

Public Accounts Committee

Oral evidence: [Academy Accounts and Performance](#),
HC 1597

Wednesday 21 November 2018

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Members present: Meg Hillier (Chair); Sir Geoffrey Clifton-Brown; Chris Davies; Chris Evans; Caroline Flint; Layla Moran; Anne Marie Morris; Bridget Phillipson; Lee Rowley; Gareth Snell.

Sir Amyas Morse, Comptroller and Auditor General; Simon Helps, Director, National Audit Office; Laura Brackwell, Director, National Audit Office; and Marius Gallaher, Alternate Treasury Officer of Accounts, HM Treasury, were in attendance.

Questions 235-434

Witnesses

[I](#): Jonathan Slater, Permanent Secretary, Department for Education, Eileen Milner, Chief Executive, Education and Skills Funding Agency, and Mike Pettifer, Director, Academies and Maintained Schools Group, Education and Skills Funding Agency.

Examination of witnesses

Witnesses: **Jonathan Slater**, **Eileen Milner** and **Mike Pettifer**.

Q235 **Chair:** Good afternoon, and welcome to the Public Accounts Committee on Wednesday 21 November 2018. This is the second of our inquiries—this year, anyway—on academies. It is based on the academies sector annual reporting accounts, but it is really looking at the general health of the academies sector. Hopefully, the witnesses today will have had a read of the evidence that we heard from some of the failed multi-academy trusts—one wasn't failing, I have to say—on Monday. Some issues were raised there, and a parent and a former teacher from Whitehaven Academy gave a flavour of what it is like on the ground. That underlines for us why we are doing this.

I am sure we all agree that we are all here to ensure that the pupils in our schools get a good education, and that taxpayers' money is spent well and wisely. One of the reasons why we are looking at this is because



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we are concerned that there are a number of examples of where taxpayers' money is not being spent wisely in the academies sector.

Before we go into the detail, I will introduce our witnesses. I want to ask a brief question about pensions, Mr Slater—just to put you on alert. As our witnesses today, we have Eileen Milner, who heads up the Education and Skills Funding Agency, which was formerly—well, it was formerly two things, but we would have known it as the EFA. Jonathan Slater is the Permanent Secretary at the Department for Education. Mike Pettifer's job description has eluded me—forgive me. He is the director of the academies and maintained schools group at the Education and Skills Funding Agency. Forgive, Mr Pettifer, for not having that long title at my fingertips.

Mr Slater, can you talk through what problems you foresee with the teacher pensions increase, which will be dealt with by schools? What support is the Department providing to schools to make sure they can absorb and cope with that?

Jonathan Slater: Sure. A consequence of the change in the GDP deflator, and therefore the discount rate that is used to calculate employer pension contributions, is an increased cost incurred by schools and other institutions. In announcing that consequence, the Government said that schools would be financially compensated for the cost. We would give them the increased funding they need to pay those increased employer contributions—

Q236 **Layla Moran:** In full?

Jonathan Slater: In full, through to the end of the current spending review. Obviously, the next spending review is a matter for the next spending review, but this is through into 2019-20. We are still working through with the sector the mechanism by which we allocate the funding, and we will consult on it in due course, in the context of a commitment the Government have given to fully fund schools for that increased contribution through this spending review.

Q237 **Chair:** This spending review? We have the next spending review in spring next year. Do you still think it is that date?

Jonathan Slater: You are asking the wrong man. By definition, anything that is a commitment to the next spending review is a matter for the next spending review. Obviously, we will be pointing out those costs as part of that discussion.

Q238 **Chair:** Have you done an analysis of what the impact would be on a typical, average-sized, thousands-of-pupils secondary school?

Jonathan Slater: We have. I don't have it at my fingertips.

Q239 **Chair:** Could you send us some details of the analysis you have done?

Jonathan Slater: Of course.

Q240 **Chair:** I am sure the schools have done it themselves, but it is helpful for



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us to understand that. We are pleased you have done it and have a picture, because it could have a very big impact on our schools.

Jonathan Slater: Yes of course we did it, and we are of course happy to update you.

Q241 **Chair:** We will leave that there, but I am sure we will be coming back to it. It is good that you are pulling together the sector annual reports and accounts, and there are some good bits there. We applaud you on the work you are doing on trying to pull together premises, and so on. You have committed to publish them quicker in the future, so do you think you will have the sector annual reports and accounts ready before the summer recess next year?

Jonathan Slater: That is definitely the plan. We said that it would take us longer this time round because, as you say, we are doing the first proper valuation of 12,917.

Chair: We have already congratulated you on that bit of work.

Jonathan Slater: That excuse is now out of the way, so for next year it should be a more straightforward exercise. We will be adjusting, rather than doing it from scratch. That is what makes me sit in front of you and say that our intention is to get that done by recess next time round.

Q242 **Chair:** You are a Department that is less impacted by Brexit in your day-to-day work, but if we were to crash out in March, would that affect your ability to turn these accounts round?

Jonathan Slater: If the UK were to leave the European Union without a deal, no doubt there would be all sorts of consequences, which have been debated elsewhere. My task is to get these accounts completed on time next time round.

Q243 **Chair:** Do you think you will be losing any staff to other Departments if there is a crisis? Have you had those discussions in Whitehall?

Jonathan Slater: We are having all sorts of contingency planning discussions at the moment, both about the impacts on the Department and about the contribution that the Department can make elsewhere, as you would expect.

Q244 **Chair:** Does that include deploying staff elsewhere? A shock troop of education officials at the border, for example?

Jonathan Slater: That specific proposition hasn't been put to me.

Q245 **Chair:** I am sure you must have many good classroom teachers among your ranks who would be quite good at the border.

Jonathan Slater: Maybe, having heard that, I will get the request tomorrow.

Q246 **Chair:** You have a number of qualifications in this year's accounts. How long do you think you will take to remove them? Will next year's accounts be unqualified?



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Jonathan Slater: The plan is to sit in front of you next year and say, “We’ve done it by recess and we haven’t got any qualifications.” That’s the plan. It was always the plan to have this one qualification with us this time round, because we recognised that the best we could do this time round would be to get an accurate valuation of the land and buildings for 2016-17. The accounts were qualified on the basis that we didn’t have a proper valuation in previous years, so by definition you end up with a qualification for having failed to reconcile an inaccurate figure the previous year with 2016-17. We have got to get that right for 2017-18. That happens in one of two ways: either we can reconcile properly, in which case the qualification goes, or we agree with the NAO that it can’t be done, in which case the qualification goes because we agree it can’t be done.

Q247 **Chair:** Do you think that is the biggest risk?

Jonathan Slater: Yes, that is the only remaining risk if things carry on as they are. Clearly, there are unknown unknowns, but that is the key thing that stands in the way of an unqualified set of accounts, as I see it.

Q248 **Chair:** Throughout this session, we will be discussing how you understand what is going on in academies. Do you think you are now getting what you need from the accounts as they stand to understand fully what is going on throughout the academies sector?

Jonathan Slater: We get more and more data each year. Access to digital systems provides opportunities to get more, and we learn from experience on the ground what information we will need for the future. It would be odd if I sat in front of you and said that we don’t expect to ever get more information than we have currently got, but we have a good degree of information, and it enables us to manage risks more effectively than we did in the past. We are managing all sorts of risks pretty well in those circumstances. Might there be further opportunities for more stuff in the future? I wouldn’t be surprised.

Q249 **Chair:** We will come on to things like related party transactions later, so we will probably get into that more then. One of the other areas of concern—we picked this up loud and clear not just from the parents who were with us on Monday, but from others too—is that it is very frustrating for parents, particularly in multi-academy trusts, not to be able to understand what is going on in their schools. Do you envisage that this document will be clear, simple and transparent enough for parents to understand when they need to go in and access information about what is going on in their academies and across the sector?

Jonathan Slater: This document? The sector accounts?

Chair: Yes.

Jonathan Slater: By definition, it is giving an aggregated view. If you want to know the detail about your school’s accounts, clearly the best place to start would be the accounts of that individual school.

Q250 **Chair:** That is interesting, because most of them say they can’t get it about their individual school if they are in a multi-academy trust.



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Jonathan Slater: Sorry, about their trust. By definition, it is the trust's money and they allocated it between the schools. The top-slicing is a matter for the trust. Of course, it is equally important that parents have a right of access to trust-level information.

Q251 **Chair:** I am glad you said that, because we will be coming on to that. Last week, we had your colleague, Sir Tom Scholar, in here with his Treasury team discussing the Whole of Government Accounts. The Treasury are working hard to put in commentaries where it is not strictly an accounts issue but they feel that there is a need to explain it so it becomes a useful document that helps the taxpayer and citizen understand how the Government spends their money. Do you envisage adding that sort of commentary to the whole of the academies sector accounts so parents can use it more easily?

Jonathan Slater: I hope you see the improvements we have made to the quantity and quality of relevant information in this set of accounts. For example, this time—obviously, we couldn't do so before—we have reported on trends over time with respect to pay, related party transactions and notices from the RSCs. We have looked at and reported on the performance of multi-academy trusts by size and geography. We have compared the performance of disadvantaged pupils with pupils as a whole. We are seeking to make the thing more and more interesting, and I would expect that trend to continue. Obviously, we will be listening to the Committee's advice about how we can make the thing more useful over time.

Q252 **Chair:** I think it is a bit like the Whole of Government Accounts. I have to say, to give you credit over the Treasury, which I am sure they won't like me doing, you are doing it faster than in the Whole of Government Accounts. Admittedly, as they would say, it is a bit easier for you, but we recognise the progress. You are therefore setting an example with the clear explanation and the clear financials. From what we have been picking up from lots of sources, it seems to us that that is not true of multi-academy trusts. Many are not clear about what they are providing. Do you have any plans to force trusts to provide clearer and more transparent information, including at individual school level, for parents and governors?

Jonathan Slater: We require trusts to provide all sorts of information publicly. We require them to produce their own sets of accounts. We name and shame any trusts that don't provide that information within the appropriate period of time. Clearly, it is important to us that trusts are accounting for their money.

Q253 **Chair:** Putting the numbers out is fine—that is absolutely the basics—but it is about having a wraparound explanation, as we were just discussing. You are planning that at the Department, so you are setting the tone and an example in the education sector, which is what your Department should be doing. We know and—let's be honest—you know that multi-academy trusts don't all do what you just described. Do you have any plans to push them to provide information so parents can see what is



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going on, understand it, and have explanations as well as the numbers—the financials?

Jonathan Slater: We expect multi-academy trusts to do that. We do some of it for them. If any parent wants to see any information about their trust or a school within the trust—how the children have done—they can see it online. No doubt, behind that question, there are particular sorts of information that you think trust should be providing and are not. I am happy to take those things away.

Chair: Okay. We will probably provide you with some of this as a list. Some parents have had to put in freedom of information requests to the trust running the school their child attends just to get what you would consider to be basic information. I know that, even in my excellent constituency where schools are very good, headteachers have sometimes been frightened to provide information about the money to the parents, thinking that it should not be available publicly. I have had to remind parents that it is taxpayers' money. There is an issue, and not just in the academies sector.

Q254 **Caroline Flint:** On that point, I think what the Chair is trying to say is that it is about the individual schools and the information about the finances there. When parents just get it aggregated together, that doesn't tell the whole story. Don't you agree that where there is spending at trust level, it is obviously important that all schools benefit from it? You need to be able to show those things clearly.

Jonathan Slater: Of course. Absolutely. Again, it might be helpful if we were to explore afterwards examples of where schools have not been able to get the particular thing they want. We want to make transparent, for example, the extent to which the multi-academy trust aggregates resources to provide services across all of the schools. The average top slice is 4.6%. We want that to be in the public domain, and we want people to be able to see that trust by trust—absolutely, of course we do.

I can't deny that we sometimes find ourselves in that situation. We had to take court action against Durand to get access to their financial records. We won, obviously. I can't deny that there are some circumstances in which not everything goes to plan. If you see something that you think is wrong systemically, I will follow up with you.

Q255 **Chair:** There is another example; I can't remember the name of the group. I think it is the Aspirations Academies Trust. They have 13 schools, ranging from Islington, Feltham, Parkstone, Poole, others in Dorset, and Banbury. If you are a parent in Banbury, Oxfordshire, your financials would be aggregated with all those other schools.

Jonathan Slater: I expect a system of delegation, of course, between the governing body at the trust level and the requirement that is in place for school-level governance as well. I would expect that to be transparent and so on. I am not saying that everything works perfectly, and I am happy to follow up things you see that are not working, according to what you are hearing.



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Q256 **Chair:** You have raised a couple of points that we need to pursue. One is about documentation. I wonder if the shredders are running fast at Bright Tribe right now. You certainly had problems getting documents at Durand. What happens when a trust goes down? What happens to those documents? Are there requirements? You have implied that there are no requirements that they have to provide those to the Department. I don't know whether you or ESFA who should answer that. Do you want to start, Mr Slater?

Jonathan Slater: We require the return of all documentation from the trust, absolutely.

Q257 **Chair:** You would? Okay. If shredding activity were going on in a trust that was having difficulties, you would look dimly on that.

Mike Pettifer: We certainly would.

Jonathan Slater: We would be appalled by such a thing.

Q258 **Chair:** How would you stop that?

Jonathan Slater: We would be in the trust well before. If a school needs to be re-brokered from one trust to another, that is a consequence of action we have taken. We have sent people in who work for Eileen and Mike well before, and they are in there.

Q259 **Chair:** We will dig through all our records. We may need to provide you with examples of where information has been lost.

Jonathan Slater: No, absolutely. It is clearly in circumstances where trusts have not done a good job that you have got that risk. It is our task to manage that as well as we possibly can.

Q260 **Chair:** There's another point you just touched on there with Durand, which is a case in point. If I mention Durand, I am not sure that now they could afford a solicitor's letter. The pay-off of the former principal of £850,000 from his own trust suggests they might still have deep pockets, so I will wait for that letter. If I say it again, I will get another one.

In that case, they have taken legal action against you and you had to take legal action to get the paperwork. Is there a problem with the structure of a school that has been set up with taxpayers' money, where the Department itself has to take legal action in order to get documents?

Jonathan Slater: No. Clearly, the vast majority of trusts are doing a good job with taxpayers' money: 98% of trusts' accounts are unqualified, as this sets out, as you would expect. And, just as you expect, the vast majority of local authority maintained schools are doing a proper job with the resources at their disposal.

Q261 **Chair:** We do not discount that. We are focusing on the ones with particular problems.

Jonathan Slater: Equally, there are a small number both of academy trusts and of local authority maintained schools that do not do a good job with the resources at their disposal. For academy trusts in particular, since



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they report to us, it is our job to put whatever controls we can in place and follow up with whatever action we should to minimise that happening, and to take action where it does. Clearly, the Durand case is an incredibly rare example, which is why you had Greg Martin in front of you. That does not normally happen. It is not a unique case but clearly a very unusual one.

Q262 **Chair:** How many schools have you or the ESFA had to take legal action against?

Jonathan Slater: That is the only one.

Q263 **Chair:** Okay. How many reports on schools are being held up by legal action from the other side—investigations and reports on schools?

Mike Pettifer: I don't think there are any.

Jonathan Slater: I don't think there are any.

Q264 **Chair:** None? I think I might have an example of one, but I will get back on that.

Jonathan Slater: That is always the danger of us saying none, isn't it? Subject, of course, to any information that the Committee might have.

Chair: You'll get your knighthood soon.

Q265 **Sir Geoffrey Clifton-Brown:** Good afternoon, Mr Slater. Of course, this Committee is naturally interested in the 2% that are not performing properly. The annual sector report and accounts had a somewhat, though small, number of auditors showing concern. Comparing 2015-16 and 2016-17 accounts, that number went up from 21 to 82. In those same accounts, there were 93 auditors' doubts. What action would your Department be taking, hopefully before those accounts are published, in those cases where auditors are clearly picking up concerns?

Jonathan Slater: I will ask Mike to summarise.

Mike Pettifer: We look at all the accounts. Every single accounts return is looked through. We do machine reading as well. Jonathan mentioned the digital ability we have now—because they are electronic returns, we can do all kinds of analysis on them. We will look into and investigate, if that is necessary, any returns that have significant concerns around them. They can be relatively minor issues or they can be indicators of something more serious. If they are indicators of something more serious, that is when we will go in in some depth. You have given us numerical figures. We had 1,200 additional academies this year, so the number of academies is growing. As a percentage, we may actually be in a better position—that number is probably reducing.

Q266 **Sir Geoffrey Clifton-Brown:** In percentage terms, 82 is a very small number, but it is still significant if you are a child in one of those schools. As the Chair said, we are looking for every school in the country to provide a decent standard of education. How many of those 82 from the '16-'17 accounts would you be taking serious action on?



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Mike Pettifer: It would depend on what the issue was in the accounts. We would investigate the issue first. If the issue was an indicator of more serious fundamental weaknesses, that is when we would start taking action and looking in detail. We can investigate or we can do a fact-finding review. I can send my local teams in to start talking through with the trust how it operates. We can talk to the trustees and the chair of the trust. There are numerous routes in. We work with well over 100 trusts during your average year, and those are positive as well as negative interactions.

Sir Amyas Morse: Simon wants to correct something that was said.

Simon Helps: The number of academies has increased but auditor opinions are given at academy trust level. The increase in the number of academy trusts was actually very small—the number went from 3,013 to 3,054. In terms of comparing numbers, it is actually fairly stable.

Mike Pettifer: I beg your pardon. That is a very fair point.

Eileen Milner: That is very helpful. When things get to a going-concern issue, it is very likely that we will have had engagement with the trust already. We are not waiting for the accounts return to tell us that there is a problem. Typically, these things accumulate over time, and some of those 82 will be trusts that are moving to be either re-brokered or closed, sadly. We do take our responsibility very seriously. That is one of the reasons why Mike and colleagues in our market oversight area have moved to ask trusts to provide us with three-year financial forecasts so we are better able to predict and get ahead of issues like this, and so we are working to prevent rather than react to failure. That really has to be our ambition.

Q267 **Sir Geoffrey Clifton-Brown:** How many notices to improve are outstanding at the moment?

Eileen Milner: We have 42. To bore you with numbers—this is my one number for the day—that is 1.49% of the totality of the academy population.

Q268 **Chair:** I want to go back to a question that I perhaps misphrased slightly—you were right to be wary. According to *Schools Week*, your Department told it in response to a freedom of information request—so it must be true—that the report on Lilac Sky is ready to be published but one of the people named in the report has threatened legal action. They may not actually have taken legal action, but they have threatened it. Perhaps I can rephrase my question: how often are you threatened with legal action about the publication of reports on failed academies?

Jonathan Slater: It does sound like at least once, doesn't it? Sorry, I am not over the detail of that specific case. Obviously Lilac Sky is a very difficult case for us. I do not know the specific issue there.

Q269 **Chair:** I will try to pull together from the various pieces of evidence we have had, both privately and publicly, a list of publications that we think are coming through your Department—some of this information has come

in quite late—and ask you to comment on that, if that is okay.

Jonathan Slater: That would be very helpful.

Chair: What we cannot do in this hearing, we will write to you about.

Q270 **Anne Marie Morris:** Mr Slater, one of the challenges we set last time we looked at this was quite how you cut the data so we have useful comparisons, such as geographic comparisons and size of school comparisons. That is not the way you have approached this. Can you explain why?

Jonathan Slater: I think we have tried to cut the data both by geography and by size, but there may well be things that you think we should be doing that we are not currently doing, and I am always up for trying to do things—

Chair: Mr Slater has read your mind, Ms Morris.

Q271 **Anne Marie Morris:** Okay. How, with that information, could I look at university technical colleges—they are different as a group—and compare that data?

Jonathan Slater: We could provide a cut of the data in the next version of this report on UTCs in particular. This, of course, is not the only way that we publish performance information, and you can see on our website today the performance of every single UTC individually and collectively. That is important data, and when we produce our performance tables we seek to draw attention to the difference between a typical UTC and a typical secondary school, because of the difference in the age group. We try to draw out that distinction, but if you think it would be good to include UTC-specific data in this document separately from anything else, we will consider that option. There is always a question about how much to include.

Chair: We appreciate your openness to our suggestions. I think we have mentioned before that the Whole of Government Accounts is moving toward being a more useful document and we hope that this sectoral account could be similarly useful to people. We have some other suggestions as well.

Q272 **Anne Marie Morris:** Specifically, the financial information by geography and trust size is not in the annual report.

Jonathan Slater: Okay. I think we put performance information in, but we are seriously very happy to put more stuff in each time.

Q273 **Anne Marie Morris:** That is useful, but what I am hearing is that you have not really thought about it from the user's perspective. It is fine for us to give you suggestions, but what I would love you to do is to stand back and say, "Who is looking at that data? How might they like to use it—whether that is a parent, a school governor, a county councillor wanting to look at all the schools in that area or someone wanting to make comparisons between UTCs and grant maintained schools?" Could you do that sort of work for us?



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Jonathan Slater: Yes. Again, there will obviously be a question about how much of that one puts in a written document of this sort, which is 100 pages long—and the more you put into it, the less accessible it becomes—and how much you put online. We have put 200 pages of annexes that were in the previous document, which was 300 pages long, online. Then, of course, we have a lot more information than that on the website as well. I think we are thinking in a user-centred way about how to give parents, councillors and schools performance and financial information for their school and to compare it with others. To give you one example, for the last 18 months we have been providing publicly available information that enables governors of a school, or you, or anybody else, to see how much that school is spending on different sorts of things—management costs, non-pay costs or supply—with a like group of schools with a similar demography. The reason we provide that information is that we want the governing bodies of schools to think carefully about what their school is spending in comparison with like schools. We do not have that in here, but that is crucial information and we think it is really user-friendly. We obviously have a job of work to do to encourage more use of that sort of information. I would be happy to come back to you and set out more comprehensively, if you find it useful, how we give information beyond this document, because it is obviously important that we do that.

Anne Marie Morris: I think, Mr Slater, I would like you to come back to me with your thoughts on who the key users of this data might be and how you might shape that report going forward.

Chair: Ms Morris, I sense you are stepping into possible recommendation territory.

Anne Marie Morris: Oh dear.

Chair: We don't want to alert Mr Slater to what we might be putting in the report. We can discuss this afterwards.

Q274 **Anne Marie Morris:** We can indeed. In that case, I have one addition, Mr Slater: the new virtual schools, which are looking after looked-after children. The information about those schools is across a number of geographical areas and types of schools. How are you going to produce information about their financial success and viability?

Jonathan Slater: I'm afraid I don't have the answer to that question off the top of my head. Do you?

Eileen Milner: No.

Mike Pettifer: No.

Jonathan Slater: I am sorry. I would very much expect that the relevant team in my Department has the answer to that question, and I will make sure you have it.

Chair: We recognise there is an esoteric mix.

Q275 **Layla Moran:** Can I turn to high pay? Ms Milner, I know you have written to various trusts.

Eileen Milner: I have indeed.

Q276 **Layla Moran:** Did they all reply?

Eileen Milner: Yes, they did. We gave them very little option other than to reply. I have written four letters and will write a fifth, in all likelihood, in spring next year. They were targeted letters, not to everybody. In the first tranche we were able to identify trusts that were paying more than £150,000. We then widened out to trusts that were paying more than two people £100,000. In the process of writing to them, it was not just, "We have noticed," but, "We have noticed and we would like you to explain to us."

Q277 **Layla Moran:** What did they say? What kinds of things did they cite for that, especially for the £150,000?

Eileen Milner: The first principle of academies is that they are founded on autonomy. They are groupings of schools, and we recognise that when you get to scale and complexity, you want to attract and retain the best people. Reward is one function of that. My letters were founded on the principles that we expect salary setting to be a transparent process, that it should be proportionate and that it should be justifiable in the context of the fact that academy trusts both have charitable status and are public sector bodies. Those were the challenges that were deployed. In those letters to the 213, between 2015-16 and 2016-17 about half those trusts ceased paying salaries at the level that came into scope.

Q278 **Layla Moran:** There has been a drive downwards.

Eileen Milner: Yes. With the remainder, we went beyond letters to ask for evidence about the principles on which salaries were set, how those processes worked and who was involved. We asked for guarantees that people in receipt of these salaries were not influencing process. That led to many conversations with people.

Q279 **Layla Moran:** How many academies were you pushing back on?

Eileen Milner: I would have to write to you with the exact number.

Q280 **Chair:** What is the ballpark figure?

Eileen Milner: A ballpark would be that about 40 trusts had conversations with us—the Minister and me.

Q281 **Chair:** It went up to ministerial level?

Eileen Milner: Indeed.

Q282 **Chair:** Were those the trusts that were defending their practices?

Eileen Milner: They were the ones where, having asked for evidence on the transparency, proportionality and justifiability tests that I deploy, we felt that it was very important that the chair of trustees in particular knew how seriously we regarded this matter. I hope you will take confidence from the fact that we have done this very seriously and will continue. I am particularly pleased with the way that it has been received by the sector.



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We have had representative bodies such as the Confederation of School Trusts, ASCL and NAHT say, "Actually, you are calling out the right thing here. We don't like having our brand associated with disproportionate reward." That has been encouraging.

Q283 Layla Moran: I think many will take heart from that. How concerned are you that the governors and the trustees themselves were not picking up that some practices should have been questioned?

Eileen Milner: In the majority of cases, I think we should see the glass half—

Q284 Layla Moran: For the 40-ish that you were pushing back on, in particular.

Eileen Milner: For the 40 or so that we pushed back on—I would put an "ish" around that—many said, "We know we are doing the right thing, but you are asking us to document it. That is the thing we think we have been a little lax on." On the transparency part, if a parent or a fellow member of staff came along and said, "Can you demonstrate to us clearly in a documented way what the process is that you gone through?" it is not being captured in that systematic way. Having had it drawn to their attention, they have said, "Absolutely, we realise that, as you would expect any proper organisation to do." They have committed to go away and do that. We will test them on it.

Q285 Layla Moran: Is that something you are considering putting into guidance?

Eileen Milner: We will work with trusts and representative bodies to see if we can put guidance out there. CST, independent of us, is seeking to issue some guidelines about pay and benchmarks in the sector. That is to be welcomed. It is a sign of a responsible and maturing sector.

Layla Moran: Were there any paying more than, say, £200,000? Do you have enough information?

Eileen Milner: We certainly have enough information.

Q286 Layla Moran: And are you planning to release that?

Eileen Milner: There are a relatively small number of outliers and they are robust in their defence, as autonomous bodies, of the salaries that they pay. We are robust in our challenge around the proportionality and the justifiability.

Jonathan Slater: Of course, in the individual accounts of the individual trusts you can find the details of who is paid more than £150,000 or £200,000—4% of trusts pay anybody more than £150,000. There are some well-known cases paid significantly more than that. They are exceptional, and we have been chasing them up in precisely the way that Eileen described.

Eileen Milner: Part of what we are doing, in the maturing of the oversight function, is that in the accounts return that will be coming in to us annually, any trust paying more than £100,000 to someone—even if that



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person is not a trustee—has to declare that role and tell us where that role sits in the school, whether it is around business administration and leadership there, or whether it is a teaching and curriculum leadership position.

Q287 Layla Moran: That is helpful to know. How happy are you that executive head teachers and CEOs of 10 trusts are paid off-role as consultants?

Eileen Milner: I would say that it happens very rarely, and we take a keen interest where it does happen. We would expect that where practices such as that are being picked up, they would be consulting with us to outline the exceptional circumstances. I imagine it would only ever be acceptable for a very short period of time. We have had an instance with one trust recently where the chairman was called in and held to account, and resigned on the basis that he felt that he should not have let this happen. I would not want you to think that we are not taking it seriously.

Q288 Gareth Snell: Briefly, Ms Milner, you said that the sign of a maturing sector is that they will be bringing in this guidance. What is the timescale for that? Academies and multi-academy trusts are now not really a new thing. When do you anticipate that guidance being available to all trusts and all academies, so that they know what they should be looking for?

Eileen Milner: We are working to develop what best practice would look like, in terms of the process that you should go through as an academy trust in setting salaries. We would certainly aim to get that out within the next six to 12 months.

Q289 Gareth Snell: So in six to 12 months that should be available for all?

Eileen Milner: That should be available.

Q290 Gareth Snell: I appreciate that a retrospective view is sometimes not helpful, but given where we are with the academy programme, is this not something that the Department should have been doing much sooner? The issue of high pay in a very small sector of academies and multi-academy trusts is not new, so why is the Department expecting to wait another six to 12 months to have that guidance in place?

Eileen Milner: We want to get it right. I am not saying that it will be as long as 12 months, but I don't want to over-promise and under-deliver to you, so I think it is better to give you a time frame. You will appreciate that I started this process of challenging high pay less than a year ago and it is having an impact already.

Gareth Snell: The issue of high pay has not only arisen in the last year.

Eileen Milner: No, I am sure it hasn't, but I am saying that this is what I am doing and I am quite zealous about it. I think we are having an impact. We want to get good guidance out. We are working with representative bodies, and with the Confederation of School Trusts in particular. We will issue guidance, but what is outside of the funding agreement that we have with academy trusts is a power for us to hold people to pay bands, if you like. The trusts themselves are saying that it

would not be unhelpful to them to have some structure and some guidance around that, and I think that is entirely healthy.

Gareth Snell: Part of that will depend on having a trustee board that is familiar with that and has expertise in dealing with it, and also pushing back on some very senior professionals, who are principals or executive heads. Given that when multi-academy trusts come in, or when a school becomes an academy, all the local authority members get taken off the trust board, what is the Department for Education doing to ensure that the people who come in as trustees have the knowledge, the skills and the confidence to challenge some of these high-paid executives? Do you think you have a role at all?

Mike Pettifer: We have an academy ambassadors programme, on which there are now more than 1,000 ambassadors. They are volunteers from industry who go into boards of trusts. They are from the business sector, they are financially numerate and they are experts in that kind of area. One of their roles is to help to build the capacity of the trust and make sure that trustees know what kind of management information they ought to be looking for.

We also have a school resource management website, on which there is some guidance about understanding your data and your management information. If you were a chair who did not know anything in terms of what MI and data you ought to ask for, that would give you everything you ought to be asking for from your school or trust—from multiple schools if you were in a multi-academy trust—to manage progress and understand what is happening both educationally and financially.

There is quite a lot of support out there. We use those academy ambassadors not just for the issues that we have to resolve, but for positive capacity building.

Q291 **Gareth Snell:** This is my last question. What proportion of all academies and multi-academy trusts have actively engaged with that ambassador programme?

Mike Pettifer: I could not give you the number off the top of my head—apologies.

Q292 **Gareth Snell:** High? Low?

Mike Pettifer: I would imagine it is high, because there are 1,000 academy ambassadors and 3,000 trusts.

Jonathan Slater: Equally, we recognise there is more to be done in this space. The Secretary of State announced at the recent National Governance Association conference that we are going to be putting more money into training governors to do that job well. There is no doubt that that would be helpful, and that is what we are going to be doing.

Q293 **Chair:** On Monday, a couple of heads suggested paying chairs of governing bodies. Is that in the Department's plans?

Jonathan Slater: That is not Government policy.

Q294 **Chair:** Mr Pettifer, I think you were going to pick up on a point we raised earlier.

Mike Pettifer: There were two points I wanted to make. First, there is quite a bit more guidance in the Academies Financial Handbook on high pay, in particular, and the processes and principles we expect to be followed in a remuneration committee. There is already a bit more guidance out there than there was previously.

Secondly, the profile of high pay has been quite high for some time. The increases levelled off in percentage terms from 2015-16 to 2016-17, but we have to do a lot more than that, and we recognise that. The 213 trusts that were paying over £150,000 in their 2015-16 accounts reduced by 52 once we had a look.

Q295 **Gareth Snell:** Just to be clear, when you say “in percentage terms”, what you actually mean is, “It is going up at an appreciable rate, the same as the academy sector itself is growing.” You are not saying it is reducing.

Jonathan Slater: Let’s see what happens. We are reporting on the 2016-17 accounts. What Eileen has been up to, she has been doing for the last year or so. We are not going to claim it before it happens, but clearly we are determined to take action here.

Q296 **Chair:** I would just echo what Ms Milner said: we had a lot of feedback the last time we discussed this from people saying, “We’re embarrassed to be in a sector where people are paid that much.”

Jonathan Slater: Exactly.

Chair: The irony is not lost on us that a sector that was set up to have pay freedoms is now very interested in having pay bands. I will leave that one for others to think and talk about.

Q297 **Sir Geoffrey Clifton-Brown:** It is all very well trying to deal with the high pay of existing employees. What are you doing to make sure that, if any governing body or board of trustees wanted to pay somebody over £150,000 before they actually employed that person, they would have to have a justification for doing so?

Jonathan Slater: That goes to the strengthening that Mike referred to in the Academies Financial Handbook, which sets out the requirements on governing bodies, but we need to go further in terms of the guidance that Eileen was describing. But they do not have to seek our approval in advance, if that is what you are asking.

Q298 **Layla Moran:** One final question on pay. From the work you have seen so far, Ms Milner, have you noticed any trends—in particular geographical trends—in where high pay happens? What about the size of trusts? I imagine that would be a factor.

Eileen Milner: You would naturally imagine that high pay is in larger and more complex trusts. That is where the justifiable and proportionate



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questions are brought to bear. We have been particularly keen to look at single academy trusts and smaller trusts that have appeared to be rewarding at levels that do not seem commensurate with the complexity.

As for geographic patterns, London tends to be higher, as do places where it is harder to attract, but it is not specific. I hope you are getting assurance about the things that we are looking at.

Q299 Layla Moran: Absolutely. Are you planning to publish any of the outcomes of this piece of work that is clearly very useful?

Eileen Milner: What we would like to do in the SARA is continue the process of talking about high pay and, as we said to your colleague, to continue thinking about how what we put in there is useful, and some of the commentary that we put alongside it. This is a useful place to talk about it.

Q300 Layla Moran: Thank you. I would like to turn now to related party transactions, which came up recently. It was interesting that on Monday, the panel unanimously felt that all third-party transactions should be approved by the ESFA. That was also a recommendation in the report. Could you expand on why that has not been done?

Eileen Milner: I think what all three of us took away from our last discussion with you on RPTs was that we needed to think very hard about something that was going to provide the rigour that we all want, but was going to work. We also have to remember that 98% of RPTs, when considered by external auditors, and when some are looked at by us, are compliant with the rules as set out.

So, it is a small proportion there and we have to think about some of the benefits that come from related party transactions. When I take counsel from people who are in the sector—I think about local authorities that are delivering school improvement, and diocesan services where they provide services—I have to be mindful of the proportionality question. We do want to uncover practice that is absolutely not right, but we do not want to make life so difficult that we take away the opportunity for value from some of these sectors and settings. What we have suggested is that we are going to put in place a system that is more rigorous than anywhere else in any sector, and we are building that at the moment. Every single RPT—

Q301 Chair: Related party transaction.

Eileen Milner: I apologise. Every single related party transaction has to be declared. Knowingly, a trust has to say, "We know we are making a related party transaction. In telling you that we are doing this, we are saying that we have done all the things you have set out in the Academies Financial Handbook by way of ensuring that that conflict is recognised and being managed, and that we have been through proper procurement." That is the first thing they have to do.

Q302 Layla Moran: Is that why it is taking until 2019 to do it, rather than getting it done this year?

Eileen Milner: Yes, so that we can run a system that is smooth and from which we can extract data. The first thing is to get people to sign things off knowingly.

Q303 Layla Moran: So schools will have to comply from April 2019. When will it be rolled out?

Eileen Milner: We are starting to test after Christmas. We hope to have a number of trusts up and running on it during that period from January through to April, so that we can iron out any little glitches. The expectation we have set is that, as of April, in every single trust, every single related party transaction has to be declared.

We have put a ceiling of £20,000 where you have to come to us for permission. We are building a small team to deal with those permissions, to ensure that we are skilled and qualified to be asking for all the right information that we need.

Q304 Layla Moran: How did you pick that number? Why £20,000?

Eileen Milner: We were looking at the pattern of related party transactions that happen. We consulted those where there are established relationships and some explanation as to why a related party transaction might not be a bad thing.

We concluded that the figure of £20,000 was a place to start. What we are very open to doing, having run this through for a year, is coming back and saying to you, "On the basis of the evidence we have seen, we might reduce it to zero, we might take it to £10,000 or we might put it to £40,000." But we need a bit more evidence, and we need to instil this discipline of declaration into the sector. That is what we want to do. We are very happy to be honest with you if we say that £20,000 is not the right number, and to have you challenge us on it, but we would like to have an evidence base to work from. We are also confident that the request for declaration makes it easier for me to say to the auditor community, "I expect you to be really curious now and to be looking at whether the trust you are auditing has made declarations and, if they have, whether they appear right to you." We are trying to put auditable trails in and to encourage curiosity, but also to have that mindful discipline at a trust level of, "Are we certain that this is the right thing to do? Have we followed all proper process?"

Q305 Layla Moran: We heard a lot on Monday about specific cases around related party transactions that are not so obvious to find—companies that are owned by one person but the relationship is not entirely clear, and so forth. What resource are you putting behind the team to ensure that enough robust checks are made of all the different related parties in these transactions, to root out the bad apples? It is only a few, but it is significant.

Eileen Milner: That's why we are putting together a specialist team to work on related party transactions and ensuring that they have some of the skills in—



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Q306 **Chair:** Can you tell us precisely what some of those skills are that you think they will need?

Eileen Milner: Things such as forensic accounting, being able to understand what a trail might look like from one individual to—

Q307 **Chair:** Do you have the powers to go in and do forensic accounting, digging through even the bank accounts of trustees?

Eileen Milner: I am not sure we could get to bank accounts, but we can certainly get to complex organisational structures and settings. We have to do that with what is available to us, but I hope you would take confidence that we understand this and we are skilling people to do it, and we want to be able to do the very best possible job. Ultimately, what we want to achieve is the cultural and behavioural change around related party transactions, so that that very small number of people will decide that this is not for them and that it is not an avenue that they will even think about doing. I was very struck by what David Boyle said, when you heard from him in your hearing on Monday: we must remember that the majority of schools are run by very principled people. A lot of my life is lived through the lens of a very tiny proportion and it is skewed toward people who want to do the wrong thing. I don't want to forget the vast proportion who come to work to do the right thing.

Chair: We heard what he said, and we hear what you say on that as well.

Q308 **Layla Moran:** Moving on to the financial health of the whole sector, in our accounts we have the cumulative deficits. Mr Slater, why don't we have the in-year deficits as well? Do we have the number of MATs that are in in-year deficits rather than—

Jonathan Slater: Simply because what we are doing here is reporting on the accounting position at the end of the financial year, in accordance with the—

Q309 **Layla Moran:** My understanding is that it is three years of deficits—is that right? I am looking at the NAO.

Simon Helps: The cumulative deficits in an academy trust would be since the inception of the trust, so some of those will go back to 2010.

Q310 **Layla Moran:** Since the inception of the trust—so we are looking at several years here. What I am trying to get at is that we know that the number of schools, certainly in the maintained sector, that have in-year deficits is growing. Do you have enough information in these accounts to know whether that pattern is being repeated in academies too, or do you need more information?

Jonathan Slater: Clearly, there is an important distinction that you are drawing between the financial position at the end of a financial year and a decision that a particular trust, or any other school or entity, makes to spend more resources in a particular year than the resources at its disposal. The whole purpose of holding back some surpluses is to enable you to spend them in a future year, over and above the income you have in that year. You will save up money to spend in a particular year on a



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capital item, and in the year in which you spend it you will have an in-year deficit, because you are spending more than you receive in that particular year. That is not an enormously helpful statistic from the point of view of the overall financial health of the sector, where the more important question is the position at the end of the year. We do have information on the in-year position as well, but I would not want you to use that to make a judgment about the health of the sector in the round, because that will hide a choice—

Q311 Layla Moran: Although 5.6% and 5.9% sound like small numbers or percentages, actually they are fairly large numbers of trusts, so it is moving in the wrong direction. Are you concerned about that?

Jonathan Slater: Say what you see—94% of academy trusts are in surplus, or zero, against, as you say, about 6% in deficit. You have also seen an increase in local authority end-of-year deficits; it was 94% but is down to 91%. Clearly, we keep a close watch on those numbers.

Q312 Layla Moran: Are you expecting them to keep going in that direction, or do you have confidence that this is the peak of it and they will get healthier?

Jonathan Slater: The crucial challenge for schools—both local authority maintained schools and academies—is to identify whether they are facing financial challenge and, if they are, to take the appropriate action. And we are working increasingly hard to support trusts and, indeed, local authority maintained schools, where they need support, to improve their efficiency where they are struggling.

That is why Mike was reporting earlier on the work the ESFA does these days to ask for three-year financial forecasts, and we are more actively involved with those schools than we have been in the past, to make sure the situation doesn't get worse and gets better.

Q313 Layla Moran: Mr Pettifer, do you have the information you need to be able to make those assessments and work with the schools early enough?

Mike Pettifer: Yes, we do. The in-year deficit just tells you that they have spent more than they have earned. If they have got reserves, they can use those reserves and that can be planned spend. So, if they are investing in school improvement, infrastructure change, restructures, capital—it can include all of those positive things. And we would expect trusts to keep reinvesting taxpayers' money back into improvements. So it could be a healthy cycle.

If there are two or three years of consecutive in-year deficits, we would start looking at those and we would want to understand that they were planned in-year deficits, as opposed to spending more than you earn with no real plan.

Q314 Layla Moran: How many of those are a result of not getting the pupil numbers quite right when academies have been set up? There are a number of examples of academies that have been allowed to expand and they do not have the number of places, and that starts eating into their



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accounts. I have an example in Oxfordshire of exactly that. In fact, the multi-academy company involved now looks like it is going to fold and it is the taxpayer who will pick up the bill. How many of the trusts in deficit are a result of poor planning for places?

Mike Pettifer: There will be a proportion of them. There is a small number of academy trusts on estimate funding, which is where they estimate their pupil numbers, so that's when they would get their estimates wrong. The vast majority of academy schools and trusts are working on the previous year's census figures, so they wouldn't be estimating. They would be planning their own pupil numbers and we would expect them to have pupil plans, working with the local authority, looking at the demographics and population increase and decrease. And there are funding formula factors that we have available for temporary dips in population.

In addition, and in response to your wider question, we are doing a lot both to build the capability and to offer helpful resources to schools, to make sure that they can run their schools more efficiently and push those savings through to the frontline on school improvement and so on.

I mentioned earlier that we have a school resource management website. Jonathan was referring earlier to the benchmarking tool on there. That is very popular. It enables schools to go in and look at their own spend and see how that spend compares with a statistical neighbour that is doing similar things.

Q315 Layla Moran: Is that information at a school level something that you would consider having MATs publish? I ask because what has happened with this MAC in Oxfordshire is that one of the schools started to fail financially, and that has had a massive impact financially on all the other schools in the MAC. And the parents, when they hear that the national funding formula is per child, do not understand that. How are you ensuring that every child in all of the schools in those multi-academy trusts is getting the resourcing that they need? Are you looking at that?

Mike Pettifer: Yes. We work with multi-academy trusts. It is their responsibility to ensure that those schools are getting the appropriate resources to run properly.

Q316 Layla Moran: I visited one of those schools and she described how, as a result of the financial failure of one of the schools in the MAC, she felt that every other school was in a managed decline of financing. How do we stop that from happening?

Jonathan Slater: We've been ramping up for the last two years—we continue to do so—the support we provide to multi-academy trusts and the schools within them, to manage their resources as efficiently as they possibly can. On the basis of the three-year financial forecast, which Mike was referring to, we have started sending expert people into individual trusts where the information we have suggests that there is a problem, to identify what might be done about it for the benefit of all of the children in each of the schools in the multi-academy trust. Clearly, it would not be an

adequate response to a particular problem in one school to rob Peter to pay Paul. That would not be an appropriate response. That would not be efficient.

Layla Moran: But that is happening increasingly.

Jonathan Slater: I am not suggesting that there are no problems at all. We were watching one, no doubt, on the TV last night. I am saying that we have the first 40 schools advisers out in trusts now. They have been looking at the first 72 trusts for efficiency improvements. They are getting a very positive response and finding about £500,000 efficiency opportunities per trust. We are increasing the numbers from 40 to about 160, who will be working with 800 over a year, to ensure that schools are using their resources as efficiently as possible for the benefit of those children.

Q317 **Chair:** There is a difference between efficiently across the piece and what Ms Moran has described, which we have had other evidence of. Take Wakefield City Academies Trust as an example, where schools with differing budget situations were brought into one and it collapsed. It is still not yet clear what will happen to the schools that made up the trust, as they are separated: they are re-brokered.

Jonathan Slater: Clearly, the Wakefield City Academies Trust, which we discussed in previous meetings, didn't do its job properly.

Q318 **Chair:** But in the end, as Ms Moran said, it is the children who lose out.

Jonathan Slater: Of course, absolutely. We worked as hard and as fast as we could to switch those schools to trusts that could manage them well. The point of having three-year forecast information and a team of 160 people, which previously did not exist, is to get ahead of those sorts of failures in the future. That is what we are doing. I am not sitting in front of you and saying that there are no examples of children not getting the education they should because of schools not properly using their resources.

Q319 **Chair:** Can we just be clear about this? If you are a multi-academy trust and you have a school—perhaps you were urged by the Department to take on one with a budget deficit—there may be some money coming from the Department. But it may be the case that they can choose—as they can under the current system—to put extra money into a school that particularly needs it, which could denude another school of the resources it deserves, which is what Ms Moran is driving at. That could happen and can still happen.

Layla Moran: It does happen.

Jonathan Slater: It is a simple matter of fact, as you know, that the resources are owned at the multi-academy trust level. That is the nature of the academy model—it absolutely is. Equally, the Academies Financial Handbook, strengthened each year, sets out how that is to operate and the requirements for systems of delegation and reporting upwards and downwards at the school level. Where we see an example of a trust in



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financial difficulties, we are sending people in. By efficiency improvement, we mean what you would expect us to mean—not robbing Peter to pay Paul.

Chair: How do you enforce that?

Q320 **Layla Moran:** Is there a floor figure that all schools should be receiving? I can understand how there will be small fluctuations between schools, but I would like to understand how parents know that there is at least a very minimum amount of funding just to run the thing that schools at an individual level are getting.

Chair: Whitehaven was running out of footballs!

Jonathan Slater: Our powers of intervention are up to and including taking the school away from the trust, and that is what we did.

Layla Moran: But that is an extreme case.

Jonathan Slater: Sure, so in the vast majority of occasions we would anticipate not needing to get to that position. We publish, but we do not specify the amount of money that can be spent at trust level across all the schools. We do not have a hard-and-fast rule on that.

Q321 **Layla Moran:** Fair enough, if there is not a rule. However, when you look at the individual accounts of MATs and notice that individual schools are mopping up the problems of, say, a school that is in financial difficulty, at what level do you say that something is not right and go in and investigate whether teaching and learning is being affected by that low funding?

Chair: What rings alarm bells?

Jonathan Slater: We would intervene for one of two reasons: first, if the finances of the trust were of concern, which I guess is the focus of this conversation, and secondly, if the performance of the school was inadequate.

Q322 **Layla Moran:** Which you would only know if they had had an Ofsted inspection.

Jonathan Slater: No. We have access to data. We can invite Ofsted to go in and have a look more quickly if we see a particular concern.

Q323 **Layla Moran:** I sit on the performance and standards committee at my primary school. We get the data but several months after it is submitted by the teachers. By the time you pick it up, a young child will potentially have been receiving a poor education for several months of their life. Some of it could be picked up simply by having a financial floor that you could have for the amount of money coming into schools.

Jonathan Slater: Clearly, if a financial floor prevented a child from getting a poor education, that would be worthy of consideration. However, I do not think it is that simple.



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Q324 **Layla Moran:** The chief inspector says she has not seen evidence at school level of funding issues affecting educational standards. Do you agree with her assessment, or do you agree with the many parents—

Jonathan Slater: I bow to her independent expertise on the matter.

Q325 **Layla Moran:** So you're not concerned that the funding pressures that affect all schools, including academies, might be starting to have an effect on educational standards?

Jonathan Slater: I don't think it would be useful for me to offer a different view from that of the chief inspector. Clearly, in an individual school, where resources get into difficulty, they find themselves with a problem. That is precisely why we follow up in the way I described earlier.

Q326 **Layla Moran:** Do you back her up that Ofsted needs to be able to look at MATs as well as at individual schools?

Chair: Where is the Department's thinking on that?

Jonathan Slater: The Department is working at the moment with Ofsted and other stakeholders to look at how best to assure—

Layla Moran: Because we heard clearly yesterday—

Chair: Sorry, just let Mr Slater finish, because I think we need to get this on the record. You are working with Ofsted and others?

Jonathan Slater: We are working with Ofsted and others on the improvements we could make to the way that we assure MAT performance and finance. We have not reached a conclusion on that work at the moment.

Q327 **Chair:** So you envisage the finance bit being done differently by ESFA?

Jonathan Slater: That's what ESFA does at the moment.

Q328 **Chair:** So what else?

Jonathan Slater: Ofsted inspects at the individual school level. It is increasingly batching its school-level inspections at the MAT level. It has agreed with us some improvements in the way it plans inspections and the way it draws information from the MAT to inform the school inspection, to the extent that the school's performance is derived from its MAT. It has made improvements of that sort, and we are looking more generally at what further improvements might be made to the question of the contribution of the MAT in respect of performance issues. That is live work at the moment.

Q329 **Layla Moran:** And when will it be concluded? When will we know your final plans?

Jonathan Slater: I don't have a date, but we are actively working on it right now.

Q330 **Layla Moran:** Before the next school year starts?



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Chair: That will be challenging; the next school year will start next September.

Layla Moran: Indeed.

Jonathan Slater: Let me write to you.

Chair: Before you move on, Ms Moran—I will come back to you in a moment—Sir Geoffrey wants to come in.

Q331 **Sir Geoffrey Clifton-Brown:** We know from the evidence that Ofsted has given the Committee that those schools rated as outstanding are often not inspected for 10 years. If an outstanding grant maintained school moves into the MAT sector, would it not be sensible to make sure that that school, which will come under completely different governance arrangements, is actually inspected by Ofsted much sooner than that 10 years?

Jonathan Slater: The Committee has made a recommendation on this matter recently. We are due to respond to that recommendation next month.

Q332 **Chair:** So you are considering it at the moment?

Jonathan Slater: We have a plan, and you will hear from us next month.

Q333 **Chair:** It is good to know that you are listening to our recommendations.

Jonathan Slater: We always listen to your recommendations.

Q334 **Anne Marie Morris:** Very briefly, Mr Slater, clearly there is increasing evidence of a link between the financial position of a school and its academic attainment. Ofsted used to look at finances, but now it does not. Would you be in favour, as many people I have spoken to would be, of Ofsted again taking on the role of looking at the finances and the link between the finances that are there, how they have been spent and the educational outcomes of the school?

Jonathan Slater: It's not a conversation I am having with Ofsted, to be honest, about whether it should take on the role of my colleagues sitting to my right and left in the way they regulate the finances of academy trusts. They need to work—

Q335 **Anne Marie Morris:** But, Mr Slater, that is not the point. I appreciate that there is regulation and a different body, but there is nobody pulling together academic attainment and finance. We are not going to get an answer to this underfunding issue and the issue of schools managing their finances unless you can put the two together; we are not going to get the results. I ask you again: do you accept that and will you talk to Ofsted, and indeed our regulators, about that?

Jonathan Slater: The Department has responsibilities to oversee both the performance of trusts and their finances. That is done through regional teams of people and there is very close collaboration between Eileen and Mike's finance people and my performance people, who work together and



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will look trust by trust at whether, if we have performance concerns and finance concerns, they come together. We try to join up. I don't think—

Q336 **Anne Marie Morris:** Mr Slater, you have sort of missed the point.

Eileen Milner: Could I add something? I don't know if it is helpful to you, but can I talk to you a little bit about what we do in practice? I hope that might be reassuring to you. As Jonathan has explained, we are part of the DfE family; we work incredibly closely together, with performance and economy as two sides of a coin. We work incredibly closely on that. I would not want you to think that we do not work closely with Ofsted, because we do, and where we have issues of financial or governance concern that come to us, we will quite routinely have conversations with Ofsted about where on its radar and its assessment of risk a particular trust or school is appearing. I would not want you to think that we are sitting back and being essentially separate and not taking responsibility for asking questions of one another. They do the same to us. I think that is healthy, and it is something we are building on all the time.

Q337 **Anne Marie Morris:** I am delighted to hear that, but we still have not got to the issue of whether the lack of funding for a school has an impact on its performance. You are talking, on the basis of the money it has and the money it has been allocated under the current funding formula, about whether it has spent that money wisely. This is a different question. It is about looking at the school and saying, "Given the resources it has, the staff and the money, is the lack of one or the other an issue that impacts performance?" That is not something that you have said. If you can tell me that is what you do, I am delighted, but I don't think you do that now and I don't think Ofsted does it either.

Mike Pettifer: We don't do it as an inspection, but our business as usual operation is that the regional schools commissioners and my teams look jointly at the academy trusts. They look at finances and they look at educational performance together. But it is not an inspection.

Anne Marie Morris: But can I ask you, when you look at finance—

Q338 **Chair:** We don't want to replay everything about Whitehaven again, because we went through that a lot on Monday, but that was an example where performance was going down, there were clearly financial problems and all sorts of other issues that we will come on to in a moment. That was not picked up quickly enough, and children's lives have been ruined.

Mike Pettifer: No, there wasn't a good enough job done there.

Q339 **Chair:** Ms Morris is suggesting an alternative approach.

Mike Pettifer: We are working actively with them and trying to put a good solution in place, and we are in the process of doing that.

Q340 **Chair:** We will come to the detail of Bright Tribe in a moment, but that shows a failure—a particularly bad example of a failure. However, there are a lot of things that may be less than optimal in schools prior to a



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failure that you are not seeing because of the way you split the regime. We just really want to test what the thinking is in the Department.

Jonathan Slater: We don't think that a problem facing the school system is that Ofsted doesn't inspect the finances of the school.

Chair: But when they inspect, sometimes, they will make a criticism in their inspection that is valid in terms of education, but sometimes it is because those schools have not been able to recruit a teacher.

Q341 **Layla Moran:** If I may give an example, as I say, I am a governor of a primary school and we were told that some of our issues were financial, but Ofsted could not really do much about it. Then it was suggested to us that we fundraise more to fill the gap. That should not be the case. They were not looking forensically at our accounts. That is exactly the kind of example we are giving.

Jonathan Slater: All I am saying is that I don't think that the right way forward is to turn Ofsted into an organisation that gets into the forensic detail of schools' finances. That is our job; we need to do it, and that is what we are doing.

Chair: We'll leave that for now, but I think you hear what we are saying.

Q342 **Layla Moran:** I have one final question that neatly ties into what we have just discussed. This is just really unclear, especially for parents and students out there: when it all goes wrong financially, where does the buck stop? It is all very well to say that it stops with you, Mr Slater, in the Department, but by that point there has been a catastrophic failure. When there are whistleblowers in a school, when people are shouting to the rafters that something is wrong, who do they go to concretely? I ask because we heard examples of the regional schools commissioner not writing back.

Chair: Yes, where does the buck stop, or where should it stop?

Jonathan Slater: Obviously, it depends on the circumstances, but the governing body of the trust is accountable to Parliament, albeit through me, for their use of resources. As you know, they are required to appoint an accounting officer—that is set out in the Academies Financial Handbook—who is, as I say, accountable, through me, to Parliament for how they use their resources. That is what we expect them to do, and we hold them to account. In the vast majority of cases, as we have discussed, they do their job well. But if they don't, we intervene, and increasingly we are seeking to intervene before it has gone wrong. We will follow the action wherever it needs to go. You were discussing on Monday the case of a trust where we are at the moment carrying out investigations, and if they need to go to the police, they will go to the police.

Q343 **Layla Moran:** Are you confident that there are enough governors, in all the multi-academy trusts in the whole country, who have the right skills to be able to manage this stuff? Are you absolutely confident of that?



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Jonathan Slater: It's a continuing role of the Department to increase and improve the capacity and capability of MAT governance.

Q344 **Layla Moran:** How?

Jonathan Slater: Well, I was discussing with one of your colleagues the need to improve training and the actions we are taking. We put resources in place. We fund MAT capacity development where new people need to get recruited. If we are asking a multi-academy trust to take on an extra school, they will need to invest in governance capability to take it on, and we will fund them to do so.

Q345 **Chair:** The thing is, you can say the buck stops with governors, but if you were at Whitehaven, you had ARC, which was the regional bit of the board, but it still wasn't at school level, and they were finding it very hard to get information from that. I'm talking about getting information from a trust that is running 13 or so schools around the country. It is a long way away from the community that it serves. Do you not think there is a gap there? You say the buck has to stop with governors first. For some people, the gap between where they are, in the school in their area, and the governing body or the trust is very large.

Jonathan Slater: And so there is a requirement in place for the governing body of a multi-academy trust to have parental representation, either at the trust board level or at the individual school level. There is a requirement on the trust to put in place a proper scheme of delegation: which decisions get made at trust level and which at board level? There is a requirement for there to be a complaints procedure if there are concerns that that is not being applied, and a right of appeal to the Department.

I am absolutely not saying that those arrangements are always applied in all cases. In the case of Whitehaven and the Bright Tribe trust, they clearly weren't—they clearly weren't.

Q346 **Layla Moran:** So your assertion is that, had they followed your guidance, Whitehaven would absolutely not have had the issues that it had. Is that fair?

Jonathan Slater: Absolutely.

Q347 **Chair:** We won't get into all the structural stuff about what the role of regional schools commissioners is at this point. That is not directly relevant to today's hearing, but you have heard that parents in a school where there are problems feel very isolated—it was a long way from Whitehaven to Whitehall.

Jonathan Slater: Sure. I became the director of education in a local authority 20 years ago because I wanted to spend my career helping to improve the life chances of children. Three years ago, when I took the job in the Department, I got the chance to do so again, and when I see that happening, I'm angry about it, as you are.

Q348 **Chair:** Well, you're in a position to resolve it to a degree. Can I move on? While we are on the subject of Bright Tribe, there are obviously



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investigations ongoing. Angela Barry told us on Monday that she was about to publish a couple, but she did not want to go into detail. Have you seen those reports yet?

Jonathan Slater: They're being finalised. That work is not yet complete.

Q349 **Chair:** You said to us before that if there was evidence of malpractice you would try to get the money back from Bright Tribe. Is that still your position?

Jonathan Slater: Yes.

Q350 **Chair:** How are you going to do it? Given that there were a number of family-run companies, do you think that there is any real prospect of getting the money back from companies that could go into liquidation before the reports are published? It has been quite a long time coming.

Jonathan Slater: I'll be going after the money—on the basis of an investigation report that is not yet complete. There is no lack of ambition in our Department. We will report back to you once that has been finished.

Q351 **Chair:** If you report back to us the minute you do something that would be good, even if you are not in front of us at that point, because we are very concerned.

Jonathan Slater: Of course.

Q352 **Chair:** That brings me to the point about what sanctions you or anyone has against chief executives or trustees. We saw that the former head of Perry Beeches has been barred from teaching. That is a sanction if you are a teacher, but a lot of these people are not in the teaching profession, so what sanctions are there? If there was criminal action, that would be criminal, but for anything short of criminal, what is the sanction?

Jonathan Slater: People can be banned from teaching and they can be banned from governance, and we have done both of those things.

Q353 **Chair:** So banned from governance of a school, but could they end up at an FE college for instance—still under your remit, Ms Milner? If I were a dodgy governor at a trust, would I end up at the FE college down the road a week later if I was barred from governance?

Eileen Milner: What we are working to do—

Chair: Just in answer to that question, could a governor recycle as a governor in another education—

Eileen Milner: It is not impossible that a governor could recycle. I say to you very honestly that it is not impossible. We are seriously seeking to uncover in a systematic way the names of people under whose watch irresponsible things happen, and to be able to get in front of situations where they might pop up on other boards, start-up businesses that could be trading in areas that we oversee and regulate, or indeed instances where we are so gravely concerned that we are able to work with both the Charity Commission and the Insolvency Service to see if we can get them



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disqualified as directors. That is actually quite a big sanction, and one where I am grateful for the work that BEIS in particular are giving us on how we might set about doing that in a systematic way.

Q354 **Chair:** That would therefore be on the public list.

Eileen Milner: Indeed.

Q355 **Chair:** At the moment, where is the naming and shaming of people who have taken taxpayers' money, not delivered an education, not repaired a school, and sometimes allegedly—I think we have to say that at this point—lined their own pockets?

Jonathan Slater: The reason you know about what has happened to the guy who you mentioned is because that is public. It is public if the teacher misconduct panel bans someone from teaching, and ditto on governance. That is public information.

Q356 **Chair:** But you could still continue in your day-to-day job. You could be a business person or, indeed, working in a school somewhere as a teacher but not be a trustee. On the actual sanctions against someone who has taken taxpayers' money and misspent it, what about malpractice in public office? Would that cover these individuals?

Is there any legal thing you need to make sure that the chancers who try to take advantage—and, indeed, we think have taken advantage—of the system actually get their come-uppance and have real sanctions against them?

Eileen Milner: We are using every avenue that we believe is open to us.

Q357 **Chair:** That is not quite what I was asking. Do you think you need any more powers?

Eileen Milner: I would like us to test further the powers that we have. That is what I am keen to do and it is what we are doing. As I say, that includes disqualification from directorships, and use of things such as having insolvency attached to people's names. These are things that are truly detrimental and most unattractive, and if we can do some they will be quite totemic.

Jonathan Slater: Given that the very large majority of people involved in the governance of schools are good people doing a good thing well, it would be odd if we needed more powers in law than those that are available for the regulation of companies. That would be an odd state of affairs to have reached, and I do not think that we are in that situation.

Q358 **Chair:** But at the moment we are struggling to think of an example of any trustee who has had a serious sanction against them—other than being barred from teaching—even though we have been looking at some quite catastrophic failures. Children have been let down, their education has been disrupted and their life chances have, at the very least, altered, if not gone downhill. Things like asbestos in buildings have been left untouched, yet trustees have walked away scot-free—so far, unless you can tell me—



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Jonathan Slater: Yes. I agree with Eileen: the challenge is on us to make full use of the sanctions at our disposal.

Q359 **Chair:** Sir Greg Martin has walked away with an £850,000 pay-off. I'm not getting into the details of the pay-off—that is a trust issue—but he has been rewarded rather than sanctioned.

Jonathan Slater: Clearly, an interesting question for the Charity Commission is whether they would benefit from additional legal sanctions. There is no doubt that they took that decision on the basis of the legal advice that they had in front of them. That is a really interesting question, isn't it? On the face of it: £850,000. That is a question for them.

Q360 **Chair:** This goes to the heart of Ms Moran's question about where the buck stops. We have this mix of the Charity Commission, ESFA, the Department and the regional schools commissioner, with Ofsted coming in on standards. Other regulators are involved. In the end, you will have quite a lot of things going wrong. We have not even reached the point where any trustee has had to suffer any serious personal sanctions, other than teachers being barred from teaching. Anyone who is not a teacher has not had to suffer.

Jonathan Slater: We have banned a governor from governance.

Q361 **Chair:** How many people have you banned?

Jonathan Slater: I'll drop you a line on that—it is very unusual.

Q362 **Layla Moran:** But you have the power to do that?

Jonathan Slater: It's through a legal process.

Q363 **Layla Moran:** But they still could end up at an FE college or a university?

Jonathan Slater: Hence the point Eileen was making about disbarring somebody from a company, which would prevent them from doing that.

Q364 **Chair:** We would say more strength to your elbow in doing that, but at the moment we are very concerned that we can find no sanctions against trustees.

On the assets of failed academies, particularly a number of the MATs, we have Bright Tribe already re-brokering a number of schools, and I mentioned Wakefield earlier. When schools have different assets, how do you disaggregate them, and do you have a total of what it has cost the taxpayer so far? It will not be in this year's accounts, but we could probably work that out. How do you ensure that you know that the academies are getting back what they need?

Jonathan Slater: Mike can talk through the detail, but when we re-broker a school to a new trust, we make sure that the receiving trust has the resources required to run that school. We have a national funding formula.

Q365 **Chair:** In the case of Sir Greg Martin's academy, £918,000 of its reserves was passed over to Dunraven to run it.



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Jonathan Slater: That was money that the trust had not spent on improving—

Q366 **Chair:** That was money that they actually had. It was taxpayers' money that went to the school to be run much better—we hope.

Jonathan Slater: Exactly.

Q367 **Chair:** But where there isn't the money, because in its bad management the trust has run down reserves and resources, additional taxpayers' money has to go into propping up the new school.

Eileen Milner: Mike, do you want to talk about our process?

Mike Pettifer: Yes. Our approach is that we take each academy as it transfers. These are unusual circumstances when a trust is closing. We have a clear process for when an open trust transfers to another open trust. If it is closing, we look at the school improvement needs. We look at the capacity of the trust with the regional schools commissioner, who has a large role to play in deciding which trust could best suit the needs of an individual school. If the school has any surpluses that they have committed to anything like school improvement or capital works, we will honour those. If parental contributions have been made, they would transfer automatically with the school. Any un-ring-fenced reserves would go into the trust-wide accounting closure of the trust.

You were talking about Wakefield City Academies Trust. The 2016-17 accounts were in a fairly significant surplus. We have 21 schools, all of which are in really good trusts now. The trusts have the right school improvement resources and are using them to improve the schools. That has been our focus, but we have to look also at best overall value for the taxpayer. Any unallocated funds that were not being used for school improvement, and that are not parental contributions or additional income that they have raised, would be part of an orderly closure of the trust, and trying to save the taxpayer as much as we can in the process.

Q368 **Chair:** But still, in those schools, as they are re-brokered—I want to focus on re-brokering—those individual schools don't always know their individual budgets. They are not very clear to the average parent and sometimes even the governing body, if there is a local governing body at the school.

Mike Pettifer: Their budget would transfer, so whatever they earn under the funding formula in their local authority would transfer over with the trust and the trust would get that in future.

Q369 **Chair:** The trust would get that?

Mike Pettifer: Yes.

Q370 **Chair:** At school level, it is the same whether they are re-brokered or not, but at re-brokering stage, they still—

Jonathan Slater: As you say, that is the nature of the system as a whole. It takes you back to the question about making sure that there is a proper



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scheme of delegation and information flows between the two school authorities.

Q371 Chair: When you're looking at re-brokering and there is obviously a huge trust breakdown between the old MAT and the school, do you have any guidelines or good practice that you push to the take-over trust, if that is what is happening, to make sure they are actually providing better financial information at school level? We have had evidence from parents and we know that the distrust of parents that it is actually going to be fair the second time around—if there has been a problem the first time around—is immense, understandably. What is your best practice guidelines to trusts, Mr Pettifer?

Mike Pettifer: In terms of financial information, no, but we do not have a requirement for them to do that. What I know my colleagues, the regional schools commissioners do is look at the track record of those trusts. If those trusts have got a track record of getting trusts out of requiring improvement, special measures, and so on, and into good and outstanding, and if it makes sense geographically and they have the resources, that would obviously be the preferred choice. Then, we have a process to try and transfer as smoothly as we can.

Q372 Chair: That is not quite the question I was asking, but I hear that. I think Mr Slater has hit the nail on the head that it is the system that is the issue.

Jonathan Slater: You are making a number of versions of the same point—because it is an important one, and I am not complaining—about trying to make sure that parents are able to understand properly how the resources are spent at the trust level. Clearly the whole point of having multi-academy trusts is to enable things to be done that can't be done by individual schools and for resources to be deployed across a whole set of schools—modern foreign languages, HR services and all the rest of it.

Q373 Chair: The number of footballs would probably be down to school level.

Jonathan Slater: What you are drawing out is concerns from constituents about parents being able to get access to understand how that system works. I hear what you are saying. I have been trying to explain the checks and balances in that system. I am very happy to explore further the question about whether there is some more that should be done to help parents understand that.

Q374 Chair: Ms Moran and I have both been school governors—in my case a long time ago, at a tiny primary school in Islington North and Upper Holloway. As a governor and chair of governors, I and all the governors, as well as all the parents, if they asked for it, could see a detailed line-by-line spending of what happened in that school. It should be, should it not, that that information is available to every parent? If you can see it at trust level but you can see it disaggregated within those trust accounts to every school, that should be available, should it not? If there is nothing to hide, why hide it? That transparency should be inbuilt, wouldn't you agree?



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Jonathan Slater: I think it is important that trusts can show parents how their money is being spent, absolutely. I am very happy to explore the question that you have raised back in the Department.

Q375 **Layla Moran:** On the case of mis-selling to the school and parents, we heard in the case of Whitehaven that when they were first taken over they were, in fact, all quite excited by the idea of being part of the trust, because they had been shown lots of slides and so forth. Again, what is the mechanism for parents to be able to push back—and indeed, governors at that level, before their powers were taken away—when it turns out that the trust has come in and mis-sold what they are going to do with that school?

Jonathan Slater: Clearly it is possible, isn't it, for parents and children to be let down by the management of a school, either one within a trust or within the local authority? That happens, and when it happens it is bad for the kids and it is bad for the parents. The parents should be expecting to be holding the governors to account and that is why there is a requirement in law on parental representation in governance that I've described before. That is why they would expect us to be intervening if the governance at the trust level was not working.

Q376 **Layla Moran:** So if there are parents out there listening today to our hearing who are facing this, what do you ask them to do? Should they write to their MP? Should they write to you?

Chair: The Ofsted parent feedback?

Layla Moran: Yes. What mechanism would you recommend for parents to raise this issue?

Jonathan Slater: In the first instance, they should be raising it with the parent representation on the governing body.

Q377 **Layla Moran:** But in the case of Whitehaven, that wasn't a parent from the school. In fact, there was no one from the school on that ARC. In that case, where do they go?

Jonathan Slater: There is a requirement for parental involvement in the governance of the trust, either at a school level or a trust level. It depends on the circumstances.

Q378 **Chair:** I'm sorry, but when you've got lots of schools and not enough parents to have one for every school—

Jonathan Slater: That's where people should start.

Q379 **Chair:** But it might be a parent from a school 100 miles away.

Jonathan Slater: I hope I am not saying anything particularly controversial here. The board of the trust is accountable for the school. That is where they should start. They can and do approach the Department if they see the governance of the trust—

Q380 **Layla Moran:** What a lot of these schools seem to have in common is a



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catastrophic failure of governance.

Jonathan Slater: Not a lot—a small number.

Q381 **Layla Moran:** A small number, but one matters. It affects a lot of children, potentially.

Jonathan Slater: The fact that there are other children getting a good education is of no consolation to them. Absolutely.

Q382 **Layla Moran:** You are saying that if there is a parent out there who is sincerely worried and can't get the governors to listen, if they write to you, you will listen.

Jonathan Slater: We respond to whistleblowing. We engage and send people in. We follow up the intelligence that we get.

Q383 **Chair:** There is a view that it is a long way nevertheless for a parent who might not be very literate or might not have English as a first language—they might just not be used to dealing with authority—to write to some stranger in a distant town. They may have found the name on a website, if they have got access to the web. That suggests to me that it is geared up for a certain type of parent.

Jonathan Slater: More typically, you would find parental representation at a school level.

Q384 **Chair:** What's your preferred model? You say "more typically", but what would you like? Do you agree that there is a big distance between some multi-academy trusts and the schools? The Whitehaven example is one of a number, but that is the one we have heard about.

Jonathan Slater: Trusts have two options, and the Department doesn't have a preference between them. One is that there is parental representation at the school level, and the other is that it is at the trust level. In either case, there has to be an agreed scheme of delegation between the trust and the schools, and a flow of information to and fro. You need one of those in place.

Q385 **Chair:** To go back to Ms Moran's point about the flow of information, when a trust comes in on a re-brokering process, generally it will have a meeting with parents. That happened at Whitehaven. Who is there to ensure fair play and to ensure that the promises made in that discussion are delivered? It is very easy to be glib and make a good, slick presentation, but evidence suggests that it is not always delivered.

Jonathan Slater: The recommendation to the Minister about the trust that the school should move to is made by the regional schools commissioner—that is just a job title for a civil servant who works for me. I am the accounting officer for issues of performance, and it is Eileen for matters of finance. The regional schools commissioner is accountable for the quality of advice, and the Minister is—

Chair: Well, some of them haven't visited the schools concerned.



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Q386 **Layla Moran:** We have heard that at least one parent contacted them and they wouldn't meet with them. That was concerning. Are the regional schools commissioners doing their jobs properly?

Jonathan Slater: I would of course expect regional schools commissioners to talk to parents and teachers in schools in their region. Of course I would.

Q387 **Layla Moran:** So the parent could write either to you or to the regional schools commissioner and expect answers?

Jonathan Slater: All I am saying is that, in the first instance, you would expect the parental representatives, who have been elected for the purpose—

Layla Moran: Absolutely, but—

Jonathan Slater: Beyond that level, they can write to the Department.

Q388 **Chair:** We know that the process is one thing and the reality is another. To pick up the point about related party transactions, we heard from Angela Barry that she now checks carefully with Companies House. That sounds very diligent, but of course what is revealed in Companies House information is very limited, so you could still have companies that are related. It is actually quite hard for an individual to find out about all those relationships. I suppose I am looking at Eileen Milner and Mike Pettifer. What advice and support are you giving to those who are trying to root out bad related party transactions to ensure they know who is running what company? The company structure at Bright Tribe was extraordinary. They were all related, so it was evident because the names were there. However, in some cases, there might not be the same names but they may still have relationships.

Eileen Milner: As I outlined to you when we were talking about related party transactions, we are moving to a new system and are issuing guidance around that, setting out responsibilities but also things to—

Q389 **Chair:** But it's about how they find out about them where there is something going wrong.

Eileen Milner: Also it's the things to be looking out for—the frequently asked questions, the top tips—so that, in advance, people can do things before they come to us and we say, "Why weren't you looking for that?" We are going to be issuing guidance alongside the instruction that people must make a declaration and telling them how to do it.

Q390 **Chair:** When will that guidance be issued?

Eileen Milner: Between the December period and April, so that people can—

Q391 **Chair:** So during the point when you are piloting?

Eileen Milner: During the transition period. I would also say—people do this—that, in Mike's area, we have a front door at ESFA where people



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come to us with concerns. They also raise queries about practice in their trusts and see whether we can help with their issues. I would not want you to think that we passively sit back and wait for the world to go wrong. People raise questions and issues with us, and we are getting ever better at being able to give them reasonable and sensible answers about things that will enable them to enact good practice, which, as I say, the vast majority of people want to do. We have an open door. We want people to come to us, and we do our very best to give them advice.

Q392 **Layla Moran:** Do you have the resources you need?

Eileen Milner: We are building that resource. The Permanent Secretary has recognised that the job of work we do has expanded.

Q393 **Layla Moran:** You have asked for more?

Eileen Milner: Of course I have asked for more.

Q394 **Layla Moran:** Are you going to give them it, Mr Slater?

Eileen Milner: He has given it. I ask other organisations to be proportionate, and that is what we are doing. You would not want us to build a vast army when something smarter and leaner will do. That is what we are doing. We are looking very carefully at the skills and capabilities that will allow us to support the sector, and that is what we are investing in.

Q395 **Chair:** We are watching this very closely, as you know. I want to move on to the school estate. We acknowledged at the beginning that the work you have done is good and important, but how close are you to having a full understanding of the condition of the school estate?

Jonathan Slater: That work is proceeding according to plan. We committed to having completed a condition survey by next autumn, which we will.

Q396 **Chair:** So you are still on track for that?

Jonathan Slater: Yes.

Q397 **Chair:** Given the financial situation, what prospect is there of returning all school buildings that need it to a satisfactory condition or better? When will you have analysed that, and will you be able to afford to bring them up to scratch?

Jonathan Slater: We are doing it as we go with the information that we get. Obviously, we will not wait until the end before we do any analysis. We will have an enormous amount of information at our disposal when it comes to submitting our spending review submission at an unspecified date next year. That is what we will be doing.

Q398 **Chair:** Great. I hope that you and the current Secretary of State can be the people who actually sort out the school building estate. That would be a legacy, wouldn't it? What action have you taken about the 23% of state-funded schools that did not respond to your data collection about



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asbestos? You have had to extend that deadline twice now, haven't you?

Jonathan Slater: Yes. Obviously, it is disappointing that we still have only 77%, although that is, of course, 50% more than we ever had before. We are not going to stop until we have it all.

Q399 **Chair:** So by next autumn you should have it all?

Jonathan Slater: I reopened the request for data, which is now open until 15 February, and we are chasing up those 23%. For any that don't respond, we will definitely pick them up in the condition data survey, but my aim is to get as many as possible to respond by 15 February.

Q400 **Chair:** Right, so that will be the third extension of your deadline?

Jonathan Slater: Yes—disappointing.

Q401 **Chair:** Do you have any understanding of why they haven't responded?

Jonathan Slater: Well, I suppose that we are asking them to do something that they have never done before.

Q402 **Chair:** Also, it occurs to me that, if you are a chair of a governing body or a headteacher, to go out and look and identify asbestos problems and to list them publicly without the money to deal with them might not be something that you would put at the top of your list if you have other challenges in your school.

Jonathan Slater: We haven't yet identified any example of a school with an asbestos problem that it is not able to resolve because of a lack of resources. If we were to see an example of asbestos that needed to be dealt with, we would make sure it was dealt with.

Q403 **Chair:** So you've got money from the central fund of the Department?

Jonathan Slater: Clearly, a top priority for any condition funding would be a need to spend money on asbestos.

Q404 **Chair:** That is a positive statement. I will bring in Sir Geoffrey in a moment. You say that schools will receive funding if their problem is critical. Of the ones you've got so far, have you done an analysis of the levels of seriousness?

Jonathan Slater: The way it works is that we ask the school to tell us whether they have got asbestos and what advice they have taken. Then we ask the responsible body, which is not the school but the trust or the local authority, to assure the information that we get from the school. I want to know not just from the school but from the responsible body that they know whether or not they have got asbestos. If they have got asbestos, I want to know that they have taken professional advice, they know where it is, they have done a review within the last two years and they have got confirmation it's safe.

Q405 **Chair:** From the information you have so far, have you done an analysis about—



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Jonathan Slater: We have no case yet of either a school or a responsible body saying, "We've got asbestos that is out of control." I would not expect to get such a thing, clearly, and I haven't got one. What I want is confidence and satisfaction across the whole of the estate that any asbestos is being dealt with properly.

Q406 **Chair:** When will we know what percentage of schools need asbestos dealt with in the next year or two? What about the relative urgency of doing it? We know that schools built at certain periods of time have asbestos. They are all coming to the end of their life or have asbestos that is a risk at a particular time. If you were to deal with this with central funding, have you done an analysis of the spend?

Jonathan Slater: We'll be publishing in April. I'm sorry: I made the judgment that it's better to be embarrassed in front of you than get the information and publish it incomplete. We'll be publishing our overall assessment of the state of asbestos in our schools in April. The fact of the matter is, as you know, four out of five schools have got asbestos in them. That does not mean there is any danger. The health and safety advice, as you know, is that so long as it is properly protected, leave it where it is. We'll report on that in public in April.

Q407 **Chair:** Perhaps I'll take it offline, but we have evidence that teachers are worried that they are teaching in classrooms that have asbestos problems. Obviously, that affects pupils.

Jonathan Slater: Mike Green, my chief operating officer, armed with that information, will go to the schools.

Q408 **Chair:** I have a constituent whose mother was a teacher and died just after retiring.

Jonathan Slater: I heard about that, Chair. I was sorry to hear about that.

Q409 **Chair:** So there is a reality out there. We are heartened you are on it. It's been concerning that it's been going on for so long. Presumably that information will come through in time for you to bid in the spending review to deal with this, if that is what you and the Secretary of State decide to do.

Jonathan Slater: Yes. As I say, we'll be using all of the information we have about the condition, including from this survey, to inform our spending review submission. Absolutely.

Chair: If you and the Secretary of State were to be the top team that dealt with asbestos in schools, you would have very strong backing from me personally. I don't know about the rest of the Committee.

Q410 **Sir Geoffrey Clifton-Brown:** I am sorry if I'm being picky—I listened to your answers very carefully—but when a school tells you that they've got asbestos, they presumably have had a professional report. Does that report accompany their declaration that they've got it, and does the report always have an action plan in it?



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Jonathan Slater: That is what we're asking, and we're looking for that assurance from the responsible body. Even if the responsible body tells us that it is assuring the school, we ask for evidence that there is professional advice and a plan that is up to date. If any one of those three things is not evidenced, we follow up with the responsible body. That is what we are doing at the moment.

Q411 **Sir Geoffrey Clifton-Brown:** Because, as you said in one of your earlier examples, some of the low-grade asbestos is fine until it's disturbed, or until there is a building operation, so there needs to be a very clear protocol that if anybody does any building operations in the area where there is asbestos, proper precautions are taken.

Jonathan Slater: That's exactly the sort of assurance I'm looking for from the responsible body: that there is a plan, it's up to date, it's reviewed every two years and is available on the ground so that, as you say, if a contractor comes on to a site and starts drilling, they have a plan to look at. That's absolutely required.

Q412 **Chair:** It is great that you're doing this, but shocking that it has never happened before.

Jonathan Slater: The Department is now responsible for these 8,000 schools, for good or ill. It used to be the responsibility of the local authority. Now it is our job, so we are doing it.

Q413 **Anne Marie Morris:** Mr Slater, one of the challenges we have is persuading schools to become academies. It was originally Government policy, although not any longer, to have every body as an academy. You are aware of the problems of rural schools, particularly primary ones. What plans have you got to support schools to become academies?

Jonathan Slater: Rural schools in particular or schools in general?

Q414 **Anne Marie Morris:** The ones that now sit in the too-hard basket. That is usually small schools and rural schools.

Jonathan Slater: The Government welcome any application by a good or outstanding school to convert, and it is our job to support them in doing so and in identifying the appropriate multi-academy trust. Typically, a small school would benefit from being part of a multi-academy trust in order to achieve economies of scale that it would need to succeed, and it would be our job to find a multi-academy trust for it to go to. If it is a primary school that has failed its Ofsted and therefore it is not a matter for the school to choose, it is our job to intervene and take it away from the council. But I think you are talking about the first of those categories, where a school chooses to become an academy.

Q415 **Anne Marie Morris:** I'm talking about a separate category—the ones that do not want to be academies at all because it is too difficult.

Jonathan Slater: Then they don't have to be.

Q416 **Anne Marie Morris:** Agreed, but on the basis that you and the Government have set out how popular and beneficial that status is, what



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are you doing to make it easier for those schools so that they don't not apply because they see it as just too hard and having no real benefit?

Jonathan Slater: Oh, I see. We are always seeking to simplify the process we have in place for academisation. There is no doubt that such a process does require time and money, and we will fund them, resource them and support them in that process. The primary task is to find an appropriate multi-academy trust to allocate them to, and an important role for each of our regional schools commissioners is building MAT capacity and investing in multi-academy trusts so they are better able to take on new schools.

Q417 **Anne Marie Morris:** But the problem in rural areas, Mr Slater, is that the economies of scale don't work when the school is 20 miles away.

Jonathan Slater: Yes, sorry. Is there something you think I should be doing that I am not? I am just trying to make sure I understand.

Q418 **Anne Marie Morris:** What I am trying to express to you is a concern that some schools do not fit the current system. If you are an urban school surrounded by lots of other schools, you can sort out the mix and match, the good ones and the bad ones, get economies of scale and get the interplay of good practice, but if you are a rural school in the middle of nowhere—

Jonathan Slater: Then it is different. Yes, indeed. Clearly, there are different sets of challenges in different sorts of schools, and that is undeniably the case. We do have some good success stories of remote rural schools that have formed parts of successful multi-academy trusts. What our regional schools commissioners do is share and spread that information and seek to help schools that are nervous about that to learn from the successes of others. But, undeniably, there is a challenge that exists for remote schools that does not exist elsewhere, and before that school takes that move it would be very important for us to ensure that we have a good trust to take them to. One of the lessons from previous years is that there is a bit of a dash for cash. We have to do this thing thoughtfully and ensure there is a trust capable of receiving them. Where there is a practical difficulty, that exists, but equally we find plenty of examples of success and we are seeking to build from them.

Q419 **Anne Marie Morris:** Do you proactively tell these small rural schools about this best practice, or do you wait for them to come to you?

Jonathan Slater: No, we share information.

Q420 **Anne Marie Morris:** If asked, or voluntarily?

Jonathan Slater: Both. I think I came to you at a previous hearing with Andrew McCully, who talked about the ways that we are promoting examples of best practice of different sorts of schools becoming academies, including rural schools. We are definitely doing that and there is more to be done. Then, of course, we respond to particular requests.

Q421 **Chair:** You talked about schools and the "dash for cash".



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Jonathan Slater: Yes, I wish I hadn't used that phrase.

Q422 **Chair:** I am sure it will burnish your credentials in one sector—perhaps not in Whitehall, but possibly more in Whitehaven, which I must say has a lot to recommend it. A bit more Whitehaven in Whitehall would probably be a good thing.

Jonathan Slater: For the record, what I was saying—

Chair: The “Yes, Minister” answer.

Jonathan Slater: It's important for us to learn from the extent to which schools might have become academies or joined multi-academy trusts without quite as much thought as is clearly required in these situations, and I am determined that we will put that right.

Q423 **Chair:** Well, you have got that on the record. In terms of the re-brokering, we heard on Monday that the Dunraven academy trust took over a school with 48 hours' notice. That seems like a—

Jonathan Slater: No, it didn't do that. It really didn't do that—

Q424 **Chair:** Okay, Mr Slater, would you like to tell us what your version of this was?

Jonathan Slater:—because that would not be any good for the kids, would it? We asked Dunraven whether they would, in principle, be up for a three-month due diligence process that we would go through with them, to enable them to make a decision as to whether to take on the school. We asked them to tell us quickly whether they were up for three months' due diligence. They were. We then did three months' due diligence with them and then they took on the school.

Q425 **Chair:** One of the challenges is that parents feel they have very little say when that happens. They get presented first with the failure of the trust, and then with the choice of another trust. You said that you do it carefully and you try to make sure that the match is right and so forth, but where do the parents and the local school community fit into that discussion?

Jonathan Slater: Clearly it is important for us, is it not, to be explaining to parents what we are doing and why we are doing it? Equally, they would expect us, in the situation that you described earlier, to get on with it.

Q426 **Chair:** But with respect, the man from Whitehall, even if it is the urbane Jonathan Slater or one of his team, who comes in and says, “This is what we are going to do”, is quite a long way away from the reality of the local community. It feels like a very long distance.

Mike Pettifer: The trusts do consult with local parents as well. They talk to them. You will sometimes have open evenings where the trust will come along and the parents can question them about their trust.

Q427 **Chair:** What if that relationship does not seem to be going very well? Once the trust is chosen and is having those discussions, it is pretty



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much a fait accompli. Harris withdrew in the Durand case, but how often does it happen that the first-named preferred re-brokering trust is removed or removes itself from the process?

Mike Pettifer: It is not common, but it does happen. That is part of the rigour of the process. Over the last few years, one of the things the regional schools commissioners have learned about the early issues that we have been talking about, which are still manifesting, is that they have a really robust rigorous process for making sure that when a MAT takes on a school or a number of schools, they have already built the capacity and expertise to do so.

Jonathan Slater: And the man is not in Whitehall, even if it is a man. I have teams of people who are based around the country doing this work in the regions. They are typically—no, they are a mixture of different sorts of people. I employ ex-teachers, headteachers and people in the education system who are doing this work at a regional level and should be doing so openly.

There is no point denying the situation, which is that these kids need a school from September and they need good governance in place. Frankly, if I can persuade Dunraven—an outstanding school serving a similar clientele—with kids whose parents often choose Dunraven at 11, I am going to bite their hand off, so long as I can go through an appropriate process of due diligence. I have got to explain to parents why I am doing what I am doing—not me personally, but the team that is doing that work. There is a balancing act to be achieved in those sorts of circumstances, which are very unusual. They are very unusual—that is why you were discussing them on Monday.

Eileen Milner: Also important in the case of Dunraven, just to finish off, is not to walk away after you have done the deal, which is what we have not done. I think that is what you were told. We have stuck close to Dunraven to make sure that they feel supported throughout that transition—we knew it was going to be a difficult one. That sense that we do not just do it and walk away is an important one that you take from us.

Q428 **Chair:** That is helpful to know. A penultimate point from me. We mentioned earlier the number of ongoing investigations. Thanks to *Schools Week* for highlighting to me that the DfE has published only two investigations into the Wakefield City Academies Trust last week. Is that right? That publication showed that the first investigation was actually finalised in November 2016, so why is it taking so long for those investigations, which are in the public interest, to be available to the public?

Eileen Milner: Shall I begin? I gave a commitment in January that I would publish the investigations, because I think that is the right thing to do. What we were committed to doing, with 21 schools in scope, was to treat those as the first-order priority, which was to get those schools re-brokered into new and stronger places where we felt that children, parents and communities would be better served.

Q429 **Chair:** That is fine, but I am talking not about the schools but about the investigations into them.

Eileen Milner: What was contained in some of those investigations, we felt, would not necessarily aid the transitioning of the 21 schools. The commitment I gave in writing was that as soon as we got the final school across the line, we would publish those investigations, and that is what I have done.

Q430 **Chair:** Can you give an example of that information? I have not had the chance to see what was in there that would have been detrimental to a transfer.

Eileen Milner: Mike, would you like to answer?

Mike Pettifer: There are not investigations—we publish all our investigations. These were visits, which we do quite often, to look at financial management and governance. We produce an internal report with recommendations, then we monitor the trust's progress against those recommendations. There were 33 recommendations across the two reports that we did. It met 31 of them.

Q431 **Chair:** What of that information could not have been in the public domain while the transfers were going through, so that parents and other stakeholders were aware of what they were dealing with?

Mike Pettifer: They are historical reports but not investigations. We do not publish every piece of paper that gets produced in the process of monitoring and working with trusts on their finances. Whenever we formally investigate, we reproduce those.

Q432 **Chair:** If it is about to be published—certainly in a much shorter time than two years—you can refuse to release it under FOI, can't you? Is this a way of keeping that information in-house?

Jonathan Slater: No. As Eileen said, our task in the first instance was to complete successfully the transfer of the schools to new trusts.

Q433 **Chair:** You may have bits of information that you do not want to put in the public domain. What would you not want to put in the public domain, and why does that delay the publication by two years?

Mike Pettifer: It was not something that we were going to publish. We always publish investigations and financial notices to improve. We do not publish any monitoring work, as a matter of business.

Jonathan Slater: You are saying you have not had the chance to see it yet because it was published only last week. If you would like me to drop you a line with the sort of information that would have been tricky to release, I will draw that to your attention.

Q434 **Chair:** That would be very helpful. I think we will leave it there for now. Thank you very much for your time. We will publish our report in the new year, realistically. As you know, this Committee keeps a very close eye on what, in populist terms, we would call the chancellor's charter. We



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have seen in your Department, as you know Mr Slater, a lot of opening up to private sector initiatives—that is a policy decision by the Government. It is not our place to question that directly, but it is our place to ensure that chancellors cannot make money out of taxpayers' funding. As a cross-party Committee, we are united in that position.

We will keep watching the situation. You say that 98% are good; we will look at the 2%. We are heartened by some of what you say but we will not let you off the hook. We will keep your feet to the fire on this, as you know. We look forward to every time you appear in front of us.

Jonathan Slater: We all have the same interests.