have to tick to make a change, they will not do it. Most people will just stay with the norm, so children who are in a school with a sixth form will all too often just stay on to the sixth form, even though there may be better choices elsewhere.

Mr Laws: Because of our basic need pressures, we are allocating a very tiny amount of our capital to support the expansion of school sixth forms—I do not have the precise figures with me today, but I can send them to you—and that is sensible, given that we have this basic need. But I would not, frankly, be too dismissive of those schools that want to see an expansion into the sixth form. Quite often, that is what young people want. I was at a school a couple of weeks ago where I was talking to students who were coming up to the sixth form, all of whom said they would very much like to stay on at that school but are not able to.

The change in the education leaving age means that we have to question whether the education design is fit for an era in which we are expecting lots of young people to go on until 18. We can think, for example, about whether colleges might want to offer specialist, high-quality vocational education for their area. Some of the academic things could be done by some of the schools, or some of the schools could develop their own vocational expertise.

I see parts of the country where parents and pupils travel long distances to access colleges when they would like to stay on in their local school, or pupils and parents travel long distances out of area to be in a school environment because they don't want to go on to the local offer, which is only a college. To deny those pressures in the education system when a lot of parents and pupils are demonstrating that that is what they want to see would not be wise. We need to be responsive to local demand, even as we say that our top priority has to be ensuring that there are enough places for all the extra children who are coming through; that is the first priority. However, we should not freeze the 16-to-18 sector in stone and say that what was right 10 years ago is right now or in 10 years' time.

Q45 Chair: Is there a danger that every academy will see having a sixth form as a badge of honour? It is not universally true, but there is the danger that we will have small sixth forms that struggle to survive, that focus determinedly on bums on seats to keep open, that offer a limited range of subjects and have far worse outcomes than the sixth-form colleges in their area that offer greater breadth. I am not trying to be negative about all school sixth forms—far from it—but is there a danger that, with the current framework, we are going to drift towards that? Could we be undermining the breadth and quality of our sixth-form college provision and replacing it with weaker school sixth-form provision?

Mr Laws: That is certainly a risk, but it is offset by two things: first, we do not have much capital at the moment to support that type of growth. If a lot of schools came to us and said, "We'd love to have a sixth form. Could we have £1 million for some buildings?" the answer would generally be, "No, we haven't got any capital for that at the current time."

Q46 Alex Cunningham: Minister, what proportion of new free schools and academies have been approved with sixth forms?

Mr Laws: Can I come back to that in a moment? I will answer the Chairman first.

There is a capital constraint to all this. There is also in most areas a strong presumption that these types of changes will be made on a co-operative basis. In a lot of the areas I know the head teachers would not think of making big, dramatic changes without consulting. They take their responsibilities to young people in the area seriously, and they want to ensure that there is some coherence of provision. We would often expect that as a condition of putting capital into it. Just as there is a risk of creating the turbulence you are worried about, there is also a risk of suppressing genuine, legitimate demand and causing young people to travel unnecessary distances, because we are trying to tell them what education system they deserve, rather than responding to their concerns.

On free schools, I do not have with me the figures that indicate the proportion of the free school capacity that is secondary, rather than primary, but it is a reasonably high percentage. If you will allow me to do so, Chairman, I will write to you both on the free schools—

Q47 Alex Cunningham: The free schools and academies approved with sixth forms.

Mr Laws: I am very happy to send you a letter, if that would be acceptable, with any information we have got on that.

Q48 Pat Glass: Very quickly, Minister, the movement behind tertiary education in the first place was exactly what the Chair was talking about. We had a huge array of very small sixth forms, making a very limited and, in many cases, a very poor offer to young people. On balance, I feel that we need to have a mixed economy, so that young people and their parents have got the right choice between a sixth form for them or a sixth-form college. Are these things being determined by head teachers, or are they being determined by the needs of the community?

Mr Laws: They are being determined by input from parents, local authorities, head teachers and the Government. The risks of us moving too rapidly are finely balanced with the risk of us not reflecting local demand and pressures. We are moving to a system where we are expecting most young people to want to stay on way beyond the old age of 16. That is a positive thing. There are parts of the country in which the education system is just not designed for that. There are parts of the country in which if you want to stay in a school sixth form in a large town you cannot do it; you have to travel a long distance. That is not what parents or pupils want. It often means that you cannot attract good teachers into schools because they want to be able to teach in the sixth form. In some parts of the country, it should be possible for everyone involved in education to get together to devise a better offer for young people that reflects what they want, rather than what we want to give them.

Q49 Chair: We on this Committee obsess about the incentives in the system. We think that the framework and the incentives it drives dictate so much of the behaviour. You have got to focus relentlessly on trying. We do so partially to understand those incentives and to see what happens to make sure what you are getting is aligned with the best interests of the people, rather than the way the framework determines it. It feels a little as if, once the capital constraints relax a little, we have created a situation in which 11-to-16 academies are going to want to have a sixth form. It is worthy of further reflection and review to make sure that we don't end up weakening excellent provision and replacing it with weaker provision.

Mr Laws: I shall certainly ask my officials to have a look at that and give me some advice on it. My sense from the data—I may be wrong—is that there are some large areas where that is not happening very much, either because of capital constraints or because of the natural desire of people in education, which is probably a good thing, to co-operate and work together. There are quite a lot of areas where head teachers want to have a sixth form, but because of the capital constraints and because they don't want to fall out with other schools that don't have sixth forms, have a row with the colleges, disturb the pattern of education and end up with unsustainable sixth forms, they stick with the status quo. A lot of parents are voting with their feet and taking their children out after the sixth form and not even putting them into the school and sending them somewhere else instead. But I will reflect on your comments.

Q50 Chair: The most important single issue in the education system is the quality of teaching. I put it to you that one of the benefits of having the 11-to-16 and the 16-to-18 split is that the shortage of specialist teachers is less acute in 11 to 16. Effectively, you always want someone to have been educated at least two levels above the level that they are teaching. People may have to travel a bit further, but it is easier to have specialist physics, maths and other teachers in a sixth-form college than it is to ensure you have always got them in place across an 11-to-18 school. You are not serving someone well at a sixth form if they are being taught physics by someone who has very little physics.

Mr Laws: You are quite right. There are certain areas, such as engineering in some parts of the country, where there are really high-quality institutions and young people want to go into those professions. At the moment, that engineering might be provided by one institution that has got the critical mass, but if four or five institutions tried to do it, it could be wasteful and could reduce the quality. That does not necessarily mean that the existing pattern is right or that schools could not have sixth forms which would allow the college to specialise in one area and the school in another. I do not want to come across as though I have a dogmatic, ideological obsession with having loads more school sixth forms. I don't. I just think the risks of moving too fast or too slowly are finely balanced.

Chair: We simply wanted to raise the issue so you could have a think through that framework to make sure we do get the best possible frameworks.

Q51 Ian Mearns: Following that theme, students making the transition into post-16 education, whether it is in a sixth-form college or a further education college, have got to have access to good-quality, independent, impartial advice and guidance. Otherwise there is a real danger that they are going to get an awful lot of guidance from an institution that simply wants their bum on a seat because it provides an age-weighted pupil unit or a unit of funding. I remember that our late colleague Malcolm Wicks when he was shadow Education Minister said that some of the advice and guidance being imparted by some institutions to young people was akin to pensions mis-selling, because it was based on the needs of the institution, rather than on the needs of the young person. You must reflect on how we make sure that the quality of provision is good and that the advice and guidance leading young people to that provision is also of a significant quality.

Mr Laws: That is an important point: first, that the advice and guidance about careers and choices is good quality, and secondly that it is impartial and based on the student's interest and not the institution's. We have looked at this quite closely recently. Ofsted has raised some concerns about the quality and consistency of advice and guidance in some of our schools, and it is important that we make sure that young people can get proper, impartial advice.

It is a question that I often ask when I go around schools in the country and I hear quite positive things about the school's willingness to engage with the other local education providers to make sure that there is a positive choice. But clearly if there is an incentive for an institution to keep people on, there is a risk that they might not be quite as open to young people being exposed to other institutions at key moments, as otherwise would be the case. At the moment, there is a review of this whole area of 16-to-24 provision going on in Government, led by the Cabinet Secretary. This issue is being looked at as part of that

review; also by the Department and by Matthew Hancock at the Department for Business, Innovation and Skills, as part of the response to the Ofsted report.

Q52 Ian Mearns: From my perspective, what remains of impartial advice and guidance around the country does not look as robust as it used to be. That is my observation.

Chair: And it wasn't very good then.

Ian Mearns: No, indeed. Primary schools are a mixed bag. For instance, in my area the largest primary schools would be a 2FE, many are 1FE, but around the country there are different models with large primary schools. Does the DfE have a policy on the optimum size for a primary school, and do you have any evidence about what impact the size of a primary school has on young people's education? Does size matter?

Mr Laws: We do not think that there is strong evidence linking the size of a primary school to its outcomes. Officials mentioned to me in preparation for this session Gascoigne primary school, in Barking and Dagenham. It has 1,100 pupils and its recent Ofsted report is extremely positive. We also still have a lot of primary schools across the country which are very small: 36% of the 16,784 primary schools have 200 pupils or fewer. Since 2008, there has been little change so far to the average size of primary school. Obviously, in some parts of the country where there are pressures there will be increases. So I do not think we have any clinching evidence.

As this Committee will be aware, some big schools use good ways of breaking themselves down so that they feel smaller in scale, so often the raw number may not be how people experience the school.

Q53 Ian Mearns: Given the tensions and pressures that we talked about earlier, with shifts in population and growth in the birth rate, are you now content for schools to breach the legal requirement that key stage 1 classes should not exceed 30 pupils?

Mr Laws: It is clearly not something that we want. Like the previous Government, we want to try to keep class sizes at a low level, but we accept that there can be exceptions. Under all Governments since the legislation on infant class sizes in 1998, there has been a series of exemptions, which you will be well aware of. There are eight or nine of them. You probably also know that we added slightly to them in the schools admissions code 2012, when we added in some more exemptions for twins and multiple births, and for service children admitted outside the normal admissions cycle. We think it is right that there should be some exemptions, but we do not want to move away from the principle introduced by the previous Government.

Q54 Ian Mearns: So while accepting the odd exemptions here and there, broadly speaking, you do not want to move away from the limit of 30 children per class.

Mr Laws: No, we want to supply enough capital to ensure that young people at that age can remain in reasonably sized classes. While very good schools can sometimes teach

well in larger classes, some of the evidence suggests that going above the 30 limit can have an impact. It is sensible to have some modest exemptions, but we do not want to move away from the 30 limit.

Q55 Ian Mearns: Will you keep an eye on that, Minister, and report back if we find that many schools around the country, for one reason or another, breach the limit and if it looks as if that is outwith the exemptions that you have talked about?

Mr Laws: Yes. You will no doubt see it anyway. I think we publish annually, even if it is not subject to parliamentary question, the proportion of all infant classes that are above the 30 limit. We published that quite recently. According to the latest school census, 4.1% of infant classes had more than 30 pupils. That has risen slightly over the past couple of years, and we want to keep an eye on that. We hope that, as we respond to the basic need pressures, which we had to respond to pretty quickly in 2010 for reasons that we have already rehearsed, it will be possible to keep within the 30 limit, apart from these exemptions that the previous Government had, which we think are very sensible, and the small changes that we have made on multiple births and service children.

Q56 Ian Mearns: Given the fact that we have got these stresses and tensions in the number of school places, are you monitoring the impact on the quality of children's education? Local authorities and schools are coming up with some interesting solutions to the problem. Are you monitoring the situation to ensure that children in more disadvantaged areas are not suffering educationally because of the solutions that are being sought, even if they are temporary?

Mr Laws: We have no evidence of that. I have to say that I regularly sign lots of letters back to constituency MPs and others, and that concern has not been raised with me. We do not have the ability to send people from our Department into individual schools to look at things, but we would certainly expect to pick this up from Ofsted if there were concerns of that type that impacted on the quality of education. We have regular meetings with Sir Michael Wilshaw and, as far as I am aware, he has not raised that concern with us.

Q57 Ian Mearns: In that case, I am wondering whether a number of specific questions need to be asked about that. In the past, I have heard ministerial answers along the lines of, "We have no evidence of that," but that was because no evidence had been sought. I wonder whether that is something specific that you might want to look at.

Mr Laws: Yes, it is certainly something that we will keep an eye on. The question is on how we could usefully dedicate any resources to it when we already have a schools inspectorate that is there. I can certainly, following your questioning—obviously, you can do this yourselves as a Committee when you see him—raise it with Sir Michael Wilshaw next time I see him and ask him to ensure that inspectors keep an eye on it. I will be seeing him soon. I think that, so far, most schools have been responding to this issue in a sensible way and have been putting the interests of children first. We have not got evidence of it being a problem.

Q58 Siobhain McDonagh: In reply to an earlier question about the building of sixth forms versus tertiary colleges and all the rest of it, you mentioned people looking for £1 million of capital funding, but £1 million will not take you very far. My constituency is Mitcham and Morden in south London, and the borough is Merton. Currently, they are building 28 good primary schools. They calculate that putting on an additional class costs between £4 million and £5 million, because of all the other additional things that are being done in the school. One of the pressures that is coming up, particularly in the better-off areas in Wimbledon, is people's concerns about playgrounds and outside school space. Many schools are having to use some of that space to provide more classes. Where do your priorities lie on the need for school places and the importance of outdoor activity and sport for children?

Mr Laws: On the two questions you have asked, the first is about the cost of school places. We obviously come up with estimates to make a sensible capital allocation so that people have enough money to build school places. The latest data we used, in spending review 2013—obviously, this is a national figure, and it will be higher or lower in different areas, depending on their cost pressures—was that it cost about £10,400 per primary place and £13,100 per secondary place. One of the good things about our school building programme, including the Priority School Building programme that is replacing some of the worst-condition schools, is that, because of the economic problems that have driven down building costs, and because we are procuring, we think, much more efficiently than was the case in the past, we are managing to get the costs of brand-new school places—not just additions to existing school buildings—down to levels which are even lower than our estimates in spending review 2013. For example, estimates we have for the Priority School Building programme indicate that we are building primary school places, in many cases, at £9,500 a pupil and secondary school places at £12,250. Your estimate of £4 million to £5 million for a class sounds pretty expensive to me. I do not know what kind of classes they are building in your area.

Siobhain McDonagh: You can come and have a look at them. You are very welcome any time.

Mr Laws: They sound extremely nice; they must have a waiting room for the local MP.

Q59 Chair: Before you move on, could you, by comparison, tell us what was happening under Building Schools for the Future?

Mr Laws: I could write to you about it, because I do not have the exact figure here. We recently got some data from the people running the Priority School Building programme, who are very proud of the job they are doing in driving costs down, and it is a massive reduction—of the order of 40% or 50%. I would like to be sure about the actual numbers before we put too much on the record, so if you will allow me to write to you, I will clarify that. We reckon that we are now building at a much reduced cost. Some of that is about building more standardised schools.

Q60 Chair: As the MP for Beverley and Holderness, I find it infuriating to see these vast and ludicrously expensive cathedrals in certain places in Hull, when there are absolutely run-down schools in my area. You are sitting there thinking that three schools could have been done for the price of two.

Mr Laws: Some of them were lovely, but they are very expensive.

Q61 Siobhain McDonagh: I would like you to address the question about sport, but I would just like to say that, for most schools, particularly in urban areas, and particularly in London, it is tough to think about going out to build a whole new school, because of access to sites and the possibility of buying land. What most councils do to deal with the places crisis is build on schools that already exist.

Mr Laws: You are quite right, and our existing assumptions are that 85% of the new places will be in existing schools, and only 15% in new schools. We need to test that this year to see whether it is the same in London, because it might eventually be that existing schools cannot take more pupils. It will be more expensive to build brand-new schools than simply to add on to existing institutions.

Q62 Siobhain McDonagh: I would warn against any hubris about costs, because our experience in London is that they are going only one way, and that is certainly not down. The competition from house building and other sorts of building and the difficulty with access to sites are a real challenge.

Mr Laws: There will be—I think you are right—pressures in areas such as London, and they could be considerably greater than in other parts of the country. One of the things we will get out of the school capacity data this year is a really clear idea about how much it costs to build school places across the country, including in London, and how the figures vary from local authority area to local authority area, so we will be able to tell who is building them cheaply and who is not, even in areas that look the same. On your other question about—

Q63 Siobhain McDonagh: Outdoor activity and sport.

Mr Laws: We place a very high premium on making sure that schools have enough outdoor space for sport and other activities. That is why we have all the controls that were put in place by the previous Government, with the school playing fields advisory committee. We also have to authorise one by one any requests that are made for existing schools to use their outdoor space to build new classrooms. When we do that, we take into account whether that will damage the sporting facilities of the school. We also take into account, and look particularly closely at, whether that would, in any cases, put the school below the amount of outdoor space that our new regulations expect schools to have. We have assumptions about how much space a school should have to meet its needs, and we look very carefully at that to ensure that we are not allowing classes to be built that put that in danger. The numbers of

those that we have approved so far—I do not think that we have put this in the public domain—is that in the order of about 100 schools, out of the 23,500 that have recently asked for the ability to build on their sites, we have looked at that and granted permission.

Q64 Chair: Do you know what percentage that is of ones that have applied?

Mr Laws: I will have to come back to you about that, having checked that I have got the figures right. My impression is that it will be quite a high proportion, because schools generally have a reasonable amount of outdoor space and are usually very careful, in applying for this, to make sure that they are not putting that outdoor space at risk.

Q65 Mr Ward: On Monday, I was in a C of E school in Bradford that is being asked to go from one-form entry to two-form entry. One of the issues in planning school places is that the school has the right just to say no, which makes it very difficult for the local authority to meet its statutory need. I am interested in your costings. Is the money to be made available simply to enable classroom space to be expanded from one-form entry to two-form entry, or will it include additional provision for an extra dining hall or sports hall?

Mr Laws: I might have to come back to you with a more detailed answer, but that will be based on our estimate for the average school place. We devolve to local authorities the capital, on the basis of our estimate of all the costs of an additional school place that are relevant to a school building. In the allocations that we make, there will be a weighting that will take into account the need for those communal facilities. In some kinds of buildings, the local authority will not need to increase the dining room or other spaces, because they may have sufficient space already; in other cases, they will need to do so. The average amount per space they have will be enough money, over the school estate as a whole, to allow them to do that in schools that need extra capacity.

Q66 Siobhain McDonagh: Do you agree with Margaret Hodge—it is better to do so—that “educational opportunities and standards might be diminished if specialist areas, such as music rooms and libraries, are converted into classrooms”? We shall tell her your response.

Mr Laws: I do not want to be dragged in front of her, so I will say that music rooms and other facilities are incredibly important. I am not going to prescribe to a school what sort of space it should have for library facilities. I know lots of schools that do imaginative things with their libraries, or place them in particular multi-purpose spaces. Schools should always be thinking about using their school’s estate sensibly.

I certainly would not want to get to a stage where we were assuming that, to deal with basic need or places, we could use parts of a school that we need for other core school purposes, including making sure that we can educate young people who might need one-to-one and small group tuition, which you need spaces in schools to do. We do not want to rely on squeezing that type of capability and capacity out of the system.

Q67 Chair: In the context of this mix of real pressure on school places, shortage of capital and shortage of physical space, what are the implications of the new offer of free school meals during children's first three years at school? Are there implications for the size of kitchens? Have you done any work on the capacity of schools to deliver that?

Mr Laws: Yes. Schools will be in three different positions in relation to the free school meals for infant-school pupils policy, which has generally been very much welcomed by schools: some will clearly have kitchen facilities that are quite adequate and will not need to be increased, and a lot of infant and primary schools have a reasonably high take-up, so those schools will not need to make a change; some will already be using outside providers of food, including secondary schools and other institutions, and they will simply increase the amount of food brought in; and some will want to enhance their kitchen facilities, or might decide not only that they need an enhanced facility because they are now serving more meals but, because we have done this and they are going to be serving, we hope, many more healthy hot meals—

Q68 Chair: I do not understand the reference to secondary schools.

Mr Laws: In my experience of rural areas, there are many primary schools that actually use the catering and cooking facilities at the secondary school and then bring the meals a short distance to the primary school. We will have schools in all of those three cases. Some will need no additional investment, and some of them will. At the moment we are looking at that as a Department, and we are talking actively to local authorities to make an assessment of how much capital they will need to deliver that.

Q69 Chair: So at the moment, for this particular undertaking, you have no idea what the capital implication is?

Mr Laws: We have some early estimates of it, and we had some early estimates when we made the announcement.

Q70 Chair: Can you share those with the Committee?

Mr Laws: I would rather firm up those estimates a bit more first.

Q71 Chair: Is that an unusual way to make policy? I would have thought that before making the promise you would do the work and find out what it costs. It seems very odd to make a promise without doing the costing. The little costing you have done is so tentative that you cannot even share it with us.

Mr Laws: We did some sensible work, which I think will be robust and hold up to scrutiny. But as we are currently in the process of consulting local authorities on that and refining our estimate, I would rather come back to you when I have something more refined to offer, rather than those earlier indications.

Q72 Chair: As you have announced it and, as Pat rightly says in my ear, our job is to be the scrutineers, it is a pretty reasonable question to ask and you are unable to answer it. I think that should go on the record as being a bit of a failure.

Mr Laws: I will be able to answer it very soon. We did a lot of work before the announcement to cost the revenue side of it and to come with estimates on capital.

Q73 Chair: Can you tell us about those while you are at it?

Mr Laws: First, we had to come up with estimates of what the take-up will be, of the existing take-up and of the cost per school meal. We had to discuss that in Government and in the Department, and we had to agree it with the Treasury before the announcement. We knew, obviously, that there would be a demand in some schools for additional capital equipment. We have views on that, and we have had previous bidding rounds across the country, under this Government and its predecessor, for extra investment in school kitchens, which can enable us to make some sensible assumptions, but we are now in the process of refining those to come up with something that is not just a sensible, rational assumption but a detailed figure that we would want to share with the Treasury and within the Department. Once we have done that to a standard that meets the high standards of this Committee, I would be happy to share that information with you.

Q74 Chair: Through that, am I to understand not only that you cannot give us the slightest sense of what the capital cost would be but that you are not prepared to share the revenue cost with us, either?

Mr Laws: I think we have already stated that publicly. We have given a sort of range of the revenue costs.

Q75 Chair: The figure I remember is £600 million.

Mr Laws: Yes. I think the figure that we gave for the entire announcement, which includes not just free school meals in infant schools but, as you know, free school meals for disadvantaged youngsters in colleges to put them on the same basis as schools, would be in the range of £650 million to £700 million in revenue terms. That is the thing that is much easier to estimate. Obviously, to estimate the precise change in each school kitchen across the country on the policy is much more difficult, because schools are in very different positions: some import the food from other institutions and will continue to do so; some have adequate kitchens; and some will need enhancements.

Q76 Chair: So you said.

Mr Laws: And, actually, you need detailed localised information about that in order to come up with—

Q77 Chair: We do not want to go too long on that. How much of the £650 million to £700 million cost is to deliver—I am speaking entirely personally, but I think I can speak for the Committee—the extremely welcome commitment to provide free school meals to 17 and 18-year-olds at college? How much of the figure is for that?

Mr Laws: To you give you an idea, and we will confirm the final figures either in the autumn statement or just before the autumn statement, I think it will be in the range of £35 million to £45 million. The college component is very much the smaller part.

Chair: Thank you.

Q78 Craig Whittaker: Good morning, Minister. Parental choice is obviously a big thing for this Government, so I wonder whether you could respond to the criticisms in some sectors that the lack of school places is a farce when it comes to parental choice.

Mr Laws: You are quite right that we believe in parents having some choice in the system. We do not think that it is appropriate in individual areas for there to be no surplus capacity, because that would mean effectively that it was difficult for parents to exercise choice. One of the things that we are looking at in our review this year—I think that the Permanent Secretary said this when he went before the Public Accounts Committee—is what reasonable surplus capacity would look like. Previous Governments have always assumed that you would need to have something like 5% surplus capacity in the system in a particular local area to have choice, but it might be that in some areas you need more than that.

Obviously, the figures nationally at the moment include a degree of surplus capacity. We have something like 838,000 surplus places in secondary and primary across the country. The secondary surplus places have been rising in number over the period since 2004 and, obviously, the primary places have been declining, particularly since 2008, which was about when the increase in the birth rate in 2003 started to come through. So, at the moment, we have about 10% unfilled primary places and 11.3% secondary across the country, but, as we discussed earlier, that could be very different in different areas—there could be some big surpluses in some areas, but some pressures in others.

Q79 Craig Whittaker: Sure. How do you explain to parents that you strongly believe that parental choice is a big part of the child's education, and yet in some areas they cannot get it? What are we doing as a Government to change that perception and reality?

Mr Laws: We are making sure that our capital allocations, which have got ever more detailed, measured and data-informed, ensure that local authorities have got enough money to meet the extra places in their area and the additional cost—the allocations are area-specific as much as possible—and to maintain a sensible amount of surplus capacity.

Going back a decade or so, capital allocation by the Department used to be very reliant on the local authorities—it was pretty passive and pretty bid-related—and then we

went through a period of funding additional places on the basis of where the population growth was, but without awareness of where the shortages were and whether you were funding those extra places in an area that already had a surplus. Considering all that, you can see that we are ending up with a much more scientific process. You are right, however, that that scientific process needs to include some assumptions about what type of surplus places we need in individual areas, because that has to be implicit in our allocations to those areas—whether we are funding spare capacity or not.

Q80 Craig Whittaker: May I ask you whether it is acceptable for local authorities just to allocate a place where there is a place, rather than taking into account the holistic needs of children and families generally? We heard from Pat earlier about how in some areas of London people have to move very quickly and there is a lot of churn. Is that, or should it be, a priority for local authorities? Or is it, “As long as we provide a place, we’ve done our job.”?

Mr Laws: Any sensible local authority would not just look at its narrow duties, but also take into account how far children are having to travel, what age they are when they are having to travel and whether, effectively, there is any choice in an area. If, in one of our constituencies, we had a situation where a constituent come along to see us, who was being told that there was a school place in the county in question, but that it just happened to be 20 miles away and was the only place in the entire county, then I do not imagine that our constituent would be particularly impressed or happy about it, even if the narrow duty had been met.

It is sensible for, and we should expect, local authorities to provide the places where they are needed and to provide a degree of margin to ensure that that they not only meet their statutory duties, but have some margin for choice. One of the things that we are doing to help in this area is—as I mentioned earlier—for the first time, in 2013, to inform our allocations not just by whether there is a shortage or a surplus in one local authority area, but also by whether your particular constituency or town has an acute shortage that we are not simply balancing out against some distant part of the local authority area. We are actually saying that you need the places in that area.

Q81 Craig Whittaker: Finally, Ian mentioned earlier some interesting solutions—we have heard radical measures, such as three days a week or split shifts in schools. Do you support those types of solutions to meet the need for places?

Mr Laws: I am not at all attracted to the idea of having some kind of shift system and, from what I have heard so far, neither are local authorities. I do not think that that is necessary and it is not what we are funding from the Department. There might be schools that decide to use their space in imaginative ways. We are all in favour of that and schools can already do it, but I do not think that the answer to this issue is some sort of fundamental shift in the way we arrange the school system, or having people come in on shifts or anything. That would be entirely undesirable. We are giving large amounts of money to local authorities to fund school places in the way that they are currently funded, not to come up with exotic solutions that most of our constituents would think were completely mad.

Q82 Alex Cunningham: Minister, you have acknowledged the cuts the Government made to the previous Government's primary capital programme, but how many places do you think have been lost as a result? Have there been more or fewer places as a result of those cuts?

Mr Laws: For the changes in the primary capital programme itself, I would have to come back to you to give you a more detailed answer. We know that primary places went on falling throughout that period. My understanding and experience was that a large part of the primary capital programme was not focused on basic need. I had a very good primary capital programme school in my constituency under the last Labour Government, but it was not there to supply additional school places; it was to allow an infant and junior school to merge. Quite often, the previous Government used the primary capital programme to incentivise those types of school mergers across the country in order to bring together infant and junior schools rather than to actually create extra spaces.

To give you a comprehensive answer, I would really need to go back to look at the data to be sure of the proportion of the capital programme that was aimed at basic need versus those types of consolidation. We know is that it was not very successful at supplying additional primary places because they have gone down to very low levels. In many of the authorities where the places were taken out, we are now having to put them back in.

Q83 Alex Cunningham: There was some of that in my authority as well, with amalgamations. In Stockton-on-Tees, I was the cabinet member for children and young people, which I enjoyed very much. We opened a new primary school every year—in fact, two in some years—over some 10 or 11-year period. That was using the primary capital programme.

I would like to move on a little. Can you tell us why some bids for the targeted basic need programme from the areas of greatest need have been rejected?

Mr Laws: We had a very good response to the targeted basic need programme. We allocated something like £820 million to schools across the country, which is going to provide another 74,000 places. As you probably know, about 40 of those are new schools entirely and about 300 are expansions of existing good or outstanding schools. We judged the bids against three basic criteria. First, and most importantly, was there a basic need in the area? The targeted basic need programme was for basic need—the clue was in the title. We did receive some bids from areas that did not have basic need. We had some ingenious bids from various parts of the country where I think very good offices were taking a bit of a flyer on whether they could get capital for something that was designed for something else. It was a very worthy attempt, but we could not grant them.

Secondly, we had to look at project deliverability, because obviously we want these things to happen and to happen quickly, and we needed to have evidence that things were happening quickly. Thirdly, we needed to look at capital context. If there was a local authority that did not have a big capital need, should we not bear that in mind compared with other parts of the country with greater need? We went through the bids, made very detailed judgments about them and scrutinised those judgments very carefully.

Q84 Alex Cunningham: But you could have put to use a lot more money and still met what they considered to be essential need.

Mr Laws: Oh yes, because the programme was definitely over-bid.

Q85 Alex Cunningham: Underfunded?

Mr Laws: Not necessarily underfunded. You can only say that it was underfunded if we were not providing adequate capital for basic need as a whole. Any sensible local authority that has a basic need problem would have bid in to this programme for as much money as it could possibly get out. However, we are trying not to just rely on targeted basic need to deliver all the basic need. This is only a portion of basic need; the vast majority, as you know, is allocated directly through to local authorities, so that they can put in place the capacity themselves. We always expected it to be over-bid, and I would have been absolutely amazed had it not been in an environment where there is a lot of basic need. We think we are fully funding basic need in this Parliament, and we have also estimated how much we need for basic need between 2015 and 2021. We bid for an amount from the Treasury in the spending review of 2013, and the Treasury gave us what we said we needed for basic needs. We have got a very good allocation of £7.5 billion for the 2015 to 2021 period, which we think will deal with basic need in that period.

Q86 Alex Cunningham: We look forward to the results of that in a few years' time. You mentioned London, and we have had a discussion about London this morning and Siobhain mentioned high building costs in London. Is London being treated fairly under the new allocations? How much is the capital losing out because we simply can't afford the costs?

Mr Laws: We don't think it is losing out. For the period from 2011 to 2015—in other words, where we have already announced the allocations—London has been allocated 38% of the total basic need allocation. London is saying that it was expecting something like 42%, but that does not necessarily take into account the pressure points that I mentioned earlier in particular parts of the country. It might look like there is a part of the country that does not have basic need, but it does because there is a local need. So it has had an awful lot of basic need. It has also, as you will be delighted about, had about half of the 102 free schools that were recently approved.

Q87 Alex Cunningham: If they were meeting basic need, perhaps.

Mr Laws: Many of them will be, of course. I think all of the primary schools that we approved for 2014 opening were actually in areas of basic need. We are now making very sure of something that London has asked for: we are going to give a fair allocation to London in future and reflect the building costs there. We know there is a massive disbursement of building costs per place in the capital and outside it. We need to come up with a fair estimate for London.

We need to make a judgment about whether our general assumption about the number of new schools versus existing schools is right for the country and for London. Clearly, there might be a point at which some of the London schools eventually said, “We can’t build any further on existing schools. We are going to need to build on new sites and those might be more expensive.” We will look at that very closely as part of the existing capital allocation.

Q88 Alex Cunningham: Are we not getting to a situation where it is time to set aside the academies programme and the free schools programme and just concentrate on basic need of fulfilling these places? Okay, free schools and academies might be the answer in some areas; but fundamentally, we just need to spend money in the inner city areas in particular to address this issue.

Mr Laws: I would agree with you if the free schools programme was competing with the basic need programme, but it is not. What we have done as a Department is said, “How much do we need as basic need?” That is our major priority.

Q89 Alex Cunningham: Couldn’t you accelerate and sort the problem with basic need if you set aside some of the free school programme?

Mr Laws: No, we are sorting the problem with basic need and the challenge. We have asked the Treasury for money to meet our basic needs estimates, and they have given it to us. We have got £12.5 billion or more for basic need that we are going to spend over the 2010 to 2021 period, which is absolutely massive. The Treasury have been very clear with us and we have been clear with them that basic need is the top priority. If we thought jointly that we couldn’t fund the basic need because of the free school programme, we would have to reduce the free school programme. But the free school programme is additional; it does not compromise our basic need objectives. A large amount of it does complement the basic need objectives, because about seven in 10 of these places are in areas of basic need. Actually, Lord Nash who oversees the free school programme is acutely aware of the basic need pressures, even though his programme is not part of our basic need funding.

Q90 Ian Mearns: You stated that in many cases the free school programme is assisting the basic needs issue. However, in the places where it isn’t, is it not making a problem for the local authority and schools by creating surplus places?

Mr Laws: Well, I think there are very few parts of the country that have significant numbers of surplus places that are getting free schools. There may be some where the existing quality of education is very poor. We have always been open about the fact that part of the free school programme—the most important part—is about providing better school places across the country. If there is an area with surplus capacity and parents think the education is lousy and a free school opens and people want to go there, frankly, there may be an issue, but that is the challenge and impetus to school improvement that the free school programme is giving, but it is not compromising basic need.

Q91 Pat Glass: Can I give you some statistics on this? In Suffolk, they have a 30% surplus of secondary places and a shortage in primary, but three free schools—all secondary—have been approved. In Hull, there is a 28% surplus in secondary and one new 600-place secondary school has been approved. Central Bedfordshire is projected to have a 25% surplus in secondary and a 42% shortage in primary. One new secondary has been approved, but there are no new primaries. In Bedford, the Bedford free school will add to a projected 25% secondary surplus, but there is a 38.2% shortage in primary. In Consett, in my constituency, someone is trying to set up a primary free school. We have five primaries, all of which are good or outstanding and have a surplus of places of more than 10%. Anybody looking at this from the outside would say that this is the product of a deranged mind or a Secretary of State with too much money and not enough sense. Those are the figures.

Mr Laws: Let's see what parents think. If the schools in the areas that you cite—

Pat Glass: The recent data from parents—

Chair: Let the Minister answer.

Q92 Pat Glass: The recent data from parents shows that they are not in favour of this. It is madness.

Mr Laws: The parents will decide. If they do not want to go to the free schools that you mention, that will be evident and those schools will presumably not be around for very long. It is the parents who will decide. As you said, we have 174 open free schools and 115 in the pipeline, so we are heading towards some 300. The majority of those—70%—are in areas of basic need. You have been able to cite some that are not. I do not have the figures that you have, but—

Q93 Pat Glass: This is leading to an overspend of £1 billion.

Mr Laws: It is not. The entire free school programme is—

Pat Glass: Overspending by £1 billion.

Mr Laws: No. The entire free school programme is £275 million in 2012-13. It goes up to £570 million and goes down by 2017-18 to £310 million. That is within the context of £21 billion that we have just been allocated for capital.

Q94 Pat Glass: The academies and free schools programme has an overspend of £1 billion. That is the information that we have.

Mr Laws: I am not sure whether you are talking about revenue funding, where, because academisation has happened rapidly—

Q95 Pat Glass: At the end of the day, Minister, this is all taxpayers' money.

Mr Laws: It is taxpayers' money, which is being prioritised on basic need, which is what I think is sensible, but which is also allowing some schools to open in areas where somebody who is a provider has come forward and thinks they can make a success of it. If those schools open in areas where they are unpopular and unwanted because all the schools are outstanding, they will not do very well. Not only will they—

Bill Esterson: They are a waste of money.

Chair: David.

Q96 Mr Ward: Last week, a new free school, which I know very well, opened in Bradford at the football club. The area has had high growth in the school-age population and there is a need for additional places, but not an awful lot of the children who will go to that school are from that area. Of the 70% of free schools within areas of basic need, what proportion of children attending those schools are actually from those areas?

Mr Laws: I would have to check what data we have on that, as I do not have data on that to hand. In many such areas, however, it will be serving the local population and many of the free schools that I have talked to have talked about their popularity with the local population. Quite often, other schools are either not very popular or the free schools are offering an innovative and different education experience that some parents want to take up. If they do not want to take it up, frankly, they do not have to.

Q97 Craig Whittaker: I just wanted to follow up on David's question. The free school about which he speaks is actually giving young people who would not normally have a chance in other schools in the area a second chance at doing well in education. How many free schools are offering that type of alternative education for young people who would fail in the normal system and who are not being accommodated by local authorities?

Mr Laws: I confess that I do not have that statistic with me, but I would be happy to come back to the Committee about that.

Q98 Alex Cunningham: Local authorities need certainty in funding in the longer term when commissioning new school places. Do you have any plans to give them longer-term funding to help them with their planning and development of new places?

Mr Laws: I think that is a sensible idea for us to look at, and we are considering that actively at the present time. We have obviously allocated the basic need capital for 2013-14—for the two years until the end of this Parliament already. You will know that last year, we made a two-year allocation of basic need capital for the first time. We did that for the common-sense reason that you want to give local authorities plenty of time to plan ahead. We will consider, before the next allocation, whether it should be a multi-year allocation. We have been given our basic need capital by the Treasury out all the way to 2021, which is immensely helpful.

Q99 Alex Cunningham: So you could do it this year, if you wanted to?

Mr Laws: Theoretically. There are two things that constrain our decision. First, we need to have all the facts and figures to hand to ensure that we allocate the money in the right way to the right areas. That is what we are gathering through the SCAP process at the moment, ensuring that the data is high quality and analysing them to ensure that we have the right judgments about the per-pupil amounts across the country.

Secondly, we need to make a judgment about how long we allocate it for. Do we go back to doing it, as was done at one stage in the past, year by year? Do we do it for two years? Theoretically, with the approval of the Treasury, we could go all the way out to 2021, because they have given it out that long. However, there are dangers of going out that far. The pretty obvious one is that the further out in time you go, the riskier the allocation is. I have a feeling that it might have been that the National Audit Office published some charts in one of its reports on basic need, which showed the measure of risk and variation in the outcome as you go one, two, three and four years ahead. It is quite big.

For some of the reasons that members of the Committee have given, where you get a large influx of migrant population, there are sometimes good reasons why the forecasts change. Personally, I think it would be incredibly unlikely that we would want to allocate the full amount out to 2021, because it would be extremely dangerous. We would find ourselves having to recover it from local authorities halfway through and send it to other areas.

Q100 Alex Cunningham: I think we all understand that. Your pupil projections have been all over the place for decades, and nature always trumps the statisticians. But how can you prioritise in an effective way and give local authorities the comfort that they can get on with the job?

The second part of the question is that there is clear certainty about what is going to happen with secondary schools in another three or four years' time—this bulge going through primary is moving into secondary. So you can give some certainty there for longer-term funding, can you not?

Mr Laws: Well, we have certainty in that, as you are hinting at, it is usual when children go into primary that they will eventually pop out into secondary. Those assumptions are rational. However, in some parts of the country, such as inner London, a primary school pupil in one part of inner London might not pop out in the same borough when they get to secondary. The allocation down to that level is riskier.

I think we can do two things. The first is to try to figure out what the right balance is between long-termism—for good reasons—but not take big risks. The other is that we can ensure that our data is much more accurate.

Don't forget; it wasn't so many years since the Government were allocating capital in a bid-based and uninformed way, and it wasn't all that long since we were just looking at how many new pupils were going to turn up in an area and giving money to that area regardless of how many surplus places it had. Now we are trying—making the job of our officials much more difficult, but it is important to do this—to take into account all those

different factors. The more we can do that, and the more confident we are about the figures, the more we can make the longer-term allocations, which make sense, when you are trying to build for the future.

Q101 Siobhain McDonagh: In 2012-13, the average local authority contribution to the provision of school places was 34%, when the September 2010 funding bid assumed that it would be just 20%. Given that nearly two thirds of authorities surveyed by the NAO are making the contribution with funds intended for maintenance of existing schools, is this storing up future trouble for school maintenance?

Mr Laws: Looking at the spending review period as a whole, we don't think so. You probably know that the Permanent Secretary gave evidence on this to the Public Accounts Committee. We think that over the 2010 to 2015 period, the £5.1 billion that we have put in, which includes all the targeted basic need, should actually fund places to the degree that we originally expected and should fully fund the school places. What is difficult to know is how much local authorities are being able to use things such as section 106 receipts. We think, on the most recent data, that local authorities probably get around 6% of their capital spending for basic need from section 106, so they would not necessarily always need 100%, because they get some of those moneys from sensible sources.

The variation of cost between local authorities' per pupil place is pretty massive based on a lot of the data from previous years that I can talk about and that we have seen. It is often £5,000 variance. Local authorities may have reasons for wanting to do things in a non-standardised way. There might be parts of the country where they want to build schools that are bigger or different from our standardised assumptions. They are able to do so, and if they then want to put more of their own capital in other areas into it, they are entitled to do so. What we are now trying to do, which we were not trying to do prior to the coalition Government, is fully fund the places. That partly reflects the fact that local authorities now have lots of budget pressures, as all of you will be aware, and therefore we do not want them to have to rely on siphoning off moneys from other parts of their budget. The 2015-21 settlement is based on an assumption that we will fund 100% of the cost of the basic need places other than the local decisions and site costs.

Q102 Siobhain McDonagh: What steps are you taking to develop more realistic assumptions about the level of financial contributions that local authorities can be expected to make, specifically accounting for area-specific cost differentials, such as the cost of land and wider financial pressures?

Mr Laws: We are doing that at the moment. Part of the SCAP process—this school capacity survey—is where local authorities have been feeding us lots of really detailed information about how many school places they have built, how much shortage of capacity there is, what the cost has been of the school places they have created, and what their projections are for the next few years. They are literally sending us all their data on this. We are then testing, cleansing and checking the data. We can then look at how much money individual parts of the country are spending per school place. We can see whether we think some of them are spending excessively and whether our assumptions about the cost of the

school place are right. Obviously, the economy has chopped around a lot over the past five years and may do so in future, so building cost assumptions that are right in one particular period can quickly become out of date. Actually, some of the building costs dropped in the early part of this Parliament because of the recession from 2007-08, but they can start to go up again as the economy recovers. Basically, we are using that SCAP data to come up with more refined estimates than ever before, which is a big pressure on departmental staff who have to do a lot of really hard work over short periods of time, but it is necessary to spend this money in a sensible, scientific and fair way.

Q103 Mr Ward: In a former life, I used to be the portfolio holder for education in Bradford. Politically, I was responsible for school places—the statutory responsibility. In truth, it was always difficult, even in those days, as we had several different admissions authorities. We had former grant-maintained schools, faith schools, CTCs and so on, so it was always quite difficult. We now have a situation where, if I was in that position, I could not create a new community school—if I had identified that need. Also if wanted a free school, I could not organise for it to be where I actually wanted it to be or for it to be the type of school I wanted it to be. Have we not tied the hands of local authorities in the difficult task of forecasting and planning school places? It makes it almost impossible for them to carry out the strategic statutory role of providing school places.

Mr Laws: I do not think we have. What we are doing by taking on a much bigger burden of the cost than before and doing so in a much more scientific way and getting a very big basic need allocation is actually enabling them to do a better job. Of course, you are right that they will not have control over a free school and where it is going to go, but that is not part of the original basic need amount that they will get. Free school places will be taken into account only if they actually turn up, as well as in terms of where they are and whether they are relevant to the area where pupils need schools.

What some people have raised—you may be going to move on to this—is whether there is an issue about the future expansion, where expansion is needed, of free schools and academies, and whether we need to give local authorities any greater degree of discretion and control to make sure that the right schools are expanding. So far, we have not seen any evidence that academies are unwilling to play their part in expansion. Indeed, the response of academies to the Targeted Basic Need programme was incredibly positive: they were definitely taking their fair share. I have not had reports from around the country of academies that have been approached by local authorities to play a part in expansion and have just said, “Clear off.” If evidence of that became available, and I discovered that academies were not acting responsibly, that is certainly something that we would want to look at very closely, but we would look at it in the context of a problem, and at the moment there has not been a problem that we are aware of.

Q104 Mr Ward: The proposal for a free school has to be accompanied by an identification of interest in that free school, in the form of parents who would want to send their children to that school. There is no necessity—this refers back to an earlier question—to identify whether those children are actually from that particular area; they could be from

anywhere and make no contribution to the basic need within that area. Does that not worry you?

Mr Laws: Not too much, in the sense that, ultimately, if the parent wants to travel with their child to a school some distance away, because they really feel strongly about the school, that is okay. That already happens a lot in the system, not just for religious schools, but for other schools. What is clearly important is that we should be able to take into account any of those factors in terms of the local population and its basic need.

We must make sure that we have the right data, which is the data that we are collecting through SCAP, so that we can give an allocation to an area that reflects the needs of the people who live within it. By including the planning area data in the basic need allocation, we are making sure that we do not just allocate to a county or metropolitan area without allocating on the basis of the people actually living in those communities who expect to be able to access a school nearby.

Q105 Mr Ward: What about a situation in which an area has a need for additional school places that requires an additional school, but does not have the ability to set up a community school and an application for a free school is not coming in? Would you consider changing the existing presumption that new schools should be academies or free schools to enable that area to have more school places or an additional school that is not an academy or free school?

Mr Laws: Well, that is certainly not the position of the Government, which is that there is an academy presumption, which is really because the Government think that it is sensible to try to get new people—innovators—into the school system to make it easier than it has been in the past for some of the excellent sponsor schools around the country to establish schools. The local authority can trigger a request for a school in its particular area, as I think you understand, but at the moment there is an academy presumption and a requirement for the sponsor to be signed off. I do not think that that will change under this coalition Government. It will be for all the different parties, including the one we both represent, to decide in our next election manifestos whether or not we change that presumption.

Q106 Mr Ward: In an area where an academy or a free school existed, but there was a clear need for additional places, would you consider requiring the academy or free school to expand, if it was reluctant to do so itself?

Mr Laws: At the moment, we do not feel that that is necessary, because we do not see any evidence that academies are behaving irresponsibly or selfishly in accepting their share of extra pressures. Many of them want additional pupils to come into their school, and they obviously get the revenue from it. If we had some evidence at some stage in future—if you came to me from your constituency and told me about a situation where all the schools were academy schools and there was a major basic need pressure, and there was no land whatsoever for any other school, and none of the academy schools was prepared to tolerate any expansion, and all were behaving unreasonably—then I would be extremely concerned. The Government would look at the situation and consider whether we needed to take further

powers, but at the moment we do not have any evidence of that, so our policy is not to take the powers that I have talked about.

Q107 Pat Glass: On free schools, I assume you don't want me to go through that list of stats again. I am genuinely trying to understand where the policy is coming from. You said at the beginning that this was not about basic need and was more about parental choice. I understand that. I worked in an authority where we worked on between 5% and 10% surplus places, which allowed 98% of parents to have their first choice of school. What do you think is the optimum figure of surplus places, nationally and locally?

Mr Laws: That is what we are looking at. The Permanent Secretary said that the Department's intention, which I shall repeat, is to use the SCAP process to inform our thinking on this. Instead of just using the general assumption of previous Governments that 5% surplus was the guideline amount that was thought necessary in an informal way, we are now seeking to consider what our general expectation would be for the system, and say something about it later this year. We do not have a precise figure to pick out of the air, but we would expect a surplus, not only to accommodate those pressures, but also to have a degree of choice for parents in an area.

Q108 Pat Glass: Presumably nothing in the region of 25% or 30% surplus.

Mr Laws: No, a 25% or 30% surplus would sound like quite a lot and would raise concerns. If you were funding that in every area of the country it would be extremely expensive and I do not think any Government in the near future would be willing to say that they wanted a 25% or 30% surplus in every part of the country. It would soak up an awful lot of capital.

Q109 Pat Glass: So you wouldn't be comfortable if a free school was approved that increases surplus places by 25% in an area where there are good existing schools?

Mr Laws: I would be if there was evidence that parents had a demand and thought that the existing schools weren't doing a good job, because that is part of what the free schools programme is supposed to do.

Q110 Pat Glass: Even if Ofsted says that they are.

Mr Laws: I think that the Ofsted thing is very important. I do not lead on free schools, so I do not weigh all of the applications, but we look at the local factors, in terms of other schools, but the parental choice element is also incredibly important. Ofsted's view is very important, but ultimately you could have a school that was a very good school, but it could deliver education in a way that not all the parents wanted. One of the good things about free schools is that they have allowed a degree of innovation, which some free schools are taking up—others less so—about how the curriculum is being delivered, the school day and all sorts of things. It is possible to imagine a circumstance where parents could have a high demand

for a free school that was doing interesting and innovative things, even if the neighbouring school was actually a good school, because the parents might think that the new school was better.

We should be willing to allow for that. We do not have billions of pounds to sink into free schools left, right and centre, and we are giving our priority clearly to basic need in the capital programme. What we will not do is endanger the basic need programme for other programmes which are important, but not as high priority.

Q111 Pat Glass: So part of the thinking behind this policy is about bringing competition into the system, thereby driving up standards and presumably bringing about a better outcome for the consumers in the system, who are parents and children.

Mr Laws: Yes, and giving choice to parents about schools that want to do things in different ways. In an area, you might get a free school that completely changes all its hours of operation and its holiday times, and that structures its curriculum in a totally different way. Some of the new free schools have started with a blank piece of paper when it comes to what education should look like in the 21st century, and they are doing some really quite interesting and innovative things. You might as a parent think that it is worth signing up, even if the previous school that you had your children in seemed to be doing a good job within the existing constraints.

Q112 Pat Glass: Minister, that is fine at the micro level, but at the macro level, exactly that policy of bringing competition into a monopoly to drive up standards and improve things for consumers has failed in rail. It has drastically and catastrophically failed in energy. It has failed in the water industry. The jury is out, but I will put next month's salary on it failing in health. What makes you think it will work in education?

Mr Laws: I am not sure it is entirely comparable, as you are talking about much more monopolistic or oligopolistic structures. I would also have to contest whether it is quite as black and white as you think. Some of us are old enough to remember the days of some of the nationalised industries, which were not always that great themselves. I am not aware, as yet, that the Labour party has promised to renationalise all the industries that you listed.

Ian Mearns: We are working on it.

Q113 Pat Glass: Some of us are. Minister, it comes down to this: is this not just a gross waste of taxpayers' money?

Mr Laws: No, I don't think it is.

Q114 Pat Glass: Is it not a vanity project by a Secretary of State who knows nothing about education?

Mr Laws: The bottom line is: do parents think it is a waste of money? The answer is that many of these schools are unbelievably popular and over-subscribed. Does Ofsted think they are doing a good job? It is early days yet, but of the schools that have been Ofsteded so far, the percentage that are “good” and “outstanding” is higher than the percentage of “good” and “outstanding” maintained schools across the country, which is quite positive, given that the programme has only been going for a short period of time. We will see, over time, how successful this is. Ofsted will be judging all these schools in a tough way, and parents will be making their judgments as well, and voting with their feet, no doubt.

Q115 Pat Glass: In the wider scheme of things, when we have had pay freezes for three years, when people are choosing between heating and eating, is this really a good use of taxpayers’ money? These things have been shown to fail elsewhere. I accept that the parents who are getting their children into free schools will think they are wonderful, but surely you have a duty to all the other, much greater number of parents, teachers and schools, and not just a small number of parents in free schools?

Mr Laws: Well, eventually it will be quite a large number. When the current and planned free schools are at full capacity, there will be 130,000 places, potentially. That has to be put in the context of the total number of places across the country, which is 8 million, but it is still quite a lot of parents and pupils going to these schools. They may think that they are adding something to education and improving educational standards, and challenging all of us to think about what good education looks like and to learn from institutions that may do things in different ways. I do not doubt that some of them will fail and be disappointing; we have seen a little bit of evidence of that already. However, some of the others will be quite stimulating, in terms of what is going on in education, and will lead to other institutions—existing maintained schools—wanting to do things differently.

Q116 Ian Mearns: Where a free school is set up and there are already surplus places in a patch, is there not a danger that the free school’s establishment could, based on economies of scale, make other schools in the vicinity unviable, in terms of pupil numbers? What is your contingency planning like for that eventuality?

Mr Laws: Well, that clearly could be a risk in some circumstances. That ought to be galvanising those other schools to look at why they are not managing to attract students. They will need to work hard to make sure that they can win some of those students back and retain the existing ones. That can be a positive thing—to challenge them to be less complacent than they might have been. It is also important that local authorities and others involved in education appreciate that there could be circumstances in which other parents want those schools to be sustainable. I would want those schools to be supported in confronting the challenge of having a competitor school come in, and to think about what their challenges are that are not making them attractive to some of those parents who have left. There will be elements of useful stimulus, but there will also be occasions when one would not want those other schools to simply disappear; that has to be carefully borne in mind.

Q117 Ian Mearns: Following on from that, Minister, I think there is a real danger. The schools might not pull themselves up by the bootstraps and might have a new free school put very close to them. It will be very difficult for those schools, which will have diminishing resources because pupil numbers are going out through the door, to bring together the money that they need to do something really tangible to turn things round. That is a tall order for schools.

Mr Laws: If you lose parents who no longer want to send their children to that school and ultimately lose the funding, with a lag, that goes with that, that is very challenging, but it ought to stimulate the school, the local authority and whoever else is involved in the school to look very closely at what it is that means that parents do not want to take up that option. Provided that the school is still one that the community values and wants to remain in place, and that there are still people who want to take up a place there, it is a stimulus to do something about it and to make sure that the standard of education and facilities is improved, so that people want to send their children there. Fortunately, because we are undertaking this programme against a background of basic need pressures across a lot of the country, I think that the risks that you are talking about will be minimised in a large number of areas, but I perfectly accept that there will be areas where free schools are being established and there is not a basic need pressure, where the schools and local authorities will have to rise to that challenge.

Q118 Alex Cunningham: Minister, is it right for free schools to be built and paid for by developers who are granted planning permission for hundreds of new homes outside the local plans?

Mr Laws: Is it right for them—

Alex Cunningham: For developers to pay for the building of a free school in an area that does not have an educational need, because there are good schools in the area and plenty of places in those schools. Is it okay for a developer to be granted planning permission for hundreds of schools and then promise to build a free school?

Chair: Hundreds of houses.

Mr Laws: First, some of the same issues arise that your colleagues have raised with me about the issue of quality, and on those, I would give the same answer. If it was a planning-related application, normally section 106 and other requirements would be controlled by the local authority; I am not sure in this particular case why it would be a free school, rather than the local authority, establishing a school and putting itself forward under an academy presumption. I do not know whether you have any specific examples in mind.

Q119 Alex Cunningham: There is a specific example in Stockton-on-Tees, where a free school will be built and, I understand, paid for by a developer that has been granted permission by the Secretary of State to build hundreds of new homes.

Mr Laws: I am not sure of the circumstances of that particular school, but if you send me the details of that, I will be happy to look into it.

Chair: Finally, one more question from Bill.

Bill Esterson: The wider point that Alex is asking about is: where there are already basic places, how does it make sense for you or your colleagues to approve a free school?

Chair: We have already done that.

Bill Esterson: Well, it is the same point.

Chair: You may not be satisfied with the answer, but I do think that the Minister has answered that on more than one occasion in this session.

Q120 Bill Esterson: You said you think that there is evidence around the case for local authorities to be able to plan successfully. When it comes to surplus places, “I think” does not give evidence. What is the evidence around that?

Mr Laws: We are going to give local authorities the money we estimate that they need to build their basic need places, using the data they supply to us. The free schools programme is on top of that; it is not displacing basic need.

Chair: Thank you very much indeed for giving evidence to us this morning.