HOUSE OF COMMONS

Public Accounts Committee

Oral evidence: Department for Education Annual Report and Accounts 2016-17, HC 395

Thursday 12 October 2017

Ordered by the House of Commons to be published on 12 October 2017.

Watch the meeting

Members present: Meg Hillier (Chair); Bim Afolami; Gillian Keegan; Nigel Mills; Layla Moran; Gareth Snell.

Sir Amyas Morse, Comptroller and Auditor General, Adrian Jenner, Director of Parliamentary Relations, National Audit Office, Simon Helps, Director, NAO, and Marius Gallaher, Alternate Treasury Officer of Accounts, HM Treasury, were in attendance

Questions 1-106

Witnesses

I: Jonathan Slater, Permanent Secretary, Department for Education, Peter Lauener, Chief Executive, Education and Skills Funding Agency, and Howard Orme, Chief Financial and Operating Officer, Insight, Resources and Transformation, Department for Education.

Written evidence from witnesses:

- [Add names of witnesses and hyperlink to submissions]

Examination of witnesses

Witnesses: Jonathan Slater, Peter Lauener and Howard Orme.

Q1 **Chair:** Welcome to the Public Accounts Committee on Thursday 12 October 2017. We are here today to catch up with the Department for Education on a number of issues. We hope that the session will last for about an hour, so our questions, and hopefully your answers, will be quite sharp. You know your subject, and by now we do too.

I am delighted to welcome our witnesses today. From my left to right, we have Howard Orme, who is—he has a very long title—the chief financial and operating officer, insight, resources and transformation at the Department for Education. Mr Orme, there is nothing you are not doing, from the sounds of that. Jonathan Slater is the Permanent Secretary at the Department for Education, and is a regular visitor to this Committee. I think you are coming back again in a few weeks' time.

Peter Lauener has several jobs at the moment. Currently, he is the chief executive of the Education and Skills Funding Agency. Peter, I believe that you are now actually retiring from that job, after having discussed it a few times. Would you like to update us on your position and on which jobs you will still be carrying on?

Peter Lauener: I am very happy to do that.

Q2 **Chair:** You had three, and you have two now. Is that right?

Peter Lauener: Yes. I've merged to the two funding agencies, so that's simplified life a bit. My successor as chief executive of the Education and Skills Funding Agency starts on 20 November, so I think this is the last time I will be at this Committee with that hat on. The arrangements for replacing me at the Institute for Apprenticeships are still under way, and I imagine there will be an announcement soon.

Q3 **Chair:** So when the apprenticeships role is filled, you will be retiring from that as well?

Peter Lauener: Indeed. I will be retiring from that.

Chair: It won't be the same without you. Let's see how it goes today. You might be glad or not that you are retiring now.

Peter Lauener: It is always a pleasure to be here.

Q4 **Chair:** First, we want to congratulate you on getting the accounts out unqualified. That is, I think, a first for some years, so congratulations to Mr Slater and Howard Orme.

Jonathan Slater: Thank you. I will pass on your thanks to the team, who have been working fantastically hard. Obviously, it is your right to expect us to get it done on time and to quality, but they have worked very hard.

Chair: That is just to show that we do give plaudits when they are due, but then you have the next hour.

Jonathan Slater: That is why I am enjoying myself in the first minutes.

Q5 **Chair:** You can beam and smile and take the plaudit when it comes. It is an achievement, and we recognise the challenge, with the growth of academies, of consolidation. We look forward to talking to you at some point about academy consolidation and when it will come forward. No one could have predicted how it has gone. It was an inherited problem, so congratulations on that.

Mr Orme, the Comptroller and Auditor General has raised concerns about the forecasting and management of in-year spending in particular. How are you working to improve forecasting and financial management in the Department?

Jonathan Slater: Can I start, and then I will bring in Howard, as you wish? It is obviously very important that we improve the quality of our financial management. As you say, the efforts we have made over the year to get the Department's accounts out on time is evidence of our getting our act together. I am confident that the sector accounts will be out on the 26th of the month, and, as you say, you will want to discuss with us what that tells us about the finances of that sector.

We have invested heavily in some very strong capability to improve the quality of our finance function—I said to you earlier this year that I would do that. Howard will be too modest to refer to his own expertise and background, and he has brought in with him some very strong people. We have a strategic finance director in Jonathan Clear and an operational finance director in Iain King, who are very much at the top of their game, and there are strong people underneath them.

Of course, we need to improve not just the finance function but the seriousness with which staff right through the organisation take their financial responsibilities. The management committee that I chair has a monthly report that holds people to account for spending within their means. We have set up a dedicated finance and investment committee, which signs off business cases. I an confident that if the NAO come back and compare our financial disciplines today with those of a year ago, while they will identify plenty of room for improvement, they will see a lot more professional financial management than a year ago.

Q6 **Chair:** Mr Orme, was there anything you want to add on what you are planning to do to improve this further?

Howard Orme: The challenge we faced was post the machinery of government change, which brought in a new portfolio, both from a financial management point of view and an operational management point of view. The portfolio is now inherently more volatile and risky, so the importance of getting on top of financial forecasting is even greater. That is a priority. We are on a journey.

Chair: You are on a journey too? Everyone is on a journey.

Howard Orme: I would not claim that we are by any means satisfied with where we are at the moment, but work is in progress.

Q7 **Chair:** You have taken on student loans. That is really the insulation, for instance, on excess votes, which you know have been a concern for the Committee in the past. Is that a fair reading of it? It gives you the buffer.

Jonathan Slater: Yes. Of the underspend in 2016-17, as you can see for yourself, 90% is due to the need to create a buffer for the inherent volatility in student loan forecasting. What is the growth in the economy going to be in the next 30 years? What is average level of graduate earnings going to be? So we create a large buffer. Given that we cannot possibly sit in front of you again and defend ourselves on excess vote, we have to create more of a buffer than we definitely need, and then we just give it back. That is what we do.

Q8 **Chair:** Mr Orme, one of the concerns from the sector—the sector the Department covers is now wider—is the late notification of budget and so on. Will the new financial disciplines mean that school heads and governors and other FE colleges and so on get a clearer idea of their budget at an earlier stage in the process?

Jonathan Slater: Again, I do not see any reason why our financial management systems should stand in the way of schools getting up-to-date information. The crucial change here is the launch of the national funding formula, setting—

Q9 **Chair:** We are going to come on to that. I was actually asking Mr Orme about the financial disciplines. We have had many evidence sessions in this room—we also know this as constituency MPs—and have heard providers are sometimes not sure what their budget will be until quite late in the day. If you are doing better forecasting or management, can you give them any reassurance that, under your regime now at the Department, with tighter financial controls and forecasting, you will make it easier for them in that respect?

Howard Orme: In terms of the ambition and the standards which I would aspire to, it is that prior to the start of a financial year, you would have an understanding of your funding so that you could then plan and execute it.

Q10 **Chair:** It sounds very basic, doesn't it?

Howard Orme: It does sound very basic, and in many cases it is, but in many cases, for various reasons, it is not. Sometimes that is to do with the way the finance function is operating, but it is mainly to do with extraneous factors of timing of fiscal events and change. As a standard, that is what we will try to achieve, but—

Q11 **Chair:** You cannot be in control of it all—you are getting your caveats in. I appreciate that politics sometimes gets in the way. That is what you are probably trying to say, but as a good official you are not allowed to say that.

Peter Lauener: Could I respond on that, because it is an example of quite a significant change? As the Department has increasingly funded academies directly, we have been able to issue the academies' budgets for the academic year ahead in March, and increasingly in February. We set the target of March, but in most cases we issue it by February. So in February most academies get their budget for the following academic year. To my mind, that is a major improvement in the academies' ability to manage their own destinies and make the proper plans.

Q12 **Chair:** We will always be in favour of that, so that is a good step. FE is slightly different: some of them are still getting quite late changes, and we recognise that there are a lot more complex issues in the whole of the FE sector than we have time to go into today. In your own accounts, Mr Slater, you talk about the risk of financial failure in schools being monitored closely and about schools facing huge pressures, which I will not repeat as we have discussed before. We talked about this in January, but what is your current assessment of the risk of financial failure in schools?

Jonathan Slater: I suppose two or three things have happened since January which have reduced the risk. One would be the additional funding made available to schools in their core budgets for 2018-19 and 2019-20. That extra £1.3 billion obviously reduces the level of financial risk for the sector as a whole. Alongside that, we talked in January about the efforts the Department would be making with schools to help them to improve their efficiency, and as you would expect, we have made some progress along the lines that we were discussing with you then. We talked, for example, about the fact that we would be setting up a couple of regional school buying hubs to help schools in particular regions to take advantage of national procurement deals—you will recall the conversation.

Q13 **Chair:** Has that worked?

Jonathan Slater: Since then, we agreed the functions for the north-west and the south-west, and the teams that are going to do the co-ordination across those two regions are being put in place and start in February. We talked about the work that the ESFA would be doing, which is asking schools to update their financial forecasts for the next five years and then engaging in conversation with those whose budgets looked risky in that context. That process has now actually started.

Q14 **Chair:** Mr Lauener, what risks are you seeing from that exercise, which is just for the academy sector?

Peter Lauener: We look ahead three years for academy trusts. That is a major part of what we are trying to do—to move from reactive to proactive and work with academy trusts to anticipate problems that might emerge.

Q15 **Chair:** What does the landscape look like now for academy trusts? Just taking the academy sector first of all, what is the risk of failure? Do you have worries? What percentage of schools are at risk of failure?

Peter Lauener: There are always a number that we are looking at closely and discussing recovery plans for. There has been a small edge up in that rate, but we think that the arrangements we have in place should allow academy trusts to identify problems early. We are also working increasingly closely with local authorities on maintained schools. When we last talked about that in detail in this Committee, that was quite a feature of the National Audit Office Report. We have actually had a very strong welcome from local authorities for sharing a lot of the data that we have and sharing the approaches.

We are recruiting a number of fellows of the National Association of School Business Management, who will be able to go into schools that have financial problems to help them to look at the cost of their curriculum planning and to look at the scope for making other savings in their procurement. We are doing quite a lot, increasingly proactively, to deliver on the agenda that was discussed previously.

Q16 **Chair:** I will go into the £1.3 billion in a moment. We talked last time about £3 billion of efficiency savings from more effective use of staff and better procurement, in broad terms. We have had reports since then of schools that are reducing their hours. There is one in my constituency looking at going down to four and a half days a week, while others are talking about taking out a whole subject area—perhaps not providing teaching in geography or history, for example.

Mr Slater, how are you watching the impact? As a Committee, we want to make sure that the budget is balanced, but how are you assessing whether these budget decisions are actually having an impact on pupil learning and achievement? If you remember, in January we were a bit critical that you didn't really have sight of that; you couldn't really tell the impact of funding decisions from Whitehall. You can balance the budgets, but at what cost?

Jonathan Slater: I totally understand the question. Where we have schools that are facing financial challenges, there is a contribution that the ESFA needs to make, hence the recruitment of these financial specialists. However, they absolutely need to work alongside the staff of the regional schools commissioner in working with schools on improving their standards and making sure that outcomes for children are achieved. We are co-ordinating the efforts of Peter's teams with those of the regional schools commissioner and the education advisers, who go in to engage with schools on ensuring that performance is maintained. Where there is a conflict between those two things, we engage with them to work to make sure that the most sensible decision is made in all of the circumstances.

I was clear with the Committee that, if a school is facing a falling roll—you had headteachers in front of you in that situation, did you not?—there is no getting away with it: even with a real-terms per pupil protection of their funding, there will be a reduction in money if the number of kids they are educating falls. That is a challenge, and we need to make sure that we have a joined-up conversation with them, so that we are not asking—

Q17 **Chair:** Joined-up conversations are fine, but if a school is, for instance, dropping geography, is that seen—academically and curriculum-wise—as a clash? Would the schools commissioner accept that that would be an acceptable outcome when there is that compromise between funding and the curriculum?

Jonathan Slater: It would all depend on the circumstances in the case and what the plan was for ensuring that a broad curriculum was provided. We obviously do not want to manage the schools from Whitehall or even from the regional office. We set out an ambition that, over time, 90% of secondary schools should offer the EBacc, which would include either history or geography, to take your example. We would want them to offer a rich curriculum, but equally we would need to have an intelligent conversation with the headteacher about what was the right thing to do in the circumstances.

Q18 **Chair:** I just think that if you are an average parent or pupil applying to a secondary school, you probably do not think that one of the schools has dropped French or that others are talking about doing so—we all have examples, I'm sure. Do you not think that the Department centrally has some responsibility, albeit that it is not running the schools individually, just to keep an eye on that? If every school decides, for example, to drop geography because they were trying to save money that would be bad.

Jonathan Slater: That would be very bad.

Q19 **Chair:** How would you know and how would you stop that happening? You do not have the power to intervene at that level. Well, I suppose you could, but how would you know?

Jonathan Slater: That is why I talk about the work that is done together by Peter's agency and the regional office with schools facing challenges, to make sure that they are taking the most sensible decisions in the circumstances.

At our previous meeting, we discussed the opportunities that we see for schools to make significant efficiency improvements to protect the curriculum. We see great examples of individual schools improving their efficiency in all sorts of ways—in both the way they do the curriculum and the way they buy. We have deals that we will want to make sure that they are taking advantage of. That is the way that we would operate: we would intervene if we felt that they were not taking the appropriate decisions in the circumstances.

Q20 **Chair:** So if a regional schools commissioner has noticed, and perhaps alerted you or Mr Lauener, that all the schools in their area were dropping French, geography or whatever, that could mean a real paucity of offer for those young people in that area. They would not have a choice, even if they were aware of the fact when they applied. What would you do to make sure that that did not happen? How could you stop that happening?

Jonathan Slater: Our task in those circumstances is to make sure that the schools are using the money at their disposal as efficiently as they possibly can.

Q21 **Chair:** They could use it efficiently by dropping geography, for example.

Jonathan Slater: No, that is not efficient. Efficiency is value for money; it is not just cost. I completely agree that anybody can cut costs. The interesting question is whether the headteacher is organising their curriculum in accordance with the best practice that we see from other headteachers.

We do not have some special way of doing a curriculum that other headteachers have not thought of. The advantage that we have at our disposal is that we see what great practice is. The education adviser, and Peter's financial adviser, would engage with the headteacher or the chief executive of the MAT, depending on the circumstances, or the local authority to make sure that they are making the most sensible decisions they can in the circumstances, with help from us if they are not.

Q22 **Layla Moran:** I am a former teacher and a current primary school governor, so I am very much on the frontline in some of these decisions. I also sit on the performance and standards committee in my role as governor.

I am surprised that you are saying that it is just about the schools that are struggling, because it seems to me that all schools—in my area certainly—are struggling with this at the moment. Are you actively engaging all schools everywhere and having those conversations about efficiencies, because it strikes me that it is the vast majority now. It is not a small handful; it is now most schools. How is that working?

Peter Lauener: We have slightly different responsibilities with academies and maintained schools. We engage academies directly and get more financial information back from them, including budget forecasts.

If I start with academies, we have developed a risk profile so that we engage most with academies where financial problems are emerging, or may emerge if the number of pupils continues on an adverse trend that it might have been on for a couple of years. We have quite a carefully calibrated risk schedule so that we focus resources on those most in need. There is, however, a whole set of tools available for all academies, and indeed all maintained schools. All the tools are available for everyone.

There is quite a large-scale programme, managed in the Department: the schools financial health and efficiency programme. That makes sure that all the tools that are needed are available and that the resources to support are available. The work I am describing is actually part of that.

I spoke earlier about maintained schools. We have developed quite strong links with local authority finance directors and directors of children's services to ensure that maintained schools are getting all the information that they need. It is all on the public website, but it is a matter of ensuring, in the regular engagement that local authorities will have, that they are reinforcing those messages as well.

Jonathan Slater: The bottom line is that we ask, and require, all academies to give us a return each year about their projections for the next three years. We would then engage with any academies where we thought that that process uncovered a problem. We are absolutely not just waiting for individual concerns to be expressed.

Q23 **Layla Moran:** In the maintained school sector particularly, I am hearing a lot of reports in my constituency of Oxford West and Abingdon in Oxfordshire that there is just not enough budget at the local authority level to send enough advisers into the schools to have these one-on-one conversations. In fact, in the "Financial sustainability of schools" report, one thing that many of the headteachers were saying was that there is not enough dialogue between them and anyone else. They do not feel supported enough. Do you take that on board? Are you going to improve that? Are you looking at how much dialogue schools need versus what they are getting?

Jonathan Slater: Are you talking about local authority maintained schools in particular?

Layla Moran: Yes.

Jonathan Slater: That is the importance of the engagement that Peter has been having with the Local Government Association since the Committee last time round. I think there was a recognition around the table that a more proactive approach was needed by not just the ESFA in respect of academies but some local authorities too. That is what we are promoting and encouraging now—absolutely.

Q24 **Chair:** The Secretary of State announced £1.3 billion over two years, but we were already concerned about the £3 billion of efficiency savings. I pressed her on this in the House. Schools are going through a reduction in spending and then are being given a bit back, in effect, so it is not actually a net gain for schools, is it?

Jonathan Slater: I suppose it depends which timeframe you are talking about.

Q25 **Chair:** That's the thing—there are two timeframes: the original 2020-21 and then the two years.

Jonathan Slater: To be clear, the real-terms per pupil protection in funding that she announced—the £1.3 billion—starts now and runs through to March 2020. It is for that period of time. The question about what happens thereafter is a matter, obviously, for the next spending review. That is the period for which the—

Q26 **Chair:** That money is coming out, and then a bit is being given back, effectively, but on a formula basis—the £1.3 billion—across all schools.

Jonathan Slater: Well, £1.3 billion on top of the £1.3 billion that was in there before, yes. There is always a question about where you start. I think the simplest way of describing it is that the budget available for schools overall is protected in real terms per pupil from now through to the end of 2019-20, but obviously, efficiency savings were required before that, absolutely.

Layla Moran: Okay; in this specific time period, that is true.

Q27 **Chair:** I want to come in on the efficiencies. We have talked about the £3 billion. You talked about the procurement and so on and the hubs being set up. You still have not yet proved that that is actually deliverable; we have not seen the actual outcomes of that—I am absolutely right in that, am I not? Where the new hubs are being set up to improve procurement, we have not yet seen the dividend of that.

Jonathan Slater: Everything we have proposed is currently being done by some schools. Our challenge is to make sure that that is the norm rather than not. It absolutely is not yet, and our task is to make it so over the next two years.

Q28 **Chair:** You have done this high-level modelling about what could be done. This is what our concern was in January. Now we are several months on. How are you watching the impact on individual schools, and especially smaller schools? For small, single-form entry primary schools, for example, which we raised before, there is not much fat to cut except staffing.

Jonathan Slater: I am sorry to sound a bit repetitive, and apologies if I am missing the point you are making, but that is why Peter has been recruiting specialists who will be receiving three-year forecasts for each academy individually—every single one—on not just the finances but the performance and a whole range of indicators. They will be going in where they see problems and saying, "Hang on a minute. There's an energy deal here in which"—

Q29 **Chair:** Okay, but if you are a small primary school and you have already done that, and you've got money to get out of it, where is that going to come from?

Jonathan Slater: Where is what going to come from?

Q30 **Chair:** The extra efficiencies that are being required of schools. If they have done all that already, where are they going to get the money from? They are going to have to take out teachers or staff, aren't they?

Jonathan Slater: I was simply answering the question about how we make sure every school in the country operates as efficiently as possible, and the answer is as I have described. Real-terms per pupil protection—particularly supported by a national funding formula from 2018-19, which makes sure that all schools are funded on an equivalent basis—should provide the resources available to deliver an efficient curriculum, other than, of course, in circumstances where the number of pupils is falling, and you might well need to reorganise the local provision in an area in the light of changing population.

Q31 **Chair:** Okay. That has opened up another door. I'm going to bring in Sir Amyas Morse and then Gillian Keegan.

Sir Amyas Morse: Just out of interest, when this more engaged form of planning takes place, if they do not come up with what you think is sufficient, do you start with a number in mind? Or are you simply acting as an adviser? In other words, if they do not produce the net number you think they ought to produce, what happens?

Peter Lauener: Let me give you two categories, Sir Amyas. Category one would be a longer list. If I talk about academies—the same principles would apply for maintained schools, and we are working with local authorities on that—the longer list would be those where there are adverse trends in finances, maybe related to pupil numbers. We start in an advisory mode and say, "If these trends continue, we think in a couple of years you might have problems; are you aware of those?" We might get back an answer that says, "Actually, we're on the case; we think we've got the plans," and that might well give us confidence to say, "We don't need to take any action with this." There might be others that come back and say, "Well, I don't think there's a problem," and if we disagree with that, we then engage with that group. That is all in my first category.

The second category is those for which there are more serious problems: significant cumulative deficit. They may be on our risk register, and we will already be engaging with them. We sit down and we expect the academy to draw up a financial recovery plan. We test that pretty hard. We will not sign up to a financial recovery plan that we do not think is deliverable. We might then make an advance of funding, which we would recover over a number of years, while the financial recovery plan is put in place. That is the process we are using at the moment.

***Sir Amyas Morse*:** I am comparing this slightly with the process that one observes in Health; that is why I am asking the question. I am just trying to make sure I understand it. At the end of the day, once they are in difficulty, they will not get the extra funding unless they have a plan that you think is okay? That is not a fault; I am just trying to make sure I understand.

Peter Lauener: That is absolutely correct.

Q32 **Gillian Keegan:** As a former procurement manager, I would like to dig into a specific opportunity, just to test this buying hub. One thing that is having an impact on all schools is the rising cost of using agency supply teachers. They have very low contingency now, in terms of the number of hours that they can manage from within their own teaching staff. These are all now procured by external agencies. Of course, that is stochastic: the more the pressure on teachers, the more they may go off, but it is not something that headmasters can really control. As that would affect everybody all over the country, and it is a rising cost, what specific actions are these hubs taking to address and reduce the procurement cost of agency supply teachers?

Jonathan Slater: I do not want to over-promise, because as I have said, the first two go live in February, but the plan is for them to be helping schools in their region to procure across the region, rather than on a school-by-school basis.

Q33 **Gillian Keegan:** Do they have savings targets that you are working to? These are pretty big parts of the budget now, and could be increasing.

Jonathan Slater: We discussed what we did in detail last time; to be fair to the Committee—I am sorry about this—our Treasury minute showing how we are responding to the recommendations comes out on the 19th. That will set out in detail the progress we will be making, and no doubt you will then call me back to discuss it. Taking supply teaching as a specific example, we set out what we thought a national benchmark should be, based on practice that we saw from some schools. You have a normal distribution curve, as you would know, and the question is whether you can shift people up towards the right by taking advantage of those sorts of deals.

We thought it was too complicated to try to organise at the national level, but at regional level, we set them a target to improve the unit cost within their region. We do not know that it will work. We think it should. We will not be the first people who have done this, of course—there is Health—but that is why we are doing two first, and if it works well, we will roll it out.

Q34 **Layla Moran:** If I may, I would like to drill down into the £1.3 billion of additional investment in the core schools budget and just understand where some of these numbers are coming from. Let's start with the healthy pupils capital funding, which we are told will release £315 million as part of this.

Jonathan Slater: Yes.

Layla Moran: Can you please explain, first, how much of that funding had previously been used, what sorts of programmes it had been used on, how efficient they were, and how we are going to maintain healthy children if we are no longer funding the healthy children programme?

Jonathan Slater: This was a capital budget that had not yet been allocated. It was a new thing, to be funded from the sugar levy—do you remember that? The decision that Ministers took was that rather than allocating it in the future to individual capital programmes in support of healthy pupils, schools would appreciate it more if it was baked into their core schools budgets for them to spend on an ongoing basis as they wished. That was the change.

Q35 **Layla Moran:** Presumably the healthy pupils bit of it has now essentially been given to schools to deliver, but we know that schools are going to use this to help fund keeping their teachers, so are we giving up on the healthy pupils side of things?

Jonathan Slater: No, we are not giving up on trying to improve the health of pupils. I don't want to hide anything from the Committee, and neither does the Secretary of State. We were not given any extra cash by the Treasury. What we did was a reprioritisation exercise. Clearly, if you are a school, you would prefer to have both, but in our judgment we thought it was a better deal for schools to have it built into the core on an ongoing basis to spend as they wish. That is a reprioritisation—nothing more, nothing less.

Q36 **Layla Moran:** Understood. Thank you. On free schools, I am confused because we are saying that we are going to "work more efficiently" to release £280 million in the free schools budget. What does that mean? Secondly, if it is possible, why aren't we doing that with all free schools, anyway?

Jonathan Slater: I enjoyed a meeting with the Committee a few months ago in which I was challenged as to whether it was possible to drive further efficiencies out of the free school programme. The good news is that it is. The particular opportunity that we have identified here is an opportunity to work differently with local authorities. There are two ways of creating free schools, as you know: there is the one that the Department does, and there is the presumption route from local authorities. We considered rebalancing between the two and getting more of a contribution from local authority presumption schools. Obviously, they need funding from us to support their bit of it, but in practice what one finds, so long as you are not overdoing it—

Q37 **Chair:** More local control of free schools.

Jonathan Slater: It's more to do with the ability to unlock local authority land, to be straightforward about it. As we have looked, in practice, at the cost of local authority presumption schools versus centrally procured ones, there are sometimes limits. There is no room in Hackney, as you know, Chair, as we discussed at some length at the last meeting. There is a limited amount of this that you can do, and we have assumed it will be possible to do about 30 on this basis. That brings down the unit cost of those schools to save that money. That is at the heart of it.

Q38 **Layla Moran:** Thirty across the country. That doesn't sound quite right.

Jonathan Slater: Of the 140 new free schools that the Government announced in the previous Budget, we think it would be practical for an increase in the number of those delivered by local authorities, so that they are about 30 out of the 140. That delivers that saving. I am not saying that that is the end of the potential for driving efficiency through the free school programme for ever, but, in answer to the question, "What can we do right now to contribute towards that £1.3 billion?" that is what we thought was practical.

Q39 **Chair:** On the free schools, you mentioned the Hackney example; you brought it up. We have an old police station that is not suitable for a school of the size that has been proposed, yet that is now going through a planning appeal, and it is not the only one. The Department has tried very firmly, and it has never lost one yet. It seems expensive to choose bad buildings that cost an awful lot of money to start with, rather than have going down this route and talking to the local authority sooner. Has the change in heart only come about because this Committee started asking about the money, or is common sense now finally coming through this Department?

Jonathan Slater: I cannot believe that I made such a rookie error as to put this back on the table. I have been a permanent secretary for 18 months now. What is my excuse? I was simply trying to make the point that we, or the previous version of this Committee, all agreed that there should be an opportunity to improve the efficiency of the free schools programme, and that is what we are doing.

Q40 **Chair:** Are you looking at some of the sites you have chosen from the centre? In Whitehall, directly on your desk, or on Mr Lauener's desk, have been school sites that were never really going to be fit for purpose, and that will stack up capital problems for the future. It is particularly startling in my borough, where we got brilliant new schools— the academies. Then we hear about buildings around the country that are unsuitable. I am being approached by all sorts of people about old office buildings with no showers or outdoor facilities—things that will be stacking up problems. And you are only now starting to talk to local authorities more seriously about using their sites. It just seems extraordinary.

Jonathan Slater: I would not want to caricature the way we have engaged with local authorities to date as not talking to them. Can we not celebrate the fact that we have a plan to improve the efficiency of the free schools programme by working ever more closely with local government?

Q41 **Gareth Snell:** Having a good plan is pointless if you haven't—

Jonathan Slater: Sure, absolutely; by all means check out whether I have done this in a year's time.

Q42 **Gareth Snell:** But it is rather flippant to say "Let's celebrate having a plan" unless the plan can actually deliver something.

Jonathan Slater: Sure—absolutely.

Q43 **Gareth Snell:** On free schools, local authorities have in the past been told, "You are far too unwieldly to be in the business of delivering new schools," so I find it somewhat incredible that the Department for Education is coming back to local authorities to say, "Actually, it would make much more sense to have you look at some of the land options available around the country." Had this programme been working from day one with local authorities, where there was expertise, local knowledge and interest, you might have found the entire free schools programme much more efficient than it has been. We will never know that, but the fact that you are now going back to local authorities to say, "We want to work with you on the delivery of schools", suggests to me that at the beginning, something was more ideological than about the efficiency of public spending.

Jonathan Slater: I think it's not helpful for me to offer a perspective on the ideology or otherwise of the free schools programme, and I'm an ex-director of education at a local authority, so I do see the potential for working with local authorities well. I was at a school last month; we opened 52 free schools in September. All sorts of collaboration is going on with local government. It is obviously true, by definition, that when one announces a potential efficiency improvement, people can generally say, "Why didn't you do that last year, or the year before, or the year before?" Absolutely. I just want to be held to account for what I am doing—

Chair: You are, Mr Slater.

Jonathan Slater: And I will need to check this out.

Chair: Let me be clear: the settled position of this Committee is that we have no position on whether, as a policy, a free school is the ideal—that is not what our Committee is for—but we have put out pretty hard-hitting stuff saying that there is a lot of waste in the free schools programme. That is partly because the numerical target means that—I am paraphrasing our report massively—you are chasing buildings at high expense. Mr Snell has an example to raise.

Gareth Snell: Yes, I have an example of that. One of our colleagues has provided information to the Committee about a school in his constituency. He says that he has had information about a closed free school where funds were taken from the school and put into a related party company. That company failed to submit accounts and was struck off. The ESFA have told him that they have no idea where that money is, and they will now have to write off circa £400,000. It is a large loophole that once that company failed to trade, Companies House no longer required any accounts from it, so that public money that should have gone towards the education of children has been lost somewhere. Is this something that you recognise as—

Chair: This is in Oldham. You might recognise the school.

Q44 **Gareth Snell:** Yes, this is from my colleague Jim McMahon in Oldham. Is this something that you are aware of happening around the country, and if so, what action can you take to ensure that when public money is passed to third-party companies for the provision of free schools, there is accountability for that money?

Jonathan Slater: I don't know whether Peter has the detail in front of him; if not, he can obviously write to you. At the overall level, to give you a sense of the scale of it, if you look at the accounts that we just published, you will see £5.8 million-worth of losses and special payments in total in 2016-17. That was down from £12 million the previous year. Of that £5.8 million, just over £1 million is represented by cash losses as a consequence of individual academies and free schools—

Q45 **Gareth Snell:** Just £1 million?

Jonathan Slater: £1.1 million or so in 2016-17, to give you a sense of the scale of it. Obviously, it's really important that we bear down on that, take action, and learn from history, and that the checks put in place as new arrangements are invested in exceed those of the past. Obviously, any single payment that has to be written off is, as you say, money that could have been made available for children's education, and we should be seeking to bear down on it as much as we can. Peter, do you have the details of the particular case?

Peter Lauener: I am aware of the particular case, and we have carried out an investigation. There is actually a linked school with that, and the investigation is still going on, so I can't comment in great detail on what the final outcome will be.

Q46 **Chair:** Do you think you will be able to recover the money?

Peter Lauener: We always recover money where we can.

Q47 **Chair:** Yes, but in this case, do you think you will actually be able to recover the money, or is it lost?

Peter Lauener: I think there will be a write-off of some of the funding there.

Q48 **Chair:** Is the free schools' charter a chancer's charter? If people can do that on the back of money coming directly from Whitehall—taxpayers' money—that is extraordinary.

Peter Lauener: If I can add a point on related party transactions generally, which we have discussed on several occasions at the Committee, the arrangements for managing them are set out in the "Academies Financial Handbook". Those arrangements are more rigorous than those that apply to any other such organisations, and than apply to maintained schools. Every year, when we get the returns and financial statements from academies, we review related party transactions. Only a very small number of those declared, about 1%, cause us concern. In some cases—an even smaller number—we then carry out investigations.

The case you have raised is one that we had concerns about and investigated. No system can prevent all occasions of abuse, but in perspective, it is a very small proportion of the total. We believe that the arrangements are rigorous, and we follow through on investigations fully and properly. We always publish the results of those investigations, so that other people can see mistakes that have been made. There is a small collection of those investigation reports now.

Q49 **Chair:** Hopefully, you or your successor will write to us about the outcome of that investigation, because it is a hard hit for the people of Oldham.

Peter Lauener: I am happy to do that.

Q50 **Gareth Snell:** You said, "where they are declared now". The information provided by Mr McMahon is that the DFE does not insist on seeing all the accounts. Has that now changed? When you have a related party company involved, do you insist on seeing accounts for that company?

Peter Lauener: The accounts for the related party?

Gareth Snell: Yes.

Peter Lauener: That would depend on the circumstances. In most cases, there are no issues to follow up. We regard the related party declaration, which is in the academy trust accounts, as full, proper and appropriate. Indeed, the academy trust auditor will have had to be satisfied—that is one of the pieces of guidance that we give to academy trust auditors. If we get into investigation mode, we may well look at the accounts of particular companies where there is a related party transaction.

Chair: I think we have covered that as much as we can in this session. I am aware of time, so we will whip on a bit.

Jonathan Slater: Do write to me if you think there is something that we are not doing.

Chair: We will take this offline, because we have not got time in this hearing to get into that.

Q51 **Layla Moran:** We are just over halfway through that £1.3 billion, with my maths hat on—I was a maths teacher, by the way—

Chair: Yes, you've got to watch it—a teacher and good at maths.

Layla Moran: We have just got £700 million done, so we have a bit to go. Coming back to that statement: we had a reprioritisation of £250 million in 2018-19, a £350 million reprioritisation in 2019-20, and then a redirection of money from the central schools improvement programme of £200 million. That is really vague stuff, isn't it? Do you have a much more detailed plan—I really hope so—and can you tell us about it?

Jonathan Slater: We are constructing that plan at the moment.

Q52 **Chair:** It is always going to happen tomorrow—I am being flippant.

Jonathan Slater: That's absolutely fine. When a Government announce that they are going to spend £1.3 billion, some of it you can find straightaway, and some you have to look further for. You are absolutely right to describe where we have got to in the way that you have: some of it is clear and we are able to crack on with, and other parts we are working through at the moment. As you have said, there are two packages.

With regard to the central schools budgets, we have been asked by the Secretary of State to look at all the separate pots of funding that are made available to support school improvements over the years, because new initiatives come and new pots of money are associated with them. I think that the challenge we have been set is absolutely deliverable and, frankly, will be appreciated by schools on the receiving end.

Rather than there being a whole series of separate pots and funding regimes, each with its own application, bidding process and so on, can we simplify that region by region and, in doing so, make a saving? As I say—no hiding—this is reprioritising. Can we switch some of the central schools funding into the core budgets without an adverse impact? I think we can, because of the number of pots in place, but obviously I need to get that done before the end of the financial year. That work is well under way at the moment, but I am not yet able to give you the results.

The other package is that we have been carrying out a review of areas that typically underspend. We discussed the fact that 90% of underspend for 2016-17 was the student loan volatility, but that still leaves 10%. Where there are areas that typically underspend because they are demand-led—obviously, I would prefer to have my cake and eat it—in those circumstances can we redirect resources that are typically underspent into the core schools budget? Given that we are discussing about 1.5% of the total level of funding beyond schools themselves, I think that's doable, but obviously you will want to see the detail on that before the end of the year.

Q53 **Bim Afolami:** I have two questions. The first is about shifting, reprioritising and redirecting—I never knew there were so many words for the same thing. Where you are effectively moving from capital spend to current spend—day-to-day spend, so to speak—to what extent are you making assessments of what problems, if any, you see arising as a result of that over the medium or longer term, because that is obviously a worry for lots of people?

Jonathan Slater: If we were telling schools to use capital resources that we had given them on an ongoing basis, then you are right: they would run out of money. But that is not the plan. We had a capital programme that we have agreed with the Treasury to turn into a revenue programme for the remaining period of the spending review. Obviously, the question about what school budgets are beyond '19-20 will be a matter for the next spending review, but we haven't asked schools to take—sorry, what did I say wrong?

Peter Lauener: You said 19-20, not 20-20.

Chair: 2020-21.

Jonathan Slater: So they have guaranteed resource budgets through '18-19 and '19-20. The question about what their resource budgets will be from '20-21 onwards is a matter for the next spending review. Obviously, the debate for the Government at that time will be whether or not to continue with real-terms per-pupil protection. That is a matter for the next spending review.

Sir Amyas Morse: Can I just check, to make sure that I have got this straight? So you are saying that you have an agreement with the Treasury to appropriate from capital to revenue through the rest of the spending review period. Is that what you are saying?

Jonathan Slater: In respect of that particular programme.

Sir Amyas Morse: I see, but not as a general rule?

Jonathan Slater: No, not as a general rule. As the Committee member said, for this to be sustainable what had previously been capital allocated to healthy pupils and free schools needed to be turned into revenue for the remainder of the spending review period, and that is what we agreed with the Treasury.

Q54 **Bim Afolami:** In the NHS there is often an analogous problem, where you get capital spend shifted into revenue spend, so can we be confident that we aren't storing up bigger problems for the future? That is really my point.

Jonathan Slater: Yes, and the point I am making is that—okay, I am not the permanent secretary at the Department of Health, so I wouldn't want to comment on his spending. But that is not a description of what we have done. We haven't asked—I am not saying that he has either; I'm not in a position to comment on health—schools to spend their capital budgets on revenue spend. No, we haven't done that. We had a capital allocation that we have agreed with the Treasury to use in a different way.

Q55 **Bim Afolami:** On a separate tack, I have looked at the numbers over the past, say, 15 or 20 years, and I see that school spending generally has gone up since the mid-'90s. Actually, our school spending, compared with most OECD countries is comparatively high. Bearing in mind that context, why do you think that certain schools still find the cost pressures as significant as they do? If you compare our record with other countries' spending over the last 15 or 20 years—

Chair: We are in danger of going over old territory here, because of the apprenticeship levy and the pay cap issues. Do you quickly want to canter through that, Mr Slater? I am just aware of time; we could be reprising previous hearings too much.

Jonathan Slater: I think the country's expectations and the Government's expectations of what schools should be able to deliver for their pupils has gone up over the last 30 years. The Institute for Fiscal Studies has pointed out that school budgets have gone up in real terms per pupil since 1990 by, I think, 70%. Think about the education you got as a child and think about the education that your children get today, if you have children. I took my daughter to school earlier this week and the education that she is getting—the quality of the service she is getting—far and away exceeds what I got when I was her age. I think the country's expectations of the schools system have changed over time.

Q56 **Layla Moran:** Moving on to extra cost pressures, there are plenty that we have already discussed. One pressure that I specifically want to bring up concerns the changes to GCSEs and the changes that are now proposed for SATs. When the re-imagination of GCSEs came into schools, many reported that they struggled to find the resources that they needed. Those extra costs to schools resulting from those changes were not really taken into account in the budgets, so there was no extra money for it. When you made the GCSE changes specifically, did you bear that in mind? How much did that whole reorganisation cost the Department?

Jonathan Slater: We are talking here about changes that originated in 2012, so I would need to come back to you, which I am very happy to do, with the resources that the Department spent in that programme. As you say, it has come to fruition five years later because that is the nature of those programmes. At that meeting of the Committee in which you held me to account for school efficiency—I am reporting back on that next week, although I wish I had reported about it last week—I committed the Department to calculating and publishing an assessment of the impact on school budgets of policy changes from this point onwards, recognising that this was an area of improvement that we could make. That is what I will report back on next week.

Q57 **Layla Moran:** But I have not seen it for SATs, or have I missed that? SATs are now out, so the consultation on the new SATs for primary schools has come in, but I did not see any kind of note about that—it is about the changing of the baseline down from key stage 1 to nursery.

Jonathan Slater: Are you talking about the results of the primary assessment consultation?

Layla Moran: That's right.

Jonathan Slater: They bring in some things and take others away, don't they? What we have committed to doing—this will be set out in a minute next Tuesday—is publish very soon our estimate of pressures on schools for the future.

Chair: Okay. As you can tell, next week you will have not just the Committee but Ms Moran homing in on that.

Jonathan Slater: I will double check the wording before I publish it.

Q58 **Chair:** We do not have time in this session as it is not a session just about the funding formula, but for the funding problem there is the transition period. Obviously, there has been real concern about the funding formula in some areas such as mine, which would be set to lose a lot of money—potentially £900 per pupil. Will the transition period, when local authorities will make determinations, inform the final funding formula decision? If local authorities say, "In our area this is causing too much of a bad hit," or for example if Hackney local authority comes back and says, "This will really hit out schools, our pupils and our attainment," will that have an impact on the final decision from Whitehall about how that funding formula is set? Or is it now set in stone?

Jonathan Slater: No. The decision on the total level of school funding, area by area, for 2018-19 and 2019-20 has been taken. The flexibility that you are referring to is a flexibility—

Q59 **Chair:** Perhaps I misphrased that. There is flexibility for those two years, so there will be some local input. But referring to the final funding formula, will those two years of transition help inform how the funding formula is finally calculated?

Jonathan Slater: It is more than that; the local authority gets to decide it.

Q60 **Chair:** Within its envelope, though? That is a bit of a Hobson's choice, isn't it?

Jonathan Slater: There are two questions that you might be asking me. Is there a possibility that the schools budget allocated by Parliament, area by area, will go up in 2018-19? The answer is no; we have done that, it is finalised and the numbers are out. If you are asking me whether the local authority has the flexibility to think it has a better way of allocating funding between the schools in its area than I do, then the answer is yes.

Q61 **Chair:** But is that not a bit of a Hobson's choice, if overall there is a cut to the local authority area?

Jonathan Slater: The Government's decision, following consultation, was that there was the level of unfairness. From time to time there are protests outside my daughter's school and, living in inner London, I recognise the issue. Looked at in the round, it was important that there should be more equity across the system, and that is the point of the national funding formula, and the £1.3 billion is designed to make sure—

Q62 **Chair:** But if in that two-year transition period you get feedback from schools in areas where the funding formula is reducing funding for pupils that it is having a detrimental impact—perhaps the loss of teachers, reduced curriculum or some of the other things we have discussed—will the Department review the funding formula to protect them from some of the worst aspects of it? I appreciate that we are talking in hypotheticals, but there is a lot of evidence from headteachers that this will be very challenging in some areas. So will the Department be reviewing it on the basis of those two years' experience by local management of the agreed budget for that time?

Jonathan Slater: Two things will be happening. There will absolutely be ongoing review of the national funding formula, having put it into place. But I think that the bigger question you are asking, if I understand you correctly, is about the totality of schools funding. That will definitely be a question in two years' time for the spending review.

Q63 **Chair:** So the schools funding formula is not absolutely set in stone. You will review it on a regular basis.

Jonathan Slater: The funding formula has been set for the next two years. If you are asking me whether there is any possibility—

Chair: For two years, yes.

Jonathan Slater: Yes. Is there a possibility that it might change over time? It would be absurd for me to say.

Q64 **Chair:** The formula is a formula. The amount can change, but the formula is agreed, for two years. But you are saying that after those two years, if there is a big problem, there is still an option for the Department to consider changing the formula.

Jonathan Slater: I would not want to give the Committee the impression that we have just set a formula for two years; that isn't what we have done. The thing that is set for two years is the funding envelope. The formula is a formula, which is not due to change in two years' time. If you asked me, "Will we seek to learn from experience and might we change it if we see a case for doing so?" obviously the answer would be yes. But are we anticipating a change to the formula in two years' time? No.

Chair: I hope that you will be looking at things such as the curriculum offer, class sizes and the recruitment and issues of teachers, which we will discuss in future. I will briefly bring in Mr Snell. Please could we now have quick questions and quick answers?

Q65 **Gareth Snell:** I just want to make sure that I have not misunderstood something. You said earlier that the per-pupil spending was protected, and you just said that the spending envelope formula has been determined but that local authorities will potentially be able to reallocate among their own areas. But if the per-pupil funding is protected, presumably there isn't a great deal of headway available for local authorities to make reallocations inside their area, if they feel that need is greater somewhere compared to your national spending formula.

Jonathan Slater: It is not that we are recommending to local authorities that they should reallocate.

Q66 **Gareth Snell:** No, I wasn't asking about that. How can they do that if you have ring-fenced and protected the per-pupil funding and set the envelope of spend—it could be a reduction, but that is not for us to get into? You are saying that a local authority could, if they think they know their area better than you, make local reallocations. What is their actual ability to do that if you have made all those ring-fenced protections earlier on? The headway in that budget is quite small.

Jonathan Slater: What I mean by that is that, in putting together the national funding formula, we have weighted a whole series of different factors in particular ways. There is a factor that we apply for sparsity, say, on the basis that it is more expensive to run a small primary school if you are—

Q67 **Gareth Snell:** I understand what you are saying. What I am trying to get at is where that overhead will come from within a local authority area.

Jonathan Slater: From one school to another—

Q68 **Gareth Snell:** If you are saying that the local authority envelope spend has contracted, as the Chair has explained, and that per-pupil spending is protected, what is the actual overhead that those local authorities will have to allocate between schools themselves? You are talking about a minimal amount of money.

Jonathan Slater: For the last year that we have audited accounts, the total level of surpluses owned by individual schools is £4.5 billion, and the total level of deficits from schools is £170 million. The net surpluses across local authority maintained and academy schools is £4.3 billion for 2015-16—it will have come down since then, but it is not zero. That represents a number of things. It represents some schools being more efficient than others. It represents some schools historically having been rewarded financially more than others because of the iniquities of the previous regime. The flexibility—headroom—that a local authority will have would be to take account of the fact that there is about £4 billion of cash.

Note by witness: In designing the local funding formula which determines individual school's budgets, local authorities may not take account of schools' balances. Local authorities may claw back excess surplus balances from maintained schools through a mechanism under the Scheme for Financing Schools. They may not claw back surplus balances from academies.

Q69 **Chair:** So basically it is a raiding of the surpluses?

Jonathan Slater: That is a choice for local authorities to make.

Q70 **Gareth Snell:** But you have just given a national net figure across all local authorities. Take the Chair's local authority, which she was saying may contract. It does not matter where this surplus is if it is in other local authority areas, because that local authority will not have the surplus itself. You are protecting per-pupil spending, so the Department says, but you are also saying that about where a local authority has identified reallocation in the transitional period. Are you guaranteeing that every local authority will have a sufficient surplus in their allocation to do that internal reallocation, and protect per-pupil spending, because otherwise that arrangement for local authorities in the transitional period will not necessarily achieve the financial aims that you are proposing?

Jonathan Slater: I don't want to over-claim what I am doing—if that is how it has come across, I apologise. I am simply saying that we have funding in each local area, the equivalent of real-terms per-pupil protection, and we have recommended a national funding formula. We will be delighted if the local authority simply applies it, but we are saying to them, "If there are particular local circumstances that mean it should be varied, please do so."

Q71 **Chair:** So you can rob Peter to pay Paul?

Jonathan Slater: Well, what is a funding formula within a fixed envelope? It is about reallocating money across an envelope. If I were still the director of education at Islington Council, I would be looking at the level of surpluses in my schools, and I would expect more availability in London schools because historically they have been funded at a higher level. By definition, as you say, when you introduce a national funding formula, they are going to lose out.

Chair: The danger is that you are sending out the message to headteachers, "Spend your surplus now, because then you are more likely to benefit." I have to say that I have been warning headteachers in my area for a number of years that they would be coming for the surpluses. Anyway, we are parking this for now, because we have so much else to cover. I am going to bring in Layla Moran briefly on the very important issue of children's services.

Q72 **Layla Moran:** We have recently seen the introduction of 30 hours of free childcare, which I am sure families across the country are delighted by the idea of, but let's face it Mr Slater: it's just not working, is it?

Jonathan Slater: Goodness me! We were anticipating that 200,000 eligible codes—to use the technical language—would be issued by 31 August. In other words, we estimated that about 200,000 children would be eligible for 30 hours of free childcare from the beginning of September—that is an estimate, obviously. We found that about 220,000 eligible codes were issued. The second question for a parent, having got their eligible code, is whether they take it along to the nursery and cash it in? That requires a second check. We are at 90% for those codes having been ticked off at the nursery. In other words, 90% of those parents have got their kid a place. So we have about 200,000 children getting 30 hours of free childcare across the country, which—I have all sorts of problems and challenges facing me—I think is pretty good.

Chair: Right, you are claiming success.

Q73 **Layla Moran:** You look at the national level, which is your job, but do you look at it at a very local level? In Oxfordshire, we have a real problem with people getting access at all. I don't think it's the case that they print off their code and then go and find a nursery. They are looking for a nursery first and then decide if they want to use it, and then they go and print off their code, so that 90% makes a lot of sense to me. Do you accept that there are places in the country unable to offer the 30 hours at no extra cost to parents sustainably? We have heard from the Family and Childcare Trust survey that 44% of providers were concerned that the funding, as is currently provided, isn't sustainable for the future. Furthermore, a third of local authorities believe that there are enough places. That is surely not as you intended.

Jonathan Slater: You are absolutely right that I was giving you a national picture, but to implement this effectively, we have to work at the local authority level and the sub-local authority level, and we absolutely do. As you would have expected, we had a series of local authorities, in advance of 31 August, where we had received concerns that there might be a problem with supply, and so we've engaged very closely with them, local authority by local authority, and we are doing that now for the further roll-out of 30 hours in January—we get another 100,000 children eligible from January onwards. Certainly there are local authorities where there is risk, and we work very closely with them, so the position does vary, council by council. It is in the nature of these things that in advance of the introduction of a regime like this, you would expect providers to say that there isn't enough money, and if I didn't get any complaints from providers saying there wasn't enough money, then I would expect the Committee to say, "You've set the price too high", so there is inevitably a balancing act here.

It is also the case that some providers are less efficient than others, and some are more efficient than others. We are, absolutely, introducing a national funding formula for early years, trying to drive up the efficiency of early years. The £4.72 per hour we set exceeds the Frontier Economics estimate of the average cost—properly staffed—by £1, but clearly the actual costs, nursery by nursery, vary, and therefore it is important that we work, local authority by local authority, to manage that difference. Certainly we see some areas where we are not up to 90% yet, and we are working very hard to make sure that all parents get that benefit through improving the efficiency of the sector.

Q74 **Layla Moran:** What can you do about it?

Jonathan Slater: To give a practical example, we have got £100 million-worth of capital that we allocate to improve the efficiency of local provision. That is one example.

Q75 **Layla Moran:** Do you accept that in some authorities, in order to make the money up—certainly in the south-east and London there is a particular problem with how much money they are getting to deliver this—the cost is being met by parents? I have an example here of a constituent for whom a 30-hours Government contribution covers only 67% of her nursery costs; there is a nursery hourly rate of £6.25, and she gets £4.34 from Government. It runs 9 to 3, during which time it does not provide lunches and nappies, so she is having to make up the difference. We are hearing this story from parents across the country. Is that what you were expecting?

Jonathan Slater: You are saying two important things in this, aren't you? First, that is a nursery that is more expensive to run than the average such nursery—a lot more expensive than the average nursery, clearly. We all have experience of some nurseries where you can see, just from going in, that they are a lot more efficient than others. You would expect that, given that the average cost of three and four-year-old provision in the country at the moment is £3.72, over time—

Q76 **Chair:** Mr Slater, may I just interrupt? On average cost across the country, I am a London MP, Ms Moran is in Oxford, and there is Chichester; they have different sorts of cost from, say, Stoke. In some areas, the cost of staffing, the London living wage and the cost of premises means they will have higher overheads. It is pretty obvious.

Jonathan Slater: Sure, and that is why we have a funding formula that takes into account the sorts of variations you would expect to see. Unsurprisingly, though, absolutely, some will still be beyond what you would expect, as in any walk of life. The question is: how can we help to reshape the provision to make it more efficient? That is the answer to point one. That is what we are doing. That is why 200,000 children were able to get 30 hours of childcare on 1 September, despite the concerns that have been expressed previously; that is actually happening.

Secondly, on your second point, did we anticipate that nurseries would be able to charge over and above the 30 hours' provision for, say, lunch? The answer is yes. We have rules to allow that. The commitment was for 30 hours of childcare, and not for a free lunch as well. That was a matter for discretion. What we made clear in advance was that a parent should not be excluded from sending their child to a nursery by the cost of the lunch, so if they wanted to bring in a packed lunch, they had to be allowed to do so. That was the policy choice made, and £1 billion is being spent on implementing this. Obviously, the Government could have put in more than £1 billion and provided free lunches as well, but did not do so.

Q77 **Layla Moran:** One of the ways that they can save costs is to have lower quality. This is another issue of general concern that we are going to be looking at—for example, employing people who are less experienced with three and four-year-olds, or perhaps people who are not getting some level of early-years training that they might have had before. What do you say to that? Are you monitoring the quality of the childcare? Are you making sure that that is not being driven down by this price?

Jonathan Slater: Absolutely. It is crucial to have good-quality provision. We rely on Ofsted inspections just as much as in the past. The point you are making about the workforce is obviously a very important one too, so we are working on plans to improve the quality and training of the workforce, because we are talking about children below the age of five. Inevitably—why would I want to deny it?—there will be some tension between what a nursery would want to get and what would be an efficient use of taxpayers' funding. The judgment for this Committee is whether we are getting that balance right, and we will keep that under review as we go.

Q78 **Chair:** Because of time, we are going to move on to learndirect. The National Audit Office is doing an investigation into learndirect. I will not go through the whole history of it, because most people will be aware of that, but it seems to us on the outside that learndirect is getting special treatment. If any other organisation had a bad Ofsted report and was failing its learners, it would not be given a year's support. Mr Slater, is it being given special treatment?

Jonathan Slater: No. I will just give the headlines; you can obviously dig into this—well, you do not need my invitation to dig in.

Chair: We will have a further session. We expect to see you in January about this, I think.

Jonathan Slater: Sure. Ofsted produced its provisional report in March. That was only provisional, and you will be aware of the dispute about it. It was not published until July, but we were aware of that in March. We had already worked to reduce the level of spending over the previous couple of years by about a third in cash, because we thought it was too big a proportion of the total. But having got that result in March, we got to the point with learndirect where it would not take on any new apprentices at all from the beginning of May, so it has not been taking on any new apprentices since May. That was the area where Ofsted—provisionally in March, confirmed in July—scored it inadequate.

That left the question, "What about the adult education provision?" Where we got to on that was that learndirect did not seek a new contract for that work for the future. The question there for us was essentially how quickly to bring its existing adult education provision to an end, having had that Ofsted judgment. That was the question. We could have closed down all that provision within three months, because we sometimes do that.

Q79 **Chair:** Which I think you have done for various other organisations.

Jonathan Slater: We sometimes do, and we sometimes don't. There was an occasion with another organisation where we didn't close it down at all and, over time, that provision went up from requires improvement to good. It depends on the circumstances. You take into account the Ofsted assessment of the quality of the provision and the impact on the learners of giving them three months' notice, because obviously you want to get the balance right. In the circumstances—

Q80 **Chair:** But some of these learners were getting provision through third parties anyway, weren't they? Learndirect was not providing it direct to everyone.

Jonathan Slater: Bearing in mind that Ofsted's view of the adult education provision was that it required improvement—it was not the adult education provision that was rated inadequate; it was rated requires improvement—and given the adverse impact on learners of saying, "Everybody's got to find a new one in three months' time," the judgment that we made was to wind the contract down over the period through to next July and put much tighter monitoring arrangements in place. That was the judgment we made, in the light of Ofsted finding that it required improvement and the impact on learners of closing it down.

Q81 **Chair:** Mr Lauener, how much money has learndirect been getting from taxpayers this year, since its Ofsted report?

Peter Lauener: For '17-18, its funding for the adult education budget was made up of two elements. The first was a three-month extension covering the period August, July and September, which was £16 million, and it was treated exactly the same as any other provider for that extension period. The second element was £29 million in addition to that for the subsequent nine months to the end of July 2018, and learndirect was treated in exactly the same way as other private providers that did not take part in the procurement. It originally applied for the procurement, but it withdrew its bid.

Q82 **Chair:** Isn't it a bit of a slap in the face for providers that are doing a good job that a provider that has failed an Ofsted inspection is still getting a very large chunk of money?

Peter Lauener: As Jonathan has described, we considered very carefully what was the right thing to do. Our starting point with an Ofsted inadequate rating is a presumption that we will terminate the contract with three months' notice. We have had 27 cases in the last two years. In four of those, not counting learndirect, we have terminated with more than three months' notice—with between four and six months' notice. In 2013, there was a case of a significant provider where we decided that we should not terminate at all. We put in place an improvement programme. Just over a year later, they had moved from inadequate to good, and a lot of good provision was protected, with particular reasons for that decision. The point that I am making is that we don't automatically—

Q83 **Chair:** But still, four out of 30, as I think you just said—

Peter Lauener: Four out of 27.

Q84 **Chair:** That is not many. Was learndirect too big to fail?

Peter Lauener: No, it wasn't. In fact, we had a contingency team set up to allow us to put in place our standard closure arrangements if we judged that was the right thing to do. I take personal responsibility for this. I looked at the case very carefully, and I felt that this was the right thing to do, in terms of continuity of provision for learners and other service users. Learndirect runs two big testing processes with significant numbers of people: tests for citizenship, and teacher skills tests for our own Department. I took the view that we should take a different approach in this case.

Coming back to the Ofsted inspection report, it is quite significant that there is no other provider that we have terminated with three months' notice, or indeed with slightly longer notice, that has the kind of grade profile that learndirect had. As Jonathan said, learndirect had "requires improvement" for leadership and management, as well as for their adult education budget provision. I am not saying it was great—

Q85 **Chair:** No. It is hardly a ringing endorsement, is it?

Peter Lauener: It is not great, but we would not normally take immediate termination action with that kind of grade profile.

Q86 **Chair:** What is happening to those learners now? They are being taught by an organisation that requires improvement, at the very minimum.

Peter Lauener: That is why we have put in place much closer monitoring arrangements than we normally would.

Q87 **Chair:** Who is paying for those monitoring arrangements?

Peter Lauener: We are sustaining those monitoring arrangements.

Q88 **Chair:** So the taxpayer is paying for it, even though it is learndirect's failure.

Jonathan Slater: In the same way that you would expect us to monitor more closely any provider whose services give rise to concern, absolutely. That is what we do.

Q89 **Chair:** I think it is right you are monitoring, but it seems that there is not a great loss financially to learndirect.

Peter Lauener: Could I just correct something I said? We will sustain the agency cost of monthly review meetings.

Q90 **Chair:** Yes, they would pay for the action that they might have to do as a result of that, of course, but they are still being funded by the taxpayer.

Peter Lauener: But they are funded at no greater rate than any other provider for the learning that they are delivering.

Q91 **Chair:** I am going to pause on this one, because I know the National Audit Office has started its investigation. Learndirect have written to me welcoming Sir Amyas and his team to look at their books, which will be open to the NAO, as I understand it. We will no doubt consider whether to invite them in as well. It is likely to be in January, just to give you warning. Mr Lauener, I think your successor will have that delight.

Jonathan Slater: Invite him back!

Chair: Just to warn you, we do have a habit of inviting people back, so I won't say goodbye just yet.

Peter Lauener: I am always happy to come down.

Q92 **Chair:** Time is running away from us, so I will ask Mr Slater to come back to the budget. The £200 million LIBOR fund windfall for apprenticeships was supposed to create an extra 50,000 new apprenticeships. Where has that money gone? What has it done?

Jonathan Slater: It has gone on apprenticeships.

Q93 **Chair:** But not an extra 50,000, as the then Chancellor hoped.

Jonathan Slater: It has gone on apprenticeships—

Chair: It has gone into the apprenticeships pot.

Jonathan Slater: Well, yes, but to be fair, we don't spend that on anything other than apprenticeships. An apprentice, in the previous regime, cost about £4,000, so you get about—

Q94 **Chair:** But you haven't got 50,000 new apprenticeships.

Jonathan Slater: No; to be clear, we got an extra £200 million on apprenticeships. That will have been spent on about 50,000 extra apprentices, because your typical apprenticeship costs about £4,000, and if you divide £200 million by £4,000, you get 50,000. What I cannot say is that those extra 50,000 apprentices were aged 22 or 23. I cannot say that, because—we were completely clear with the NAO about it—we weren't asked after the election in the spending review, and Ministers did not seek it, to ensure that the money spent on extra apprentices was only spent on unemployed 22 and 23-year-olds. By the time it came to the spending review and the plan for apprentices going forward, the focus of attention had turned away from that age group. The money was spent on extra apprentices, but not particularly for that age group.

Q95 **Chair:** So you are saying that there were 50,000 more apprentices than there would have been if you had not had that legal fund windfall.

Jonathan Slater: I am not saying it is 50,000 to the number.

Q96 **Chair:** Well, 49,000 or 51,000?

Jonathan Slater: I would expect about 50,000 from that £200 million. We get the reports with the actual numbers down the track. We will report back on the actual numbers.

Q97 **Chair:** We will come back to you on that. We will also be talking to the Treasury, because we do recognise that it may have been an issue at their end as well. We have been reading reports recently about the apprenticeship levy being used to help fund executive MBAs. Is this something you are aware of? Is it of any concern to you?

Peter Lauener: One of the most important developments in apprenticeships in the last three years has been the introduction of higher and degree apprenticeships. It is a rapidly growing element of the programme. I think it has actually added a lot that people can see the opportunities for going from level 2 to 3 to 4 to 5 to 6. Under the levy, levy-paying employers will be able to fund any degree apprenticeship standards that have been approved. I think I actually saw that newspaper article, and I don't think it was quite precise enough for me to work out whether that was already an approved degree apprenticeship standard, but it is certainly the case that levy-paying employers can use their levy to pay for degree apprenticeships.

Q98 **Chair:** Did you foresee that companies would do that? Every time we have met companies, they have all been working out how they can get their chunk of the apprenticeship levy back, in a sense.

Peter Lauener: We have done a lot of modelling, as you would expect, with the levy budget. It is quite difficult modelling to do, because there are so many variables that might be changed by the changed behaviour of employers paying a levy, and so on. We certainly modelled an expectation that there would be an increasing number of degree apprenticeships in the system as a result, but we keep that model under very close review.

Q99 **Chair:** Will you be watching and monitoring that they do not come at the cost of other apprenticeships?

Jonathan Slater: Yes. This is very early days in the new levy, and we are watching it very closely. At a previous hearing, the Committee was keen to make sure that there was a definite switch from level 2 apprentices to 3, 4, 5 and 6. That is what is happening. We need to make sure that that is manageable. I would not be at all surprised if we found that some of the earlier assumptions we made are a bit different from the reality. We keep that under review and will be happy to report back as we go.

Q100 **Gillian Keegan:** As one of the few degree apprentices who is a Member of Parliament—I did one 30 years ago—I am a huge fan of degree apprenticeships, as you would expect. However, when I go round and talk to lots of employers and businesses, I hear the opposite story: that it is incredibly difficult to get some of these levels of management apprenticeships or higher-level apprenticeships through the IFA. In particular, I was with the Rolls-Royce motor car company in my constituency last week, and they were going through a whole load of what seemed to me fantastic learning opportunities that were being pushed back by the Institute for Apprenticeships. I know it is a new system and it has to evolve, but are you really taking into account the employer in the employer-led discussions sufficiently to get the right balance?

Peter Lauener: I am very happy to take off my ESFA hat and put on my IFA hat to answer that question. The Institute for Apprenticeships cannot be successful unless it is employer-led. That has to be at the heart of what we do. We have built not just the board itself, which has very strong representation from employers from the public and private sectors, but also 15 route panels covering the 15 occupational areas, with a chair and members from the right employer communities. They are a critical part of the approval process for standards that are in the pipeline.

Yes, we have turned some of those down when they have got to the approval process. That may happen on the basis that they have come out from the creation process too narrow, and therefore doing that standard will not serve apprentices well, or because the assessment proposed is not quite right. Sometimes it is a case of asking the trailblazer group that has developed the standards to go back and do further work. Sometimes we say, "I think you ought to get together with another trailblazer group, to see if you can develop something together." So wherever we take a decision like that, it is based on the quality of what is produced, to make sure that there is quality going into the apprenticeship system, in terms of standards. We are now doing a lot of work, because we think we could do that much better. We have already been going for six months and we are doing a full end-to-end review of that process of creating standards. We want to make it much sharper, much quicker, much more co-creating, rather than sending people off to bring something back. So there are definite improvements for us to make, but everything we do has to be driven by what is right for employers, and also driven by quality.

Gillian Keegan: I look forward to seeing the improvements.

Chair: There are so many other things we would love to cover; but we are going to finish with Ms Moran on the knotty issue of Brexit.

Q101 **Layla Moran:** A simple question, Mr Slater; have you done a risk assessment report for the Department for Education on Brexit?

Jonathan Slater: We have done all sorts of risk assessment reports. We face a whole series of interesting challenges, not so much around legislation, because the EU does not really have any legislative competence for education, but in respect of finances, of course. Erasmus+, the European social fund—about £250 million: we have risk assessments there and we are working closely on what arrangements should play into negotiations. Then of course there are issues around workforces. About 3% of our teachers are from the European Union, so we feed those risk assessments into wider Government consideration of future immigration policy post-Brexit.

My Department is also responsible for equalities legislation, where the EU does have legislative competence. So we are looking at our own domestic legislation on equalities and making sure that it can take the strain, which we think it can. There is a question of higher education funding, where EU student income represents about 2% of higher education income; so, again, there, we feed those assessments into the work that is being co-ordinated by DExEU. Then, obviously, we look forward to the advice from the Migration Advisory Committee on students and, indeed, on workforce. So there is certainly plenty to keep us going.

Q102 **Layla Moran:** I have a quite specific question on students. I have two universities in my constituency. EU students are worried about the fees after we have left the EU. They have not had any guarantee that those fees are going to remain the same as they are now. Has the Department made any assessment of that yet?

Jonathan Slater: The assessment we have made is that essentially 2% of our income is at stake from EU students at the moment. As to what the fee regime should be for universities the other side of Brexit, inevitably my answer is that plays into negotiations that we are having. Individual Departments are not negotiating their own regime independently of any other. You can see how the role that universities play in the world and in the EU in particular is a relevant consideration for a broader set of negotiations.

Q103 **Chair:** Do you have any guarantee for someone who is a student now? At the moment we leave the EU, what would happen to a second-year student wanting to have a third year?

Jonathan Slater: Of course, I am sorry. From the point of individual students going into universities this year and, indeed, for 2018-19, their resources are guaranteed for the remainder of their degree.

Q104 **Layla Moran:** For the whole of their degree. And their brothers and sisters? When it comes to people who are younger, we still do not know what those fees might be.

Jonathan Slater: For 2019-20 onwards no, inevitably, because that is part of a broader set of negotiations.

Q105 **Chair:** Rest assured we shall ask you a Brexit question every time; but there are some serious points here, as you highlighted, Mr Slater. A long list of things just for your Department is still as yet unresolved.

Jonathan Slater: Yes, but they will not get resolved independently of the negotiations.

Q106 **Chair:** Do you have a special team in the Department dealing with Brexit issues or is it embedded across it?

Jonathan Slater: Absolutely; we have a special expert team, and I spend a lot of time with them, but I am not going to give you a decision on any of it until it is all done. It is just the nature of the thing.

Chair: Thank you very much indeed for your time. We went on for longer because we are so enthusiastic about the subject. I think we are seeing you very often over the next few months. I am sure that you are glad to be back in front of us.

Jonathan Slater: To be completely straightforward with you, Chair, the work I do to prepare for these meetings—to make sure that I know what I am doing—is time well spent. The opportunity to brief Members of Parliament on the work we do is also time well spent.

Chair: You schmoozer, Mr Slater.

Jonathan Slater: I really mean it.

Chair: I'm glad that you enjoy it so much. Thank you very much indeed for your time. The transcript will be up on the website in the next couple of days and we will write to you with any thoughts we have as a result of the hearing.