Education Committee

Oral evidence: Financial management at the Department for Education, HC 203

Tuesday 25 October 2016

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Watch the meeting

Members present: Neil Carmichael (Chair); Ian Mearns; Stephen Timms; William Wragg.

Questions 88 - 173

Witnesses

I: **Sir Amyas Morse KCB**, Comptroller and Auditor General, National Audit Office.

II: **Jonathan Slater**, Permanent Secretary, Department for Education, **Howard Orme**, Director General, Strategy and Resources, Department for Education and **Peter Lauener**, Chief Executive, Education Funding Agency.

Examination of witnesses

Witness: Sir Amyas Morse KCB

Q88 **Chair:** Good morning and welcome to our session on the financial management of the Department for Education. The purpose of today's session is to effectively continue our scrutiny of the way in which the Department manages its financial affairs. In particular, we will be thinking about the accounts of academy trusts and how they are included in public finances. The first part of today will be all about the National Audit Office and Sir Amyas Morse, Comptroller and Auditor General, will be answering some questions. Then we will be hearing from the Department, particularly the Permanent Secretary. That is what we are going to be doing in the next hour or so. First, it is Sir Amyas Morse. Could you just say what your job is for the purposes of those people that are watching on television?

Sir Amyas Morse: Certainly. I am the Comptroller and Auditor General. That is an office of Parliament and I am an officer of Parliament. I run the National Audit Office. The reason for making my role clear is because all the reports of the National Audit Office are personal reports by me. So that is what I do.

Q89 **Chair:** Thank you very much. We are looking forward to probing some of those issues with you. I am going to kick off with how the National Audit Office has worked with the Department to reach this point of producing a dry run of the sector report.

Sir Amyas Morse: We work closely with the Department and I should say the Department is working hard and is very keen to get things right. I do not find anything deficient in their attitude. They are working hard on this and they are taking the issues very seriously; so working well. I was round recently for a meeting; our teams are in touch all the time. No problem at all with the working relationship.

Q90 **Chair:** It has been going on a little while; we have been thinking about this for some time ourselves as a Committee but also obviously the Department has. Is there any particular reason why it is running on like this?

Sir Amyas Morse: The Department has undertaken a succession of quite difficult accounting tasks, and they have not always come off quite as well as one would have hoped. While I do not have any problem with the attitude I think the Department has realised that it needs to put a lot of horsepower in to getting this right. So, yes, it has taken longer. Yes, the dry-run sectoral accounts are late. We received them on the same day as the Committee did, and they contain a lot less than we probably might have thought they would. All of that is true so my positive comment is about their attitude and their desire to get things straight. However, they do need to be realistic in the goals they set themselves now.

Q91 **Chair:** What is your assessment of the resources that the Department has available for these tasks and its skills and experience for them?

Sir Amyas Morse: The resources are adequate, not over. I am impressed with the incoming finance director. They have spent money to try to deliver the projects that they are working on. It is a question of how tightly supervised, how well supervised, and how well project managed they are. These are the areas I would ask them about when you interview them.

Q92 **Chair:** You had hoped to provide a written review for the dry-run report. Are you still planning on doing this?

Sir Amyas Morse: We will be producing a report, yes.

Q93 **Chair:** Will you be publishing it?

Sir Amyas Morse: We are certainly expecting to address it to the Department. We have no problem about it being published but it is a question of whether it is on the same version of the dry run that you see, and whether it will be meaningful to publish it unless it is accompanied by the same document. It may not be helpful to publish it but that is not because there is anything particularly secret about it.

Q94 **William Wragg:** Good morning. What do you think the dry-run report shows you about the performance of academy schools?

Sir Amyas Morse: It did not show a lot, because it is a quite abbreviated outline document, but it did show some interesting things and it shows some potential for what can be got from the sectoral report. It is quite interesting to look at pay, and it clearly reports on pay. It was quite interesting to look at incidents of potential conflict of interest. There again there is something there, and I thought it was quite interesting to look at the number of opinions where there was some emphasis of matter associated with the opinions. It is worth understanding and keeping track of how much of that there is.

Even though it did not contain a lot of the things that will ultimately be there in the sectoral account it was nonetheless quite an interesting document and one in which there are areas the Committee might like to ask more questions about even in the form that it stands at the moment.

Q95 **William Wragg:** A further question on this matter: can a judgment be made from this dry-run report on the value for money for the academy sector compared with other types of school provision?

Sir Amyas Morse: No, I do not think that is feasible from this type of report. In order to do a value-for-money on this as a choice of method of education you have to be able to think what you are setting out to get. Let me try to do an accountant's version of a policy objective. If the policy objective was that by having a relatively freed-up school environment schools could be more diverse in their approaches and run themselves rather more, how you show that in quantifiable terms against the cost is quite interesting. Whether they are achieving better grades on average than they would have achieved otherwise—in other words, establishing the counterfactual—these are the areas I would want to try to go to in some way in order to show value for money.

If I may, I will add another comment. When the decision was made to roll out academies as a model nationally, I did make a point, which was that there was a record of very successful academy schools where they were used for the purpose of dealing with severely under-performing schools in difficult areas, and they brought more resource and different motivation into those areas. There was clear statistical evidence of uplifting performance in quite a number of schools. You can argue with any evidence but it was there.

However, it does not follow if you take from that that when you generalise a model it will necessarily improve already well-performing schools. That is a much more difficult thing to judge. I do not think there is necessarily an easy conclusion lying out there to be reached.

Q96 **Ian Mearns:** Given that you said that you had come across interesting areas about pay and conflicts of interest, did you see any significant evidence about where there was unnecessary leakage of public money away from the purposes for which its use was originally intended, that is, educating children?

Sir Amyas Morse: We do not audit individual academies, so no is the answer to that. However, we have carried out investigations of individual academies and there have been some academies where there have been some—in the view of the Department, clearly, because they are proceeding against them—quite significant issues. In those cases there have been questions of that kind that have to be answered.

I would note that if you want to have a system that is relatively free of regulation, and that involves the local community, including the local business community, it is reasonable to say it will be more turbulent than having a system of council-run schools because intentionally the intervention route is slower and it requires some provocation to bring it on. It is fair to say if you want something that is going to be a very free system, if I can call it that—I am trying to use that for shorthand—what you are going to have to deal with is more turbulence because there are so many individual decision points and schools that can set their own style that some of them are inevitably going to do things that you might, as a parliamentarian, think, "It is not illegal but we do not like the look of it very much". It goes with the nature of the system. There are probably benefits to that system. I am not saying that is only the disbenefits. There are benefits as well. I think it is a feature. Then you have to determine what level of oversight works with that. There is a lot of trial and error involved.

Q97 **Ian Mearns:** I do not want to paraphrase what you are saying but would it be true to say that you believe or you feel that the whole sector could do with a level and depth of scrutiny greater than it is currently undergoing?

Sir Amyas Morse: Either that or it needs a very fast reaction to things going wrong, and possibly the Department needs a bit more power to expedite proceedings when they find something that is not right. I am looking at a case at the moment, which is still going on at the Durand Academy—I am quite familiar with it because we did a report on it—and it does seem to be going on for quite a long time, even given the circumstances of that case.

There might be a different question, which is: if you could demonstrate that you do not have very heavy touch regulation, but what happens if you go off the rails is a strong reaction and it happens fast, that might be another way of achieving a similar result. I do not particularly recommend it. Before I came along, I thought about what different ways are there. One of them is to have a preventative regulatory regime, which might put more administrative burdens on academies and might not deliver everything. The other way might be to have a strongly reactive regime for those who go off the rails. I leave it to you to think which of those is better.

Q98 **Chair:** You raised a very important issue about the policy behind the academies, because the whole idea is to have more autonomy for academies. You have drawn it out very well. Do you think the balance that the Government have struck so far in terms of autonomy and deregulation is appropriate or does it need further fine-tuning?

Sir Amyas Morse: However long you run the academy sector it is always going to need fine-tuning because at a particular stage you are always going to be striking a balance between not putting in too much regulation and not having too much public outcry about individual examples. What I would say is that you, as a Committee, will be looking at this for a long time. If you push up regulation there is a disbenefit as well as a benefit. If you take it down there is a disbenefit as well as a benefit. You are just going to have to be constantly adjusting the switch to get the optimal result. I do not think there is some easy answer to that.

Q99 **Chair:** In terms of multi-academy trusts, we are seeing one or two hitting the press at the moment. In essence, that is partly about transparency and about decision-making processes. So part of that fine-tuning might be a visitation on transparency and those processes.

Sir Amyas Morse: I am always a fan of transparency. Everything in my work has led me to think that although people do not always like transparency, normally it produces better results than the alternative. Certainly, from the point of view of encouraging people to behave well without having to have interventions, if they know it is transparent—I agree with the implications of your question—that is generally a good idea.

Q100 **Ian Mearns:** Given what you have already said, I think I partially already know the answer to this question, but just so that it is on the record: will the sector report in its completed state provide a clear view of the academy sector?

Sir Amyas Morse: It will provide a clearer view than anything that is available now. However, it will not answer every question that you might have about the sector.

Q101 **Chair:** Can you put your finger any additional material that the sector report would need to include to provide a comprehensive view of the academy sector?

Sir Amyas Morse: One thing you know is going on now is that the Department is conducting an exercise to sort out the property question. Until that is sorted out, it is not going to be possible to regard this as a valid set of accounts. You do not know who owns the property or whether we have title to it. That all has to be sorted out. However, the Department is addressing it and it is a question of seeing the success of that.

Q102 **Ian Mearns:** Given what you have learnt already about existing academies and how they are being run, did you view the Government's attitude towards rolling out the academy sector across all schools with any trepidation?

Sir Amyas Morse: That is right up the policy alley and it is not my territory.

Q103 **Chair:** The Department has missed two major milestones as set out in the previous Permanent Secretary's letter of December. That was a letter to us. What sort of confidence do you have that they are going to get back on track?

Sir Amyas Morse: I am confident about their prediction for the completion of the 2015-16 accounts by December. Everything I see on the work on that tells me that it is achievable. I should have prefaced what I was going to say with a repeat of my remarks about they are working hard at this. I do not have a problem with their attitude at all. I am expecting the 2015-16 accounts to be completed. There is a lot of work to be done still—things can go wrong, all that sort of stuff—but we will get there.

For 2016-17, we still have a plan for completion in June and I have not yet seen a robust pathway to get to that. All I would say is that it is up to the Department, I applaud them wanting to go for the June date and it is a question of whether they can come up with a robust plan to get there. However, I have not seen that yet.

Q104 **Chair:** That is an interesting observation. Even if you had been able to provide an initial view on the dry run, it would not have been a full audit.

Sir Amyas Morse: No, it would not.

Q105 **Chair:** What more do you think we need to see for a full audit in the way in which we would expect?

Sir Amyas Morse: There are a number of aspects but perhaps the chief among them is the property one, which I have already mentioned to you. However, there are a number of other technical aspects that need to be at a higher standard in order for that to happen.

Chair: Do you have any ideas what they might be?

Sir Amyas Morse: Yes, I have, but property is the main one.

Q106 **Chair:** What are the biggest risks to the timely production of the sector report?

Sir Amyas Morse: The main risk is project management. There is a lot to be done. You are consolidating all of these accounts from the academies; you need to do that efficiently and effectively; you need to make sure of all the areas you have extracted the information from. That is a big exercise. It is the actual scale of the exercise and the complexity of it that is a risk.

Most of the base information is from audited accounts. It is not the base information that presents the risk. It is bringing it together into meaningful statements. It is simply a question of keeping on working at that. If there is enough time, it can be done. There is no doubt about that.

Chair: So it is basically a question of time and resources to get that?

Sir Amyas Morse: Yes.

Q107 **Stephen Timms:** You have just made the point that the base information is not the problem. How confident do you think we should be about the quality of the material that is being assembled into the sector report? It is coming from lots of different organisations audited by different bodies. Do you think on the whole it is good-quality base information?

Sir Amyas Morse: The different bodies that are auditing it are all auditing according to accounting standards so the fact that they are different auditors should not matter very much. More concerning would be if there are a significant numbers of emphases of matter and so forth, and that started growing; I would start to be worried about the underlying quality—

Stephen Timms: Sorry, significant numbers of—

Sir Amyas Morse: Emphases of matter in the individual reports. However, the level they are at is not enough to be material. I do not see any of that as preventing a good consolidation from taking place given the time and effort.

Q108 **Stephen Timms:** Can you tell us a little bit more then about the main challenges that the Education Funding Agency faces in overseeing the academy sector?

Sir Amyas Morse: There are some pressures on schools as a whole, including academies, because of funding pressures. We are doing other reports on this and we have reports in preparation on the sustainability of schools as a whole, looking at their financial sustainability. Some of that applies to the academies sector. Are they able to run on the funding available? That is a question: you need to keep track of and watch for any signs of developing problems in the academy sector just as in the maintained sector.

Apart from that, the main areas to watch are ones around quality of education, propriety and conflict of interest. I would make sure that where there are lapses in those there is a quick intervention. I have probably already given my views on this, which are that there is a balance to be struck between preventative regulation and very fast reaction to lapses. Of course you can react more quickly if you are very clear about the standards you are expecting.

If you set the standards clearly and you are in a position to investigate quickly, and take reasonably firm action that gets the job done; it limits the risk in the current circumstances.

I have to note an increased number of local commissioners have now been put in place. We do not yet see that performance but I would expect that must improve the penetration and speed of reaction of picking up any problems that are occurring. These problems are not all that difficult to pick up because when there are issues developing, I hear about them a lot of the time through whistleblowing and social media. If you have your local commissioners and they are switched on, they should be picking up and inviting people to tell them if there is a problem. They should be in a positon where they are well informed because stories do get out and while any individual story may not be right if you are starting to get a lot of them you can more or less weigh it and say, "There is something there, I better have a look". I would hope that that sort of questioning and inquisitive approach will be there among those commissioners.

Q109 **Stephen Timms:** You made the point that it has been slow dealing with the case that you referred to—the Durand Trust case. Were you suggesting that there needs to be a look at the powers that the Education Funding Agency has to intervene in such cases or is it this lack of clarity, do you think, that is the reason for this?

Sir Amyas Morse: I am not so sure about lack of clarity. That does not seem to be a problem. However, I do wonder about the powers, and maybe the processes, whether we get to the point quickly enough. I remember having a hearing at the PAC following our investigation and since then, as far as I know, the Department has been very actively involved between then and now and things are still going on. It is a fair bit of time.

Stephen Timms: Is that because the Department is not able to intervene more quickly?

Sir Amyas Morse: I do not feel able to say whether it is because they are not able to intervene more quickly or because they cannot go from the start of an intervention to escalating it, to getting some conclusion quickly enough. That is the question I would ask. Are you constrained to go through so many steps that it just takes a very long time to sort something out that needs sorting?

Q110 **Stephen Timms:** One more question on that, if I may. Who controls those processes?

Sir Amyas Morse: The Department does.

Q111 **Stephen Timms:** Does the Department need to sharpen up its act?

Sir Amyas Morse: At least they need to think about it and it would be a good idea if the Committee did discuss it with them.

Q112 **Stephen Timms:** A final point: you mentioned whistleblowers. When there are problems, information tends to surface from whistleblowers. Do you think we are too dependent on whistleblowers? Ought there to be more routine information coming into the Department or to you so that problems can be spotted without depending on whistleblowers?

Sir Amyas Morse: I do not think you can solely depend on them. I would say that it is a good idea is to have what I would call "leading indicators". In other words, something you say if this is going off whack, if this number is not looking good, or if we are starting to find certain underperformances in a particular school or in a group of schools. We find in our experience that that generally may mean a deeper problem.

I will give you an example of that. I do not very often encounter organisations who make a real hash of producing their accounts over the long term and who are also extremely well managed financially. There are exceptions to that but normally if you find one it is fair to ask questions about the other. I would say there are things like that you could develop in the academy sector and say there are things where if it is looking like there are a lot of—I will make this up, so, suppose there were a lot of apparent conflict of interest issues to be managed, I would look at that. If there are compromise agreements on people being let go I would look at that. There are various things like that, which signal that it is probably worth having a further look.

Q113 **Ian Mearns:** You talked about the baseline information being very important and that comes from people who are doing the auditing to accounting standards at the local level. Are you completely confident over the quality and impartiality of those who are doing that baseline auditing? We have an anecdote. It is very wrong to make policy on the basis of anecdote but we do keep hearing there is an over-closeness between people doing the auditing and the people whose organisation is being audited.

Sir Amyas Morse: That should not be the case. I do not mean that as in a moral way. It should not be the case because there is supposed to be audit rotation and various things to prevent it because people who are carrying out audits for a living can lose their ability to get a livelihood if they do not stick to it. It is not a theoretical risk; unlike some risk, it is real. People will be disciplined by their professional body if they are shown not to have behaved properly, if there are complaints made about them and so forth. From their point of view, compromising too much generally is not good business, let alone the ethical side of it. It does not mean it never happens. Do I say nothing can ever happen? No, I do not. It might be possible to have more oversight or more instructions to auditors. I have asked myself that question as well.

Q114 **Ian Mearns:** You mentioned that this is quite a thin dry-run report. Do you think the DfE could have provided more information at this stage to help you with that process?

Sir Amyas Morse: I do not think they are deliberately keeping information back. It is just a question of preparedness and workflow. This is not a conspiracy.

Q115 **Ian Mearns:** You are right in saying that and I am not suggesting for one moment that items are being deliberately held back but is there anything else that the DfE could have done in terms of preparing to get more information to you?

Sir Amyas Morse: The risk is always that after the event I can say—and I do spend a lot of my time making judgments after the event, I know—that they clearly intended to deliver a fuller and more timely set of dry-run figures than they did. It is tempting therefore, to go back and say what they should do now is to conduct an exercise to understand why they did not manage that. You might be interested to know whether they are doing that or not.

Q116 **Ian Mearns:** Last night we held a session of this inquiry where we got together parents whose children attend academies or multi-academy trust schools. Based on the people that were in that room—they might have all had axes to grind—there was a lot of concern about the way in which schools were being run around the country. With what you suggested about whistleblowing and about use of social media, do you realise you might have just unwittingly unleashed a twitter storm around academies?

Sir Amyas Morse: I am very alarmed by that thought.

Q117 **Chair:** You have mentioned that there is no lack of motivation to get this right so what key ingredient is the Department missing in order to fulfil its obligations in terms of financial reporting?

Sir Amyas Morse: I am not sure they are missing much and I want to make sure they are not missing time to get it right. They have the task clearly in mind. They are trying very hard to get it right. They need to give themselves the time and the next time they produce something it needs to be pretty good.

Chair: That sounds very encouraging. Thank you very much for your time.

Sir Amyas Morse: Pleasure.

Chair: I hope it has been time well spent from your point of view. It certainly has been from ours.

Sir Amyas Morse: Anything I can do for the Committee I am genuinely very pleased to do. After all, it is my job to support Parliament in holding the Executive to account. That is what I exist for.

Chair: What we are looking forward to is a more detailed review of the dry-run report for us to consider. So we look forward to that. Thank you very much.

Sir Amyas Morse: Thank you.

Examination of witnesses

Witnesses: Jonathan Slater, Howard Orme and Peter Lauener.

Q118 **Chair:** Welcome to our Committee. It is great to see you and it is great to see the Permanent Secretary before us for the first time. Welcome to your role; we look forward to working with you.

You have all heard what I said about the purpose of this morning's activities when I was introducing Sir Amyas Morse. You have also heard what he has had to say. Could you, for the purposes of the viewers outside of the room, say who you are and what you are doing, kicking off with Howard?

Howard Orme: Hello, I am Howard Orme. I am the Director General of the Strategy and Resources.

Jonathan Slater: I am Jonathan Slater, Permanent Secretary.

Peter Lauener: I am Peter Lauener, Chief Executive of the Education Funding Agency and also the Skills Funding Agency, but it is the first of those that is of most interest today.

Chair: Absolutely. We are familiar with the multi-hatted nature of your daily work. I am just going to say a few words before we kick off with the questioning.

Jonathan, as Permanent Secretary, thank you for joining us this morning. I want to say a few things before we start questioning. First, providing any Select Committee with the written material necessary to conduct evidence sessions so close to a meeting is not acceptable. We do think this has been a little bit tight. That will be the first point.

The second, for that reason, this Committee will not be giving its opinion on the dry run to you at this meeting. You heard me mention to Sir Amyas that we want more information. I think that is not unreasonable. We will reflect on the dry-run report, along with the evidence you give this morning and send our conclusions in writing.

The Committee is looking for evidence this morning that new arrangements for financial reporting will increase the transparency—and you heard that word mentioned in the previous session—in the way in which academy schools are accounted for. As Sir Amyas said, the more transparency the better, especially if you are in a fluid situation where you might get turbulence because of the autonomy, but to avoid some of the more horrendous public outbursts that we had from one or two multi-academy trusts, transparency would be helpful. If you could give us some indication as to how that is going to be improved that would be fabulous. We are going to kick off with William on your role, Permanent Secretary, as the accounting officer.

Q119 **William Wragg:** Good morning, Mr Slater. How does your role as the accounting officer for the academy sector differ from your role as the accounting officer for the Department?

Jonathan Slater: As the accounting officer for the Department, I am responsible for ensuring value for money and so on for all of the Department's expenditure. In respect of the academies programme, that is one important element. We spend the best part of £60 billion a year; we spend about £18 billion on academies, so it is an important subset of my accounting office responsibility to the Department in respect of the academies programme specifically. Given the complexity of that task, I have an additional accounting officer in Peter. He supports me in that role. The simple answer is that the accountability for academies accountability is a subset of my broader departmental ones.

Q120 **William Wragg:** As Permanent Secretary of this Department you are in a unique position in the public sector, given what you have just outlined. I just wondered if it is fair—and I use "fair" advisedly perhaps—to hold you personally accountable for the consolidated accounts of thousands of academy trusts.

Jonathan Slater: The system holds the accounting officers of individual trusts accountable for the value for money of their trusts. My accountability is to make sure that that system is operating appropriately, that accounting officers for individual schools are indeed appointed, that they know what they are doing, and that intervention takes place when that goes wrong. I do not see anything untoward in that division of labour.

Q121 **William Wragg:** Nothing untoward but because of the separation therefore do you think that accountability can ever be meaningful?

Jonathan Slater: The distinction seems to me to work between the accountability of an individual accounting officer of an individual school and the accountability that I have, supported by Peter, to make sure that the system is working overall and where there is a problem at an individual school that action is taken accordingly. That seems to be not a problem in principle but obviously the question is in the how and making sure it is done as well as possible. I do not think there is an issue of fairness or difficulty in principle.

Chair: Ian, you are going to be talking about land and buildings.

Q122 **Ian Mearns:** I will, but first I want to follow up on the last question.

You have talked about trusts and individual schools, where they are standalone, being individually accountable. Do you think the levels of accountability are yet robust enough to hold schools properly to account for the communities that they serve?

Jonathan Slater: The accountability of an accounting officer in a school is well defined. Peter writes to them every year confirming and updating their accountabilities, and following them up as appropriate. You might want to get into that later on.

The system by which the Department holds schools accountable within an arrangement of autonomy, of the sort you were discussing with Amyas earlier, is not new and has developed over the years and continues to develop over time.

Q123 **Ian Mearns:** It is developing but the question is about the huge amount of public money being disbursed through academy schools all over the country at the moment, day by day, week by week. Do you honestly believe that this work in progress is enough at the moment or is there something that needs to be accelerated in terms of making sure that the accountability measures for the way in which public money is used to educate our children are robust enough?

Jonathan Slater: There is a robust system in place through which schools are held to account for the way they spend public money. You have been talking with Amyas earlier this morning about the way that they are required to get that spending accounted for through external auditors. You might want to discuss later on the extent to which we intervene where we see problems occurring. Clearly, in any complex system, spending the best part of £18 billion a year, one finds problems with individual schools and we have systems in place to follow that up.

You have been discussing with Amyas the extent to which it gets followed up as quickly as it might be and, again, the Government have speeded up that process over time. So we have a robust system that works, as evidenced by individual failures that do get addressed. My point at the end was that any system continues to improve and develop over time.

Q124 **Ian Mearns:** The crucial question therefore, within that answer, is—you are saying the system is robust—does the Department have enough resources to make sure that it reacts quickly enough when a problem is highlighted or where there is a suspicion of a problem?

Jonathan Slater: I will ask Peter to talk about the way that his people intervene where there is a failure and how that has developed over time. Would that be helpful?

Ian Mearns: Yes, certainly.

Peter Lauener: I will say a little bit about the way the academy system works and how we intervene.

The starting point—and when Amyas was here he talked a little bit about this—is that academies are legal trusts as charities. They are also companies limited by guarantee but they are also accountable for public money, which we exercise through the Academies Financial Handbook. The first layer of this is, again as Amyas describes, every academy trust has to prepare a set of audited accounts.

One of the things that we do to make that system work well is a lot of detailed work with academy auditors. They have their professional responsibility, as we heard earlier, but we also run seminars or webinars to make sure that they understand the particular aspects of the audit arrangements that we expect them to look at since there are different aspects with academies than with some other charitable trusts. We put a lot of effort into that.

We then have a proper triage system when the academy accounts come in. They come in four months after the end of the year. The year end is at the end of August so we get the accounts in at the end of December, and we get additional accounts returned at the end of January. Those two documents are the fundamental building blocks of the consolidation that will be in the sector accounts report.

We pick up things in the academy accounts but we also have a system whereby we run dipstick audit visits. So we will run audit visits for new academy trusts based on the proportion that send in their initial self-assessment of financial management and governance. We carry out audit visits, again on a sample basis, to look at the underlying data and ensure that all the checks that we expect to see in place have the data correct because obviously that leads through to the funding. We carry out a number of financial and management governance reviews of multi-academy trusts. We did 10 in the last year.

On top of that, we use a lot of data. We have a very large dataset now covering financial performance, covering academic performance, covering governance. Again picking up something that Amyas Morse said earlier, we do look hard when academies are finding it difficult to return their accounts on time; we regard that as a bad sign. We have been stepping up the pressure on that and the return rate has improved over the last few years.

We put all that into what we call a risk assessment tool. We weight the different factors according to our experience of the factors likely to cause risk. We also take account of information we get from whistleblowers. We are perfectly happy to use whistleblowers and we train our staff to respect the information that we get from whistleblowers. We encourage whistleblowers to give their information in confidence but they are obviously free to retain their anonymity if they wish. So we put that together into quite a rigorous risk assessment process. We collate from that monthly reports of academies that are of significant national concern. These are reviewed once a month by my director of academies with their deputy directors, and we draw information from the regional schools commissions into that process.

The number of academies of concern has remained fairly stable at about 1%, 2% of academy trusts, 1% of academies.

The final bit, and I will stop after this, is that when we see any problems we will do a more intensive review with the academy trust concerned and we publish a financial notice to improve. We have published 50; 11 have been lifted so 39 are in force. We also publish investigation reviews, which tend to be more serious, and also financial management and governance reviews. We have published a lot of reports. That is a vital part of the transparency of the system that we are talking about. The sector account will introduce a lot more transparency.

Q125 **Ian Mearns:** You have given a very long list of the things that are open to you to do, Peter. Do you honestly put your hand on your heart and say that you have the resources to do that effectively across the board?

Peter Lauener: Yes, I do, which is not to say that we have everything working perfectly. We have to keep refining the systems we have. It is absolutely right that we should be using external auditors as much as possible because that is the fundamental part of the system. I put a lot of emphasis and quite a lot of investment into the data analytics because any modern institution operating in the financial sector will use data analytics to estimate risk.

There was a very interesting debate earlier on about how quickly we can get to the point of sorting a problem. We are continually keeping that under review and I would like to get issues resolved more quickly than some of them do. I do know there are some that have taken longer. Some of these cases are very complicated. It is not just a case of going in and saying, "Right, you need to do X, Y, Z". There needs to be quite a long debate and some of them are certainly more drawn-out than I would like. There are some well-known examples of that.

Q126 **Ian Mearns:** So you have everything in place now, so everything is tickety-boo. Your accounts next year should be fine and your dry-run report is all okay. You will have the data and make sure the Comptroller and Auditor General has everything at his disposal that he requires.

Jonathan Slater: You were talking earlier about the land and property qualifications, which continue, and will take time to fix. Again, we are happy to talk to you in more detail about that, if that would be helpful. We have just submitted in advance—I think the phrase used by the Chair was "tight"—a dry-run report to the Committee. The task of turning that into the real thing next year is a non-trivial task, which we are now on. When I talked about continuing improvements over time, that is what I meant. Schools can be held to account by the way they spend money, trust by trust. We have a rigorous system of intervention that continues to improve.

Q127 **Stephen Timms:** Picking up the point you were making, Peter, about the speed and the points that Amyas made earlier: he did say that he thought the Department ought to look at tightening up its processes so that these things can be done more quickly. Are you going to do that?

Peter Lauener: We do that all the time. Whenever we undertake a process that leads to a financial notice to improve we review the case afterwards and say, "How could we have done that better?" It is part of the philosophy of continuous improvement we try to bring to our work.

Q128 **Stephen Timms:** Do you accept in the Durand Trust case that it has taken too long?

Peter Lauener: That is a very challenging case. I am not happy with the length of time that has taken but let me just immediately add that I make no criticism of my staff in that. However, when you look at the length of time that case has gone on it has been a difficult case to produce a rapid conclusion. There is a lot of material in the public domain about it and we recently published a termination notice. I have been very disappointed with the failure of the Durand Academy Trust to produce an adequate response, both to the financial notice to improve, which we issued more than a year ago, and to the pre-termination notice, which we issued in July. We were forced therefore to issue a termination notice.

Q129 **Stephen Timms:** On the face of it, it seems a fairly straightforward case, that the Trust was paying money to companies controlled by people who were prominent in the Trust and it should not have been. Is it not fairly typical of the sort of problems that people are starting raise when things are going wrong in trusts? It is not clear to me that it is any more complicated or difficult than other similar problems that are arising in multi-academy trusts.

Peter Lauener: That one is more complicated because there is a separate charitable trust—the Durand Education Trust it is called—which holds the land and which is a separate charity regulated by the Charity Commission. The Charity Commission issued a report on that last week. It is also complicated by some of the history of that and by the confusion in both trusts about the roles and responsibilities of trustees and managing conflicts of interest. We have set out quite clearly that we do not believe that the Durand Academy Trust managed conflicts of interest suitably, and that is one of the reasons why we concluded that we had to issue a termination notice.

Q130 **Stephen Timms:** You said you were disappointed that they had not complied or had not been very helpful in providing information, but if there is wrongdoing is it not very likely that those involved will be reluctant to hand over the information that you need to get to the bottom of it?

Peter Lauener: That is a fair point and that is one of the reasons why these are challenging, but if I can put this in context and generalise from it, it is important not to get this kind of case out of context. This has been the most difficult case we have had to deal with in the four and a half years that the Education Funding Agency has existed. There are 3,000 or so other academy trusts and one of the things we do each year is look at the related-party transactions in academy accounts and most of them have been very well managed. We have put a lot of effort into this. We published a report a couple of years ago and we only have concerns about 1% of the related party transactions in academy accounts. So this is a system where these conflicts are recognised and managed well.

Q131 **Stephen Timms:** On this particular point, do you think there is scope for improving your process here so that a case like that one can be dealt with more quickly in the future?

Peter Lauener: There is always scope for improving processes and it was not just a throwaway line when I said we would review every case to say, "Could we have done this faster, quicker, better? Are there learning points?"

Stephen Timms: Are there? Is there going to be change is what I am asking?

Peter Lauener: Again, we have already made changes in the frameworks. The data analytic system I have talked about, we have developed over the last 18 months.

Stephen Timms: But are you saying no, you are not planning further changes?

Peter Lauener: We have also made a change to the model funding agreement to give more powers to the Secretary of State. In some of the early funding agreements, it was more difficult to intervene. Later funding agreements have been changed to reflect that learning experience. Again, we do keep this very closely under review.

Q132 **Chair:** Does not this issue about Durand go to the heart of the question that we were discussing earlier with Sir Amyas Morse, which is transparency, and the structure of that particular trust and the speed in which it was formulated and the time it was formulated? You have just touched upon the complications of various charity trusts within the organisation. Does the Department have a view about what a proper multi-academy trust looks like in terms of its organisation and capacity to be transparent?

Jonathan Slater: The point Peter is making is that we have learned and developed as time has gone on. Some years ago there was a rapid increase in the size of one or two multi-academy trusts. Our regional schools commissioners—you were talking to them just last week—have benefited from that experience as they consider the growth in multi-academy trusts now and the right size and structure; they can learn from that experience. You were also talking with them about the piloting of these growth health-checks that are seeking to systemise that learning.

Again, I hope this is not an irritating answer, but it is inevitably bound to be the case that we are learning as we go. We are getting better at this all the time but it is not as if you ever reach the stage where you have it completely nailed down.

Q133 **Chair:** But the question is, and I think Stephen was getting at this point, did you have any plans to make it possible for you to be able to intervene in a multi-academy trust that does not have the appropriate mechanisms to make sure the right decisions are being made?

Jonathan Slater: Again, I can ask Peter to come in with more detail if that would be helpful, but the most significant point was the changes that were made to the Academies Financial Handbook in 2012-13, learning from the experience of the oldest academies, such as Durand, to put in place arrangements and powers on the basis of experience of less power available in the early days. That is the best and most fundamental change that was made to prevent that sort of thing happening again, in the way that it did with Durand.

Peter Lauener: I normally bring an Academies Financial Handbook to wave at these hearings. That is a genuinely good and important document, which has been widely welcomed by academy trustees as clear and well-written—clear about what are must-dos, should-dos, may-dos. It is a very good document.

I also want to emphasise that in most cases we have no issues and problems when we raise issues with academy trusts where we have noted concerns. Even when there are whistleblower concerns, we are usually able to resolve matters fairly speedily. The data analytics are improving all the time and I do not think we could have done more on transparency when we have published 50 financial notices to improve, 19 financial management and governance reviews, and 15 investigation reports in the last three and a half years. That is a lot of material out there.

Chair: William is going to ask one more question and then Ian is going to get on to land and buildings.

Q134 **William Wragg:** It is quite a direct question. Were there examples of LEAs fiddling the books compared with multi-academy trusts and what would have happened to an LEA compared with what happens with a multi-academy trust?

Peter Lauener: I think you may be referring to maintained schools rather than local educational authorities?

Q135 **William Wragg:** I want to get a bit more on the scrutiny and the oversight of different sectors of the education landscape and why there appears to be the particular issue we are discussing this morning.

Peter Lauener: If I can say something about the maintained school system—and if you set that alongside the assessment of accountability for academies—the academy system is more rigorous, more transparent and more consistent. Every academy trust has audited accounts. These accounts are published on websites and on the Department's website. We publish a lot of material in the sector report in the way that I said. We put a lot of additional material out there. We also get a lot more information about the finances of schools that we are feeding back to schools to help academies with their financial health and viability over the next few years. It is a clearer system.

There are always problems in every system. I could give you examples from maintained schools where cases of fraud were found. There was an Audit Commission report a couple of years ago that referred to about 260 cases. However good a system is, it is never impervious to fraud. What is important is that we are learning all the time, tightening the system without making it excessively bureaucratic, and developing our risk management tools as well as we can.

Chair: Thank you very much. I am determined to get onto land and buildings, but be as brief as you can.

Q136 **Ian Mearns:** You have told us it will take several years to resolve the land and buildings issues with the accounts. How is the Department's work on the recognition of land and buildings progressing? Realistically what do you have in mind, and will it be resolved by the end of this Parliament if the Parliament runs to 2020?

Jonathan Slater: The state we have reached is that, as you know, it is clearly a very complicated task to pin down precisely which land and buildings should be recognised. The Department's approach to date has been to recognise all of them but the NAO is rightly pointing out that we need to be able to demonstrate, with clear evidence, which land and buildings should be registered, recognised, and which should not. That is a hard task in circumstances where there are no formal records in place and where the arrangement might have been in place for hundreds of years, where questions are being raised about the relationship between the individual school and the church, a private lease and so on and so on. Nevertheless, we have obviously got to get to the bottom of it, as you say. What we are doing at the moment is that we are out in 50 schools between now and Christmas to do the first cut at what it will take to get to the bottom of that question for every single school in the country. What are the resources required to do it? How can we make sure it is done as efficiently as possible? The first 50 is only the start. You scope the work, first of all, by looking at a small sample. Then, having scoped what that work means in principle for a sample of 50 schools, you go out to a larger number and then you do it comprehensively across the system, having established what you can learn from the first 50.

I am unfortunately not in a position, as you would expect, to sit in front of you today and say, "It is going to take X number of days, weeks, months, or years and Y resources", because I do not know. What I do know is that I am going to have some good data on this for the first time shortly, at the beginning of 2017, to enable us to develop the plan.

Q137 **Ian Mearns:** You have a sample you are currently dealing with that is less than 1% of the entire academy estate.

Jonathan Slater: Yes, not with a view to being able to draw a firm conclusion as to how much of the land and buildings is recognised but to pin down the work that will be required to answer that question across the system as a whole. It is just the first stage of the work. I wish it was not so but it is. There is no point denying that this is a very complex task to get right.

Q138 **Ian Mearns:** In the meantime, unfortunately, academy trusts across the country might be wanting to use their land assets either to borrow against, or to partly sell off, to invest in the capital infrastructure of their school. Until those land and buildings issues are properly resolved, that process either happens or does not, and we will sort the problems out before or afterwards.

Jonathan Slater: No. Individual academy trust accounts are published and trusts can perfectly adequately manage their affairs on the basis of their own sets of accounts. This is an important task that we are doing for the purposes of consolidating information for Parliament's purposes. It does not get in the way of schools making judgments and decisions themselves, trust by trust.

By the way, it is also worth saying that neither does it get in the way of us managing the estate as a whole. Between 2012 and 2014 we have carried out a survey of the property of all the academies. We are kicking off the next three-year condition survey to enable really good decisions to be made about what you invest in, what you need to repair and what you need to replace. That is how we manage the estate and it works fine. What we need to do in order to avoid a qualification on our sector accounts is to be able to prove exactly which of the land and buildings are to be recognised in our accounts. It absolutely does not stand in the way of anybody—either at a school level or at the Department level—managing the estate day-to-day.

Q139 **Ian Mearns:** Individual academies or academy trusts will be making assumptions about recognition of land and buildings they believe to be theirs or that otherwise will be.

Jonathan Slater: Those assumptions are being tested by external auditors and being signed off on a school-by-school basis. The challenge we have is demonstrating—at the point that you consolidate that for the schools in the country—you have an answer that works at a system-wide level for the way that we account to the NAO. That is the distinction I am making. I am not seeking to say it does not matter; it does matter and we are going to get it right. However, it does not stand in the way either of schools making investment decisions or of the Department making investment decisions.

Peter Lauener: I can confirm I am not aware of any case where these accounting issues—important as they are—are holding up any application by a school to release some of its land if it does not use it. There are well-established processes, including that if it is playing-field land there is a process to go through to make sure that it can be released. It is not about that. It is purely about the accounting and demonstrating that the national accounts of this are true and fair.

Q140 **Chair:** Jonathan, why has the academies annual report for 2014-15 not been published?

Jonathan Slater: It will be published shortly, as I said.

Chair: We look forward to it. Why has it not been published now?

Jonathan Slater: The work of the Department, tackling a whole range of issues, has meant that this taken a bit longer to get out into the public domain than we had originally envisaged. Nothing more than that.

Q141 **Chair:** Would you agree with the general theme that an annual report should be published annually?

Jonathan Slater: Yes. I do not think Parliament, in its wisdom, set a particular deadline by which the report should be published.

Chair: It didn't. You are absolutely right about that.

Jonathan Slater: Maybe they would want to think again about that. Clearly, it is our responsibility to make sure that it gets published this year.

Chair: It could be argued there is no special stipulation that Christmas is annual but you normally expect to turn up on Christmas Day and find Santa Claus has been down the chimney.

Jonathan Slater: I'm not going to dispute that for a moment, Chair.

Q142 **Chair:** Howard, you have not been saying a huge amount so far because we have not directed any questions to you but obviously you are Head of Strategy and Resources, or whatever. Do you think the Department has the appropriate resources and strategies to become more timely?

Howard Orme: On financial reporting?

Chair: Yes.

Howard Orme: I am afraid it is very early days for me, having only been with the Department for two weeks. What I can see coming from doing similar types of exercises—either in other Departments or in the private sector—is that there is a way forward here, ie we do have a solution to the main problems. There is a lot of detailed work to get through. The reason why this set of accounts is still not laid is the lead time and the process flows, which are too long. We need to work on that. There are also the points on project management that the Comptroller and Auditor General made.

Jonathan Slater: To be clear, I am expecting us to need to apply some more resources. I need to know precisely which resources to apply in what circumstances.

In answer to the previous question about getting all of the land and building qualifications, once we have the results of that 50—the initial pilot—we will put in place a programme of work that will be project managed really well, and properly resourced, to get it done on time.

To take another example, we are at the dry run phase where we are testing things out. In producing the first sector accounts next year it will be of crucial importance to resource that properly on the basis of this dry run and learning from this experience. As Amyas said, it is too early to know exactly when we will be in a position to produce it. We have previously said by the end of June. We will know by the end of February what, in practice, is doable based on the returns from academies and we will resource accordingly. Just as Amyas said, we need to make sure that the right resource is in the right place at the right time to do the particular task. That will require some changes in the light of our new tasks.

Q143 **Chair:** It is not just the accounts we are talking about but, of course, lots of people are very disappointed that the fairer funding proposals have been delayed by a year. That is something else that is affecting the education sector. Can you comment, just generally, on forward planning within the Department to make sure obligations can be met in a timely manner?

Jonathan Slater: There is always a balance, isn't there, between a commitment to get on with something and get it out the door as quickly as possible, to secure the benefits as quickly as possible, and spending enough time in the development of it to make sure that it is definitely right. I put great store, as does the Secretary of State, on the importance of planning things properly in advance and making sure they are delivered to time, having thought that through fully. The judgment that she made in respect of the national funding formula was that it was definitely worth spending more time in advance of the second-phase consultation to get this right, given the importance of any national funding formula being implemented effectively. Also, in light of that, to put in place appropriate transitional arrangements to make sure that no local authority area was disbenefitted. It is the nature of the work, isn't it, that one is trying to balance the speed of delivering the benefits and the cost of implementing them well.

Chair: William, preparation of sector reports.

Q144 **William Wragg:** Yes, more about the dry run. In the absence of the need to sign-off the accounts, what process of assurance did you go through with the dry run? What planned and systemic pattern did you follow? I realise it is a technical question but what processes did you go through?

Jonathan Slater: What we have done is the first go at the production of a sector accounting working, as Amyas said earlier, in close partnership with his team that is precisely what you do with a dry run. It is the nature of a dry run that you are developing something as you go, working with the auditor to make sure this lands as well as it possibly can. Then, having completed it, you are ready for doing the thing for real the next year. We will obviously look forward to Amyas's report on how we have done in exactly the same way, as the Chair said, as you will be yourselves.

Q145 **William Wragg:** Beyond his report, but from your experience of conducting this, what steps are you thinking of taking to address any of the issues that were raised? In carrying out the dry run what problematic issues came to light and what are you going to do to address them?

Jonathan Slater: I can write to you with a follow-up if that would be helpful. In my conversations with Amyas and his team we have not, during this dry-run phase, identified any key issues that make us think we are not capable of doing the thing for real next time round. It is really important we buy ourselves enough time to do it properly but the dry-run exercise has not identified any particular issues to make us think we cannot do this in the way we had previously envisaged. They are famous last words but that is where we are so far.

Peter Lauener: To add a couple of points, the process of consolidation is not completely new. Previously we have consolidated academy accounts into the EFA accounts and the DfE accounts. One of the key tasks in that is a lot of validation and checking of anything that looks a bit odd in the individual academy accounts returns that we are then consolidating. That bit of it is fairly new. What is new is developing this into a sector report in the way the Committee is familiar with. It is making us think all the time about the timescales and how that will happen. What is important to realise is that this is one of the biggest consolidations in any part of the Western world. I cannot decide whether that is a good thing to say or not but it is true. We are doing it in quite short order to meet statutory deadlines. We get the accounts returned at the end of January each year and we are looking to streamline that process—which is quite a complex process—to deliver the consolidated sector account as quickly as possible after that.

Q146 **William Wragg:** Is it purely because this was, to quote you, the biggest consolidation in the Western world? Is that purely the reason why it is such a close-run thing or were there other issues?

Peter Lauener: In previous years the major problem that led to the qualification of the accounts and the adverse opinion was certainly partly the complexity, which puts a lot of pressure on the timetable, but also the fact that the accounts for academies come in for the academic year—that is the natural planning year for academies—and we were obliged departmentally to prepare accounts for the normal financial year. That produced a lot of uncertainty and error in the accounts. We were trying to read across from August to the end of March and that was a stage too far even for the most creative of departmental accountants. The conclusion we reached—that was certainly reinforced by the National Audit Office—was that we were not going to be able to develop that system into a viable long-term system. That led to the sector accounts and we will continue to publish the sector account for the academic year rather than the financial year.

Q147 **William Wragg:** I am glad to hear you have some creative accountants, if not creative accountancy. You stated that the dry run is not yet fully compliant with the Treasury's financial reporting manual, I believe. What needs to change to make that happen?

Jonathan Slater: The dry run is designed to fully meet the requirements of the manual, it is just that it is a dry run so there were some "Xs" where in the final one there will be numbers. It cannot be audited by the NAO at this stage because it is a dry run. There is nothing untoward about it. The idea was that, as we could not produce the first full set of sector accounts until next year, what we should do in the meantime. Answer: do a dry run with the NAO to learn as we go. We have designed the thing specifically to be consistent with the financial reporting manual. It is just that it is a dry run and not the final output.

Q148 **Stephen Timms:** Can I press a bit further on these related party transactions? We were talking earlier about slow processes in dealing with these things. Can I just raise one specific example, and I am not sure whether this is a case of slow processes, oversight or something else? I tabled a parliamentary question in July about related party transactions, about the Bright Tribe multi-academy trust and the Adventure Learning Academy Trust. There were two other parliamentary questions tabled on that. They were due to be answered at the beginning of September but I have not yet had an answer. If I give you the numbers for them, could you possibly drop me a line to let me know what has happened on those and when I will get an answer?

Peter Lauener: I am well aware of the parliamentary questions concerned. There will be a report published about the Bright Tribe Trust very shortly. At that time you will get the details to answer your parliamentary questions. I apologise for the delay.

This is quite an interesting case. It has nothing like the complexity of Durand. It started out as a regular business-map review but then there were also concerns raised in correspondence, and indeed featured in the media, so it became a more complex case as we went along. We do not publish regular business things but because of the very extensive public interest, we concluded it was right to get this report to a position where it could be published. It was important to give the Trust the opportunity to make some quite significant changes to its procurement practice and to its management of related party transactions. I am quite pleased with the position it has reached and all that will be set out. There is still some work to do but all that will be set out in the report to be published very shortly.

Q149 **Stephen Timms:** When you say "very shortly", in the next couple of weeks?

Peter Lauener: It is always difficult to put a precise time on these things but I would be surprised if it was not.

Q150 **Stephen Timms:** I think the Trust has been asked to take on three additional schools in the last week or two. That reflects, does it, that you are at a position where you are happy now, broadly, with how it is doing things?

Peter Lauener: We feel we have had a very good response from Bright Tribe Trust to the concerns we raised. We did not get any defensiveness and it listened hard to the concerns we had about the 2014-15 accounts, for example, which we felt had not disclosed the related party transactions appropriately. It reworked those and resubmitted them in May, obviously a period late. In many ways that was a good example of picking up a problem, raising it and instantly getting a quick response. We also asked it to change its procurement practices. This has only just happened from the beginning of October. We will be going back to check that the new procurement practices are in better order. We do feel we have had a good response from this particular academy trust but the report will be published very soon.

Q151 **Stephen Timms:** Did the change in procurement practices cover the difficulty or issue about related party transactions that was raised?

Peter Lauener: I believe it does. Again, the important thing about related party transactions is that they are managed properly. I hope this came out when we published material about related party transactions in the past. There are always examples where related party transactions can be beneficial to a school and to the community. For example, if schools are collaborating together to set up a resource that will help other schools improve, the heads of different schools can be involved and money going into that will become related party transactions. It could equally happen with community sports facilities where these things can be recorded as related party transactions. Therefore, related party transactions, by definition, are not bad. It is all about how they are managed.

I am much more confident that in this particular case the related party transactions are now being well managed. These are fairly recent changes. We never leave that kind of thing alone. We will go back and check. We will be looking very closely at its accounts for the 2015-16 year, which we expect to receive shortly, checking that the transactions have been properly disclosed and that we are comfortable with the financial performance. Then colleagues in the Regional Schools Commissioner network will also be looking at the educational performance.

Q152 **Stephen Timms:** I will look forward very much to seeing that report in the next couple of weeks. On this broader issue of related party transactions, can you just tell us what a related party transaction is?

Peter Lauener: A related party transaction is where there is a commercial transaction carried out between the academy trust and a related party of one of the trustees. That could be an individual who is a trustee or a connected party to the trustee. It is standard practice in financial accounts—whether it is a charity, a Government department or a commercial company—for related party transactions to be disclosed. It is part of transparency.

Q153 **Stephen Timms:** In the case of the Durand Academy Trust, as I understand it what happened was that the chair of governors in that trust owned or controlled a couple of companies personally. The Trust placed some quite big orders with those companies. The problem was not that, it was that those orders ought not to have been placed or the money was being inappropriately spent. The Department's view, I take it, is that there is no problem with a trust buying services from companies controlled by the chair of the trust as long as everything is being done in the appropriate way. Is that correct?

Jonathan Slater: The general principle is that related party transactions can, as Peter said, be perfectly legitimate. Peter gave a couple of examples: schools collaborating to buy from a company that they have created to serve them more efficiently than they could do one by one, just to take one example. There is nothing wrong with related party transactions in principle. They apply to many public and private entities.

Q154 **Stephen Timms:** I understand. However, on the specific point, where the trust is buying services from companies controlled by the chair of the trust, do you have any concerns about that per se?

Jonathan Slater: What I was going to go on to say—sorry to repeat it—was that where there is to be a related party transaction, first it needs to be transparent, secondly it needs to be procured in open competition, and thirdly if it is over £2,500 it needs to be at cost. We do not say that in principle a transaction between a trust and another entity in which the chair has an interest is illegitimate. We do not say that. We say that where such a thing applies it has to be transparent, procured and at cost.

Peter Lauener: To come back to Durand, we are quite clearly on record as saying that we are not happy with the management of conflicts of interest. That is set out in the pre-termination notice and in the termination notice.

Q155 **Stephen Timms:** What I am wondering is if in a general case you see a trust buying services from a company controlled by the chairman of the trust, does that raise any alarm bells? Do you look more carefully at what is going on?

Peter Lauener: We would want to have a look at any such case. Jonathan referred earlier to the fact that I write annually to accounting officers and I expect these letters to be shared with chairs of trusts. I draw their attention to the issue of high salaries and the management of related party transactions. I said that it is very important that every trust can defend the actions that they take to scrutiny in the local community, local media and nationally.

Q156 **Stephen Timms:** Might there be a case for saying trusts ought to not buy services from companies controlled by the chairman of the trust?

Peter Lauener: It is difficult to pick out any one individual on a trust. I do think the more responsible the role that an individual has—whether that is the accounting officer or chair of an academy trust—the more important it is that they can be completely satisfied that all their transactions are not just in line with the rules of the Academies Financial Handbook but in line with the spirit of these rules.

Q157 **Stephen Timms:** You told us in 2014-15 there were 50 related party transactions worth over £250,000. Between them they add up to about £13 million in total. What can you tell us about how that public money was spent?

Peter Lauener: If I take 2014-15 and enlarge on some of the figures, there were 2,905 trusts making financial statement returns; 1,055 of those disclosed related party transactions; of which we looked at 74—about 7%—and said, "There is a bit more to look at there". When we looked at those 74, we concluded that 24 were not in line with the Academies Financial Handbook. I hope that process illustrates that we always look at those cases in some considerable detail. Then we would have individual discussions with those 24 about changing their practices to eliminate such activity. That would not necessarily mean eliminating the related party transactions but making sure that the principles of open procurement and at-cost procurement are respected in the way that the academy trust works.[1]

[1] See footnote 2 for Q159 for further information subsequently provided by the witness.

If I could just add that the arrangements we have put in place for academy trusts are more rigorous than apply to charities generally, and indeed than apply to maintained schools. We thought it was important that there should be absolute transparency with publication in the way I have described as well as no ability to make profit on significant transactions.

Q158 **Stephen Timms:** So there were 24 transactions in 2014-15 that you were concerned about. Were those 24 all problematic or were you able to satisfy yourself that all 24 were fine?

Peter Lauener: Based on our analysis of the accounts we concluded that these transactions were irregular, which might have been that they were not competitively tendered or it might have been that there was not a demonstration that they were at cost. We would then go back to each one of these individually and determine the correct course of action. Some of them might well have resulted in financial notices to improve or review reports that we then published.

Q159 **Stephen Timms:** Those are all worth over £250,000, are they?

Peter Lauener: I don't think they were but I would need to check and I will do a note about that.

Stephen Timms: If you could send us a note.

Peter Lauener: Yes.[2]

Q160 **Stephen Timms:** You made the point, you have put it in writing, that the vast majority of related party transactions are established for sound business reasons and properly managed and disclosed, but you have just written to remind accounting officers of the rules about this. Why have you found it necessary to do that?

Peter Lauener: I regard that as good practice so we have a system that discloses these transactions in academy financial statements. We triage them every year. We take up cases with individual academy trusts. I like to think that accounting officers and chairs of trusts will read my annual letter—I do not write very often—to maintain maybe, the importance of it

[2] Note by witness (Peter Lauener): For 2014-15, a total of 22 trusts were found to be in breach of our requirements for related party transactions, which is fewer than 0.8% of all trusts preparing audited financial statements and 2% of those trusts that disclosed transactions with a related party. There were 26 transactions in these trusts which is two more than the figure of 24 I said in the hearing. Further analysis since the hearing has resulted in the separating out of two individual payments for one trust and the identification of an additional payment as in breach. The total value of related party purchases made by the 22 trusts was £4.3 million, less than 0.02% of EFA's academy spend for the year. The value of transactions for 13 of the trusts was less than £50,000, 6 trusts entered into transactions between £50,000 and £150,000 and 3 trusts' transactions exceeded £150,000. The value of public funds potentially at risk in these cases is considered to be significantly lower than the total value and we have identified no instances of unnecessary spend.

when it comes out, and I suspect this part of the system of checks and balances, I think, to maintain a focus on something that is of legitimate public interest.

Chair: Ian, your turn to talk about payments to academy trustees.

Q161 **Ian Mearns:** Yes, the review from 2014 showed us, in bands of £10,000, the number of trustees who were being paid at particular levels. There were 2,587 individuals who were paid more than that £60,000 and then rising in £10,000 bands. Just an on the back of a cigarette packet calculation by me shows that even if all of those individuals were paid at the minimum of the band that they are in, the total would come to £835 million. Would it not be better, in terms of openness and transparency, if those figures were published showing which of those were senior employees of the school, like a head teacher or a principal or a school manager, and others separated out who were just trustees of the school or the multi-academy trust?

What can we infer from the sector report about the value for money of payments made to academy trustees? It is interesting, by the way, that the published figures you have there only go up to £150,000-plus; we do know that there individuals out there working for individual academy trusts who are earning substantially more than that, in fact at levels that the level of money they receive would require ministerial approval if they were appointed by the Department. Has the Department considered the case for introducing ministerial oversight for very high payments made to academy trustees on the basis that this is public money after all?

By the way, just for the record, I have been a school governor for 33 years and since LMS was introduced after the 1988 Act my annual return for related party transactions has been nil every year.

Jonathan Slater: The Government's approach, as you know, is that one of the freedoms that trusts need to have in order to be able to recruit and retain the best possible head teachers and other senior leaders is the freedom to set pay, rather than that being a decision made by Ministers. Equally, my Secretary of State is a chartered accountant and wants to make sure that there is the maximum possible value for money in public spending, in particular in respect of schools and that as much of it as possible gets through to the front line in the way that you said earlier in the meeting.

One of the benefits of a report like this, even more so next year when we have the full one in place, is that it enables governing bodies of trusts to see more transparently than would have been the case previously what the going rate is for those sorts of posts. That will help them to make better and better value for money decisions over time. But, no, Ministers are not intending to be setting the rates of pay for individual head teachers and other trustees above a certain level. That is not the case.

Q162 **Ian Mearns:** I was not suggesting for one moment that they should but given the levels that some people are being paid at by multi-academy trusts, do you not think that there should be ministerial approval given—it's not setting the level, the level has been set by the trust—because there are people out there who are being paid just below £400,000 a year, for instance, for being the CEO of an academy trust? I would guess that is probably one of the highest paid positions out of public money in the whole of the education world in the United Kingdom.

Jonathan Slater: Ministers do not see it as their role to approve rates of pay of matched chief executives at a certain level. They do expect value for money to be achieved and if we were to see evidence of poor value for money decisions in respect of the way that a school was spending its resources—in any number of ways not limited to the particular pay of a particular person—that would be a reason for Peter's people to go in and be challenging and intervening but Ministers do not want to get to a position where they are approving particular rates of pay for particular individuals.

Q163 **Ian Mearns:** Ministers might not see it as their role, but do you think the man or woman on the Clapham omnibus would think it should be a Minister's role to have some oversight in terms of those levels of payment out of public money?

Jonathan Slater: I do not think I am in a position to answer that particular question as to what the public would expect to see from a particular person. What I can say is that the publication of this information will only improve the quality of decision-making.

Chair: This is probably a matter we should be raising with Ministers rather than somebody like Jonathan.

Ian Mearns: Yes.

Jonathan Slater: That was simply rather more elegantly put, Chair.

Q164 **Ian Mearns:** I think the simple question that I would have is: in terms of future publication of such data, do you think it would be appropriate to separate out the money being paid to head teachers, professionals, principals from those people who are trustees of multi-academy trusts or individual schools?

Jonathan Slater: That is a suggestion I will take away. One of the benefits of the dry run is to share with you what is required under FReM, the Financial Resources Reporting Manual requirements, which is precisely what we have done. If the Committee is saying they would find it helpful for that to be broken down in a particular way, or indeed if you have any other views about the document itself, let me take that away and come back to you when we do the next one.

Chair: As I said before, we are going to reflect on this.

Jonathan Slater: Yes, sure, no, this is not the only point but I am taking that one away straight away.

Chair: Thank you.

Peter Lauener: Could I just clarify on that that it is nearly always the case that the head teacher or chief executive of an academy trust is a trustee and their pay would therefore be in this? Sometimes but less often there are other members of staff that have a staff/governor role so it is conceivable that their role as a member of staff, as it were, and not as a trustee, would be in that table to which you refer.

Ian Mearns: For transparency, it would be nice to separate it out if they are actually an employee of the establishment as opposed to someone being paid as a trustee.

Jonathan Slater: I see the point that is being made and I will take that away. I will do that.

Q165 **Ian Mearns:** Have we seen any evidence of a burgeoning of employment of close friends or relatives within the academy system?

Peter Lauener: I do not think I can give you data on that but it is certainly one of the things that always causes us to pause and take stock and ask some very serious questions when we see it.

Jonathan Slater: We always do.

Peter Lauener: Certainly, there are cases where we have published the results of a review or an investigation that have set out such relationships, and that would always cause us to pause and ask some serious questions about the governance. Again, it doesn't always mean that it is wrong but it is only proper that we would be asking those questions.

Ian Mearns: Thank you very much.

Q166 **Chair:** Jonathan, we asked your predecessor what he thought was long term and we have the answer, "About two decades" in terms of education planning. Do you think that is long enough or would you think further away?

Jonathan Slater: I think it depends on the circumstances, Chair.

Q167 **Chair:** In your previous role in the Cabinet Office, you would have probably experienced the flow of legislation. Do you think that the Department needs any more legislation, much more legislation, or do you think it is time for settling down?

Jonathan Slater: I think it is a matter for Parliament to decide on its legislative programme and for Governments to do so. I would not want to answer the question in the abstract. There are always opportunities to improve the way that any system operates. This House is currently considering proposals to improve the regulatory arrangements that apply to child protection; that is a really important example of something that needs to be got right. It depends on the circumstances.[3]

[3] Note by witness (Jonathan Slater): I should have said that it was the House of Lords

Q168 **Chair:** We have been testing you on delivery, reports, timeliness, and resources and so on but you will have been as pleased as I was, no doubt, to discover that colleges and universities were part of your remit. Has that affected your approach to organisational planning, strategic plans and so forth?

Jonathan Slater: I was absolutely delighted, yes, to be given responsibility for the entire education system.

Certainly, we have been doing a lot of work since that machinery-of-government change was announced, in the first instance, to manage the transition as smoothly as possible because obviously any machinery-of-government change is inevitably disruptive for the staff involved, so there is work that needs to be done in the short term to get that stuff fixed. We need to agree the reallocation of budgets between the Departments and so on, so that is work on which good progress has been made but there is more to be done. Having done that, the task is to secure the real benefits of being able to take that end-to-end approach and we have been looking with my fellow director generals at what changes we might want to make to structures at the most senior levels to make sure that that in particular we achieve the benefit of what might be described as the most sensible joined-up tertiary offer, post-2016, helping young people make the right decisions—technical, academic and all the rest of it. First thing: put in place the structures that facilitate that, then work it through, and take the real benefits over time.

Chair: Thank you. Just to demonstrate that we take seriously our additional responsibilities, Stephen is going to ask a few questions about higher education finance.

Stephen Timms: Howard, you might be a bit busier now.

Chair: Howard, it is your moment.

Q169 **Stephen Timms:** How would you describe the financial sustainability of higher education in the UK?

Jonathan Slater: I will give the top line answer: I am going to quote the OECD's assessment that we are one of the few countries that does have a sustainable regime for the funding of higher education, having been through the process of defining who pays what, the balance between graduates and taxpayers. Their view is that we do have a sustainable system and who am I to argue with them?

Q170 **Stephen Timms:** Do you think the current system of student finance is future-proof or at least sustainable?

Jonathan Slater: I think it would be foolish of me to say that I cannot expect any changes to be made in the future.

Q171 **Stephen Timms:** How would you summarise the financial challenges

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that was considering The Children and Social Work Bill.

facing universities at the moment?

Jonathan Slater: The financial challenges facing them: the key issues that Vice-Chancellors are raising at the moment are the consequences for their universities on the back of the results of the referendum vote and possible changes to immigration policy, given levels of inwards migration to universities. The Home Secretary spoke about that recently, didn't she, about what she sees happening over time. Our job is to work with universities to help them to be ready for those changes as and when they come down the track. That is specific policy consideration.

The Higher Education Bill that is going through the House at the moment seeks to put in place a tighter regulatory regime in respect of new providers, supporting more competition between providers, more choice, and so it is important for all higher education institutions to be ready for, and capable of coping with, that regime. I suppose that those are the main two.[4]

Q172 **Stephen Timms:** Let me ask a final question, which is probably to Howard. What challenges does the Department face in incorporating this area and also further education into its own accounts?

Howard Orme: Into its own accounts? Thankfully, over the years, BIS has got on top of student finance. It was a challenge for five years. I was working with the NAO to get to this position. It comes across with clean, timely accounts. The folk who do this have transferred across into the Department. The task will be then to set it in the context of the DfE report so that side of it should be less risk than you have been used to.

Q173 **Stephen Timms:** So you do not envisage this providing any difficulties for the 2016-17 departmental accounts.

Jonathan Slater: On its own basis, it shouldn't in the sense that, as Howard says, the previous Department has a good record of getting the accounts in on time and unqualified. It inevitably makes the task of the production of the DfE accounts more complex, covering a wider range but it does not present a new challenge. I think that would be fair.

Howard Orme: Yes, I think so. The other aspect of it is that not only is it change for the Department, it is also a change for our colleagues in the Treasury. Over the years, again, the BIS spending teams and so on did understand the measures that were necessary to be able to manage the volatility of this asset. We will have to work with them as well.

Stephen Timms: Thank you.

Chair: It is good that Howard got an opportunity to say a few words. We look forward to developing a good relationship with you and welcome to your appointment.

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[4] Note by witness (Jonathan Slater): The Bill is entitled the Higher Education and Research Bill

Thank you, all three of you, for being here today. I know Jonathan and, to some extent, Peter, got the brunt of our questioning but I think that it has been fair and balanced. We look forward to further dialogue on this subject.

We will be thinking more about the dry run and how we respond to it. That is not unreasonable.

Jonathan Slater: Thank you very much.

Howard Orme: Thank you.

Peter Lauener: Thank you.