



National Audit Office

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## **Report**

by the Comptroller  
and Auditor General

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**Department for Education**

# Establishing Free Schools

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Department for Education

# Establishing Free Schools

Report by the Comptroller and Auditor General

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National Audit Act 1983 for presentation to the House of  
Commons in accordance with Section 9 of the Act

Amyas Morse  
Comptroller and Auditor General  
National Audit Office

9 December 2013

The Department for Education launched the Free Schools Programme in June 2010. By September 2013 it had opened 174 Schools. The estimated cost of the Programme to March 2014 is £1.1 billion.

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# Contents

**Key facts** 4

**Summary** 5

**Part One**

Selecting Free Schools 12

**Part Two**

Programme costs 27

**Part Three**

Early indications of performance  
and oversight 36

**Appendix One**

Our audit approach 44

**Appendix Two**

Our evidence base 46

The National Audit Office study team consisted of:  
Chris Groom, James Young,  
Howard Reville, Erin Mansell,  
Hannah Robinson and  
Ian Cockburn under the  
direction of Julian Wood.

This report can be found on the  
National Audit Office website at  
[www.nao.org.uk/2013-free-schools](http://www.nao.org.uk/2013-free-schools)

For further information about the  
National Audit Office please contact:

National Audit Office  
Press Office  
157–197 Buckingham Palace Road  
Victoria  
London  
SW1W 9SP

Tel: 020 7798 7400

Enquiries: [www.nao.org.uk/contact-us](http://www.nao.org.uk/contact-us)

Website: [www.nao.org.uk](http://www.nao.org.uk)

Twitter: @NAOorguk

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## Key facts

<b>174</b>	<b>£743m</b>	<b>24,000</b>
Free Schools opened by September 2013	estimated capital spending on Free Schools to March 2014	estimated number of pupils being educated in a Free School by September 2013

<b>4</b>	annual waves of Schools approved to open so far. In September 2013, 93 Schools opened
<b>82,000 places</b>	eventual capacity of Free Schools opened so far, expected to increase by 62,000 once Schools already approved are open
<b>38 per cent</b>	of Free School places are in London
<b>87 per cent</b>	of primary places provided in Free Schools opened by September 2013 are in districts where forecast need for school places is high or severe
<b>£103 million</b>	estimated pre- and post-opening financial support to Free Schools from 2010 to March 2014

### In this report

2011-12 refers to the financial year (April to March)

2011/12 refers to the academic or school year (September to August)

# Summary

## Introduction

**1** The Department for Education (the Department) launched the Free Schools Programme in June 2010. Free Schools are new Academies, set up as all-ability state schools, and funded directly by the Department. By September 2013, it had opened 174 Schools, approving them in three annual 'waves'. It has a further 116 Schools in the pipeline, 105 of which are working towards opening in September 2014. The estimated cost of the Programme to March 2014 is £1.1 billion, including £0.7 billion capital expenditure.

**2** Free Schools are set up following applications from a range of different groups including parents, teachers and Academy chains. According to the Department, applications for Schools respond to local demand to improve education. The Department's primary aim is to open high quality Schools and it expects the Programme to raise standards across the school system through:

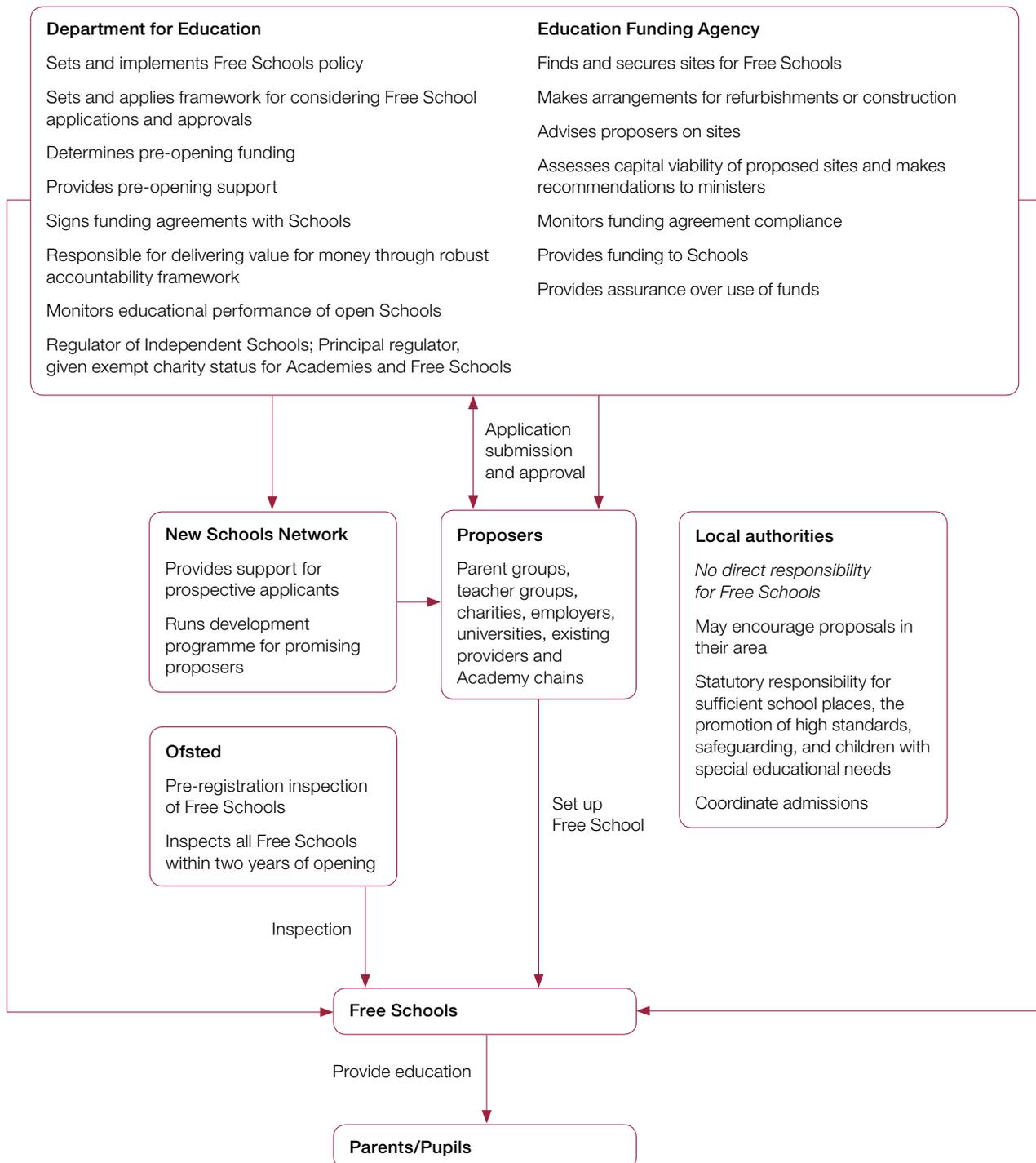
- increasing local choice for parents;
- injecting competition between local schools;
- tackling educational inequality; and
- encouraging innovation.

**3** As Academies, Free Schools are independent of local authorities, and are directly accountable to the Secretary of State for Education through a funding agreement. Schools have freedoms over their curriculum, the organisation of the school day and year, staffing and budgets. Mainstream Free Schools set their own admissions arrangements, but, like mainstream maintained schools, are bound to follow the Admissions Code.

**4** **Figure 1** overleaf shows the main roles and responsibilities relating to Free Schools:

- a** **The Department** invites and evaluates applications for new Schools and decides which Free Schools should open. It provides support to proposer groups working to open new Schools, and monitors Free Schools' educational performance.
- b** **The Education Funding Agency (EFA)**, an Executive Agency of the Department, is responsible for acquiring premises for approved Schools, and for the funding and oversight of financial management and governance in open Free Schools.

**Figure 1**  
Responsibilities for Free Schools



5 This report assesses whether the Department has, to date, achieved value for money in establishing Free Schools. We have not re-evaluated individual projects. Academic performance data is currently limited because the Programme remains relatively new. This report therefore addresses:

- the Department's approach to selecting Free Schools (Part One);
- the Programme's costs (Part Two); and
- early indications of the performance and oversight of open Schools (Part Three).

## Key findings

### Selecting Free Schools

6 **By implementing the Free Schools Programme at pace the Department has achieved clear progress on a policy priority.** The Department opened its first 24 Free Schools in September 2011, and by September 2013 it had opened 174 Schools. In total, the projected capacity of these Schools is nearly 82,000 places. The Department anticipates an additional 62,000 places when a further 116 approved Schools are open and full. Over a third of Schools opened so far are in London (paragraphs 1.2 and 1.5).

7 **Most primary Free Schools are in areas that need extra school places, but application levels from areas of high or severe need have been mixed.** Addressing forecast local need is not a formal objective of the demand-led Programme, but is one of the Department's wider priorities for capital spending. Around 70 per cent of estimated primary and secondary places from open or approved Free Schools are in districts forecasting some need for places. Free Schools already open are expected to provide an estimated 27,000 primary places in districts forecasting high or severe need (87 per cent of all primary places in Free Schools) but only 19 per cent of secondary places in Free Schools are in such areas. The estimated total capital costs for Schools opened in districts with no forecast need for extra school places are at least £241 million out of a projected total of £950 million for mainstream Schools. The Department has received no applications to open primary Free Schools in half of all districts with high or severe forecast need (paragraphs 1.6, 1.7).

8 **The Department is assessing and monitoring applications more robustly, although some key information is limited.** Assessment processes for Wave 1 were developmental, providing support for proposers but with significant limitations. The Department has incrementally improved its selection and pre-opening processes, for example, scoring against published criteria, and has plans to further strengthen challenge. However, important information relating to sites, parental demand and key staff remains limited during the selection process. Fifteen approved projects have been cancelled or withdrawn, mainly because of problems with sites or concerns over proposers' capacity. The Department monitors the risks to individual projects, making judgements about the level of risk to accept as schools proceed to opening (paragraphs 1.10 to 1.12, 1.19 and 1.21).

**9 The Department's selection decisions have focused on individual Schools more than on maximising the wider benefits of the Programme compared with costs.** The Department has primarily sought to open good quality, sustainable Schools. Overall, 23 per cent of higher-scoring applications have been rejected, mostly on practical grounds, such as overlaps with other applications in the same area. The Department's consideration of factors linked to its wider objectives has not affected the proportion of Schools opening in the most deprived areas, or areas of high or severe need for school places. In considering the latest wave of applications, the Department is scoring applications' impact on such need and against the quality of other local schools. Cost has not been fully integrated into decisions about which applications to approve, primarily because cost information is constrained by uncertainty over sites (paragraphs 1.7, 1.8, 1.13 to 1.17).

#### Programme costs

**10 The Department initially underestimated the total capital funding needed to establish Free Schools.** It bid for £900 million in the 2010 Spending Review for Free Schools' premises, but could only earmark £450 million following a tough capital settlement. It subsequently increased this to £1.5 billion, just over 8 per cent of its total capital budget, through additional funds from HM Treasury and savings in other capital budgets. At £6.6 million per School, the average unit cost of premises is more than double its original aggressive planning assumption. In May 2011, it revised its assumptions, which now reflect actual costs (paragraphs 2.3 and 2.4).

**11 New approaches have led to much lower average construction costs than in previous programmes, but the Department faces a rising capital cost trend.** The Department used existing properties, reduced building specifications and smaller space standards to help reduce construction costs by, on average, 45 per cent. Total capital costs per school place rose on average by 35 per cent by Wave 3, mainly due to the location of more secondary schools in regions where property costs are high, and the inclusion of Special and Alternative Provision Schools with higher costs per place. Eighteen per cent of Schools (27) had capital costs of over £25,000 per place; 14 of these were mainstream schools. The Department also paid almost £27 million above its valuations for half of the cases where it acquired a freehold. These valuations provide an indication of a property's market value, based on past sales of similar properties and on the property's existing use (paragraphs 2.5 to 2.10).

**12 Forecast capital costs highlight the level of uncertainty in earlier indicative estimates, and there have been some increases in budgets approved later in the process.** The latest capital costs for 60 per cent of Wave 2 and 3 Schools are forecast to be higher than the indicative estimates prepared when these applications were approved. The Department has taken steps to improve the robustness of these estimates from Wave 4 onwards. The Department sets firm budgets during the pre-opening phase, once sites have been identified. It has increased these budgets for 24 Wave 2 and 3 Schools (20 per cent), at a total cost of £13.6 million (paragraphs 1.17, 2.11 and 2.12).

**13 The Department has been willing to incur additional costs to avoid delays in opening Schools, making judgements about acceptable levels of cost on a case-by-case basis.** Approximately 60 per cent of Schools (107) opened in temporary premises so they could open in September, at a cost of at least £27 million. In contrast, it has delayed opening seven planned Schools because it judged that permanent premises could not be found at an acceptable cost (paragraphs 2.7 and 2.11).

**14 Free Schools' core day-to-day funding is provided on a broadly equivalent basis to other types of school. The Department incurs additional costs, including funding to local authorities for some pupils moving to Free Schools.** Its temporary method for Free Schools' main revenue funding, before wider changes were introduced in 2013-14, did not give Free Schools a systemic advantage. Due to time-lagged funding, over three years the Department has provided local authorities with an estimated £80 million of school funding for pupils who subsequently moved to Free Schools, which it has not recovered (paragraphs 2.14 to 2.16).

#### Early indications of performance and oversight

**15 By the end of October 2013, 25 Free Schools had been inspected by Ofsted, with 18 assessed as 'good' or 'outstanding', and two rated as 'inadequate'.** The Department is responsible for monitoring Free Schools' educational performance. New Free Schools do not yet have a track record of exam results. Ofsted inspects all Free Schools within two years of opening, and judged four Wave 1 schools to be 'outstanding', 14 'good', five 'requires improvement', and one 'inadequate': the Discovery New School. In October 2013, Ofsted inspected Al-Madinah, a Wave 2 School, after concerns raised with it and the Department. It was judged 'inadequate' (paragraphs 3.1 to 3.3 and 3.9).

**16 The Department and Education Funding Agency assess risk and monitor financial management and governance in Free Schools. Their approach has evolved and will need to develop further to manage emerging risks as the Programme grows.** There is inevitable uncertainty about how some new Free Schools will perform in practice. In common with all Academies, the Department's approach to oversight emphasises Schools' autonomy and responsibility for financial management and governance. The Department recognises that some Schools will not meet its expectations, and investigations have highlighted financial management concerns at two Free Schools: Al-Madinah and Kings Science Academy. The Department has developed a more structured approach to intervention over time, introducing a new framework in September 2013 to support the professional judgement of Agency staff. Monitoring is informed by other parties including whistleblowers and relies on timely compliance by Schools. As the Programme grows, more systematic data analysis will be needed to identify and manage emerging risks (paragraphs 3.6 to 3.9).

**17 Some Free Schools have not attracted as many pupils as they planned in their first year.** New Schools may naturally take time to reach capacity, depending on their planned expansion rate and recruitment performance. Overall, Free Schools have opened with three-quarters of planned admissions in their first year, but there have been significant variations between years and between Schools in each year. Pupil recruitment against planned admissions has improved after the first year. Schools opening in temporary accommodation or signing their funding agreement closer to their opening date were more likely to have unfilled places (paragraphs 3.10, 3.11).

**18 The Department has not made full use of a growing evidence base to enhance its programme management.** The Programme's increasing scale provides more information on how Free Schools are operating in practice. We found that Schools are using some freedoms available to them and are developing different pupil characteristics from neighbouring schools. The Department does not routinely capture data on Schools' use of freedoms or the pattern of local demand. It has yet to fully consider which factors have most impact on School performance, for example, occupancy trends or the departure of head teachers. It has also yet to determine a full set of indicators to assess the impact of open Free Schools on other education provision in an area, or value for money (paragraphs 3.11 to 3.17).

### **Conclusion on value for money**

**19** By opening 174 Free Schools since 2010, with more Schools in the pipeline, the Department has made clear progress in delivering a policy priority. Many new Schools have been established quickly and at relatively low cost, and the Department's assessment of applications has improved. The Department aims to open high quality, sustainable Schools. The Programme's success and value for money depend on how Free Schools perform in the future. To date, the primary factor in decision-making has been opening Schools at pace, rather than maximising value for money. The Department will need to exert more control to contain a rising cost trend. Its ability to fully integrate cost when selecting Schools has been limited by uncertainty over sites, and its wider objectives have not yet had a clear and consistent impact on decisions. It is seeking to address these points in the latest waves of the Programme.

**20** To safeguard its £1.5 billion planned investment, oversight of open Schools will need to systematically respond to emerging risks, and the overall governance framework may require review in the light of experience, including the problems identified in a few of these early Schools.

**21** The Department has asked us to record that it believes it has struck an appropriate balance between pace and value for money.

## Recommendations

- 22 The Department needs to:
- a **Strengthen its analysis of how different portfolios of Schools might contribute to its wider objectives, to support choices between applications.** Factors linked to the Department's wider objectives have had no clear or consistent impact on overall approvals.
  - b **Increase the transparency of its use of contextual and practical factors when assessing applications, demonstrating the impact on selection decisions.** Some higher-scoring applications were rejected by the Department, mostly on practical grounds.
  - c **Review barriers which may be constraining applications from some areas, particularly those with high or severe need for additional places.** There has been no demand to open Free Schools in some areas with significant forecast need for school places.
  - d **Assess the lessons from projects with high and low capital costs, setting out how it determines that using temporary accommodation and paying over its valuations for properties offers value for money.** The Department faces rising capital costs and some approaches lead to higher costs.
  - e **Embed and continuously develop its framework for intervening in open Schools.** The Department continues to develop its approach to structured intervention.
  - f **Develop a more structured approach to applying the lessons from open Free Schools to approved Schools when in pre-opening.** The Department has not fully reflected factors affecting open Schools' success, for example, securing planned occupancy levels, during pre-opening.
  - g **Assess the effects in practice of open Free Schools on the quality and sustainability of other local education provision.** The Department has yet to determine a full set of indicators to assess the wider impact of open Free Schools.

# Part One

## Selecting Free Schools

**1.1** This Part examines the Department's approach to selecting and opening Schools. Its approach has evolved with each wave. **Figure 2** sets out the main stages of the selection process after Wave 1. We examined:

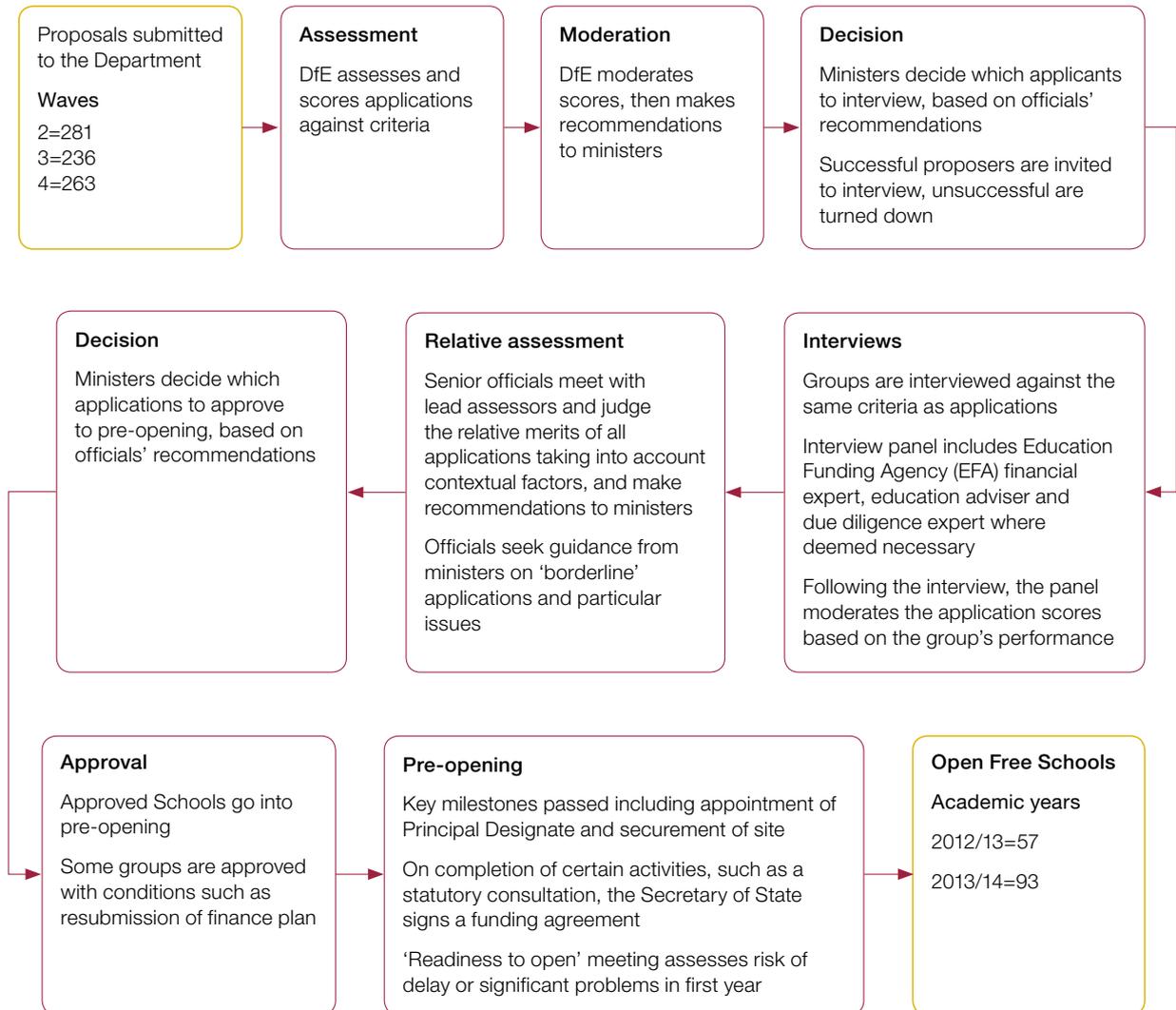
- applications received and Schools opened; and
- the Department's approach to selecting and opening Schools.

### **Applications received and Schools opened**

**1.2** In June 2010, the Department invited applications to open a first wave of Free Schools in September 2011. It subsequently invited further waves of applications each year. By September 2013, it had opened 174 Schools and selected a further 116 applications for Schools to open by September 2015 (**Figure 3** on page 14). Demand has been sustained but uneven. So far, over one-third of Schools opened are in London, with only 3 per cent in the North East. In Wave 1, most Schools opened were primaries, but, in Wave 4, the greatest number of Schools approved were secondaries (**Figure 4** on page 14). The Department has received no applications to open mainstream Schools from half of all districts.

**1.3** In November 2010, the Department appointed the charity New Schools Network (NSN). It appointed NSN without a competition. NSN provides guidance and support, including roadshows, to prospective applicants and to Schools approved to open. In November 2011, the Department reappointed NSN to March 2013, following a competitive process with two applications. It later extended NSN's grant agreement to March 2014, in line with this process. By September 2013, it had paid NSN almost £1.5 million. NSN has worked with almost three-quarters of Schools open or in the pipeline, and the Department has asked it to hold events to help stimulate demand in areas where few applications have been made and where existing provision is poor quality.

**Figure 2**  
The Department's process for selecting and opening Schools



**Note**

1 The Department carries out suitability and vetting tests, including due diligence, at several stages in the process.

Source: National Audit Office review of Department for Education documents

**Figure 3**Free School applications and openings<sup>1</sup>

Wave	Applications submitted	Applications not progressed to pre-opening	Cancelled/ withdrawn in pre-opening	Schools opened (academic year)			Planned openings <sup>1</sup>
				2011/12	2012/13	2013/14	2014/15 onwards
1	323	291	2	24	5	1	0
2	281	216	5 <sup>2</sup>	0	51	7	4 <sup>3</sup>
3	236	134	8	0	1	84	11 <sup>4</sup>
4	263	161	0	0	0	1	101
<b>Total</b>	<b>1,103</b>	<b>802</b>	<b>15</b>	<b>24</b>	<b>57</b>	<b>93</b>	<b>116<sup>1</sup></b>

**Notes**

- 1 As at 15 November 2013: 105 working towards opening September 2014, 11 working towards opening September 2015.
- 2 Includes one approved School which withdrew from the Free Schools Programme but opened as a University Technical College (UTC).
- 3 Includes two UTC applications, which went through the UTC application route, but are opening as Free Schools. They are not included in the application data for Wave 2.
- 4 Includes two proposals to set up Maths Free Schools which were submitted outside the competitive application round and subsequently approved. They are not included in the application data for Wave 3.

Source: National Audit Office analysis of Department for Education data

**Figure 4**

## Type of School open, by academic year

	2011/12	2012/13	2013/14	Planned openings <sup>1</sup> 2014/15 onwards	Total
<b>Mainstream</b>					
Primary	17	20	34	33	104
Secondary	5	20	28	41	94
All-through	2	7	9	11	29
16–19	0	1	5	7	13
Alternative Provision	0	6	12	16	34
Special	0	3	5	8	16
<b>Total</b>	<b>24</b>	<b>57</b>	<b>93</b>	<b>116<sup>1</sup></b>	<b>290</b>

**Note**

- 1 As at 15 November 2013: 105 working towards opening September 2014, 11 working towards opening September 2015.

Source: National Audit Office analysis of Department for Education data

**1.4** The Department has opened increasing numbers of Free Schools each year. On November 2013 forecasts, it will have opened 279 Schools by September 2014, compared to its early capital funding planning assumptions of 315, with 11 approved Schools working towards opening in September 2015. It had opened ten times as many Free Schools by the Programme's third year as it had opened new Academies under the Academies Programme from 2002/03 to 2004/05. The 2013 Spending Review provided capital funds for up to 180 Free Schools to open in each of 2015/16 and 2016/17.

### School places

**1.5** By September 2013, an estimated 24,000 pupils were being educated in Free Schools. Once full, the 174 open Schools would provide a total of almost 82,000 places. This capacity would increase to around 144,000 when the 116 Schools that have been approved, but are not yet open, are full.<sup>1</sup> Thirty-four per cent of projected places are mainstream primary and 44 per cent are mainstream secondary. The remainder are 16–19, Alternative Provision and Special School places.

**1.6** Most, but not all, projected Free School places are in districts where there is a forecast need for more capacity (**Figure 5** overleaf and **Figure 6** on page 17). Addressing such need is not a formal objective of the demand-led Programme, but it is one of the Department's wider priorities for capital spending.<sup>2</sup> The Department estimates that 348,500 extra places are required between May 2012 and September 2015, of which over 90 per cent are primary. We found that:

- around 70 per cent of the estimated 114,000 primary and secondary places from open or approved Schools are in districts forecasting some need;
- 87 per cent (27,000) of projected primary places in Free Schools opened by September 2013 are in districts forecasting high or severe need, 8 per cent (2,000) are in districts forecasting moderate need;
- 19 per cent (7,000) of projected secondary places in Free Schools opened by September 2013 are in districts forecasting high or severe need, 22 per cent (8,000) are in districts forecasting moderate need; and
- 42 schools have opened in districts with no forecast need, with estimated total capital costs of at least £241 million out of a projected total of £950 million for mainstream Schools.

<sup>1</sup> The Department estimates 130,000 places as it assumes that some approved Schools will not open.

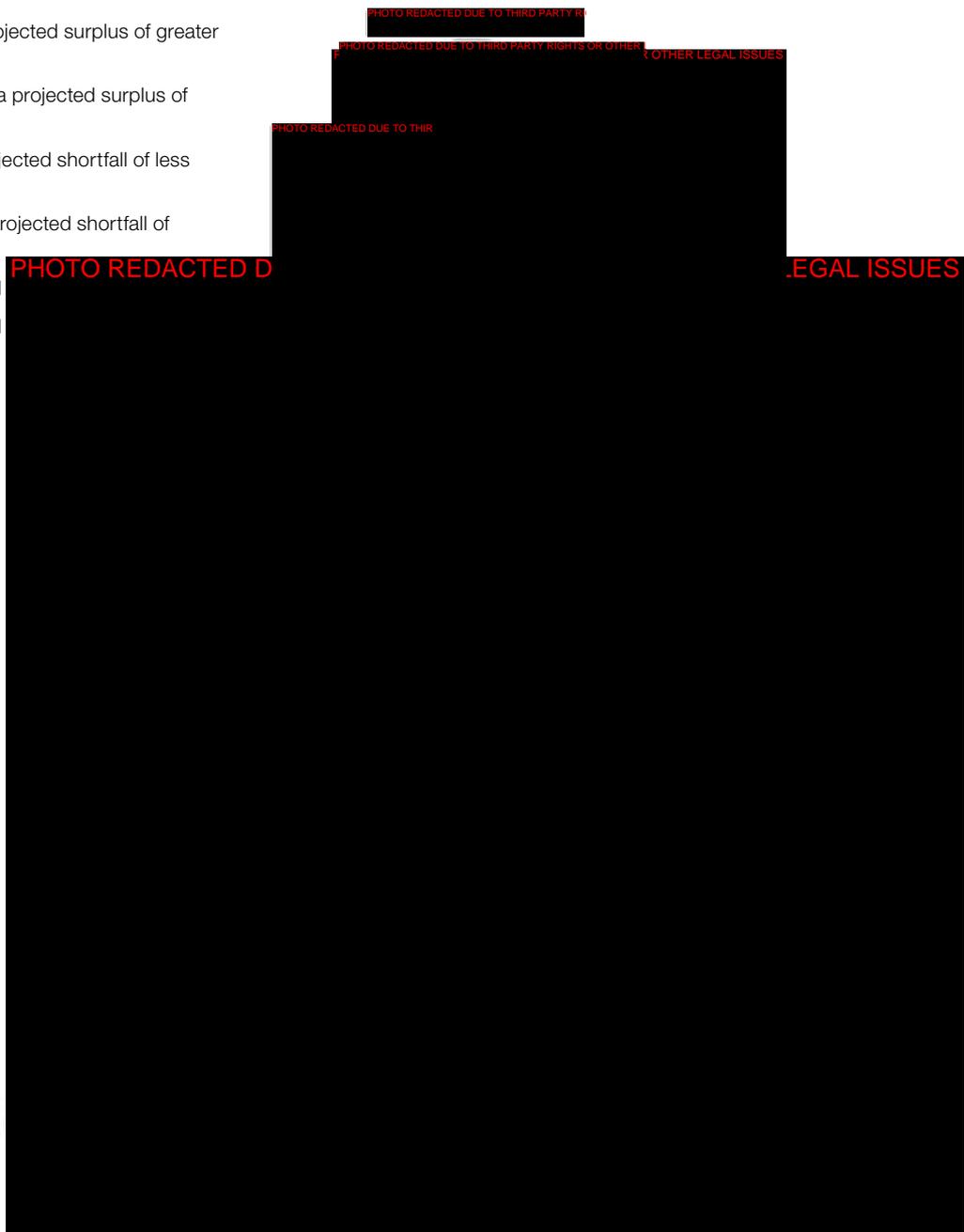
<sup>2</sup> The Department allocates separate capital funding, including through its Targeted Basic Need Programme, to help local authorities provide places – Comptroller and Auditor General, *Capital funding for new school places*, Session 2012-13, HC 1042, National Audit Office, March 2013.



**Figure 6**

Open mainstream secondary and all-through Free Schools at September 2013, against forecast need for secondary places by 2015/16, by district

- None: district with a projected surplus of greater than 5 per cent
- Moderate: district with a projected surplus of less than 5 per cent
- High: district with a projected shortfall of less than 5 per cent
- Severe: district with a projected shortfall of greater than 5 per cent
- Secondary Free School
- All-through Free School



**Notes**

- 1 The forecast need data have been adjusted to remove capacity of Free Schools opening in 2011.
- 2 Need is defined as the surplus or shortfall of places compared to the forecast number of pupils in 2015/16 – see Appendix Two for details. The Department assumes a minimum 5 per cent surplus as necessary to support operational flexibility and some parental choice.

Source: National Audit Office analysis of the Department for Education’s School Capacity Survey 2012

**1.7** From 2011 to 2013, there has been no clear pattern in the percentage of primary places being provided in districts with high and severe forecast need. For Wave 4, the Department had better information about forecast local need to inform its selection of Schools, although there was no consequent increase in the percentage of places approved in areas of high and severe need. The Department has received no applications to open mainstream primary Free Schools in nearly two thirds of districts overall, and none in half of districts with a high or severe forecast need for 2015/16.

### **The Department's approach to selecting and opening Schools**

**1.8** The Department aims to approve applications where Schools will be judged 'outstanding' or 'good' by Ofsted, while taking account of its wider objectives. Schools need to be sustainable and capable of operating autonomously within the Department's overall assurance framework. The background and track record of proposing groups varies widely. For many applications, information about the proposing group, its education offer, and potential demand, is inherently limited at the application stage. The Department's selection and pre-opening processes need to be sufficiently robust to identify and manage the risks arising before it confirms a School to open.

#### Wave 1

**1.9** Ministers expected the first wave of Free Schools to open in September 2011. In June 2010, the Department introduced a rolling application process to assess and support proposers, expecting around 20 Schools to open. It encouraged a variety of applications, including pre-existing demand from groups already known to the New Schools Network. The Department received 323 applications, although many proposers applied numerous times with minimal changes to their application. It received 24 Alternative Provision and 15 Special School applications. It had not developed its policy on such schools so invited proposers to reapply in later waves.

**1.10** The Department published broad evaluation criteria and expectations. Following a high level assessment it selected 41 applications to develop business cases. Officials worked alongside proposers to develop these and address issues arising. The Department made qualitative assessments against its published criteria and included cost estimates for each School, although no programme budget was set until 2011-12. Ministers retained discretion over approvals, agreeing 32 on a case-by-case basis. In September 2011, 24 Schools opened (Figure 3 on page 14). The process was developmental and limitations included a lack of separation in support and assessment roles, timing and resource pressures, and constraints on comparing assessments.

## Development of the selection process

**1.11** The Department recognised these limitations and from Wave 2 adopted and incrementally improved a structured multi-stage process. The Department introduced, for example, a scored assessment and formal interviews with proposers. Its education advisers provide challenge to all applications including at interview, and financial assurance staff support assessments of financial viability. Assessments have been made under the same broad criteria in all four waves (**Figure 7** on pages 22 to 25) though processes, judgements and underlying criteria have developed and altered across waves. The Department has no formal quantitative quality threshold for approval but ascribes particular emphasis to its assessment of proposers' education plans and their capacity and capability. Ministers retain final decisions over which proposers to interview and approve, on the basis of recommendations and advice.

**1.12** Most applications approved following assessment have led to open Schools. At this stage, proposals have had significant uncertainties including future pupil numbers, key staff, the full composition of the governing trust, and the likely site, the last of which is critical to cost and parental demand. Proposers have had to demonstrate potential demand, such as the number of interested parents and where they live in relation to the proposed School's site, but there has not been, for example, independent validation of this stated demand. The Department intends to strengthen key aspects further (Figure 7) and, while we have not re-evaluated individual assessments, its processes now provide a reasonable basis for challenging applications, albeit with inherent limitations in the information available.

**1.13** The Department has scored each application against its published criteria. It has assessed the relative merits of applications against each other. This moderation process has changed some initial scores but final judgements against published criteria may not be fully captured in the scored assessment. In parallel, the Department has also:

- rejected some applications on practical grounds (such as overlaps with other applications in the same area, sponsored Academies and recent investments in other schools); and
- considered factors linked to its wider objectives including, for example, forecast need for school places and deprivation.

Officials exercise judgement across these elements in determining recommendations to ministers, who take final selection decisions.

**1.14** The Department has an audit trail stating the rationale for each School selected, and most high-scoring applications are approved, with those scoring lowest rejected. Overall 23 per cent of higher-scoring applications were rejected and 17 per cent of lower-scoring applications approved. Most of those higher-scoring applications were rejected on practical grounds.

**1.15** The Department has focused on the likelihood that the applications it approves will provide good quality, sustainable Schools. Nevertheless, factors linked to its wider objectives have had no clear or consistent impact on overall approvals, with for example no clear pattern over time in the proportion of Schools opening in areas of high or severe forecast need for places (paragraph 1.7). Nor has there been a clear pattern in the percentage of Schools that have opened in the most deprived areas.<sup>3</sup> Forty-six per cent of schools opening in 2011 were in these areas, 54 per cent of 2012/13 openers, and 40 per cent of September 2013 openers. The Department did not have deprivation data for over a third of proposed Wave 4 Schools as it lacked postcode information about the location of the proposed School.

**1.16** In considering Wave 5 applications, the Department has changed its assessment of need for a Free School to incorporate the quality of local schools and need for extra school places, as well as parental demand. Introducing a stronger link between its assessment process and wider objectives should provide better analysis to support choices between applications of broadly equivalent quality, enabling the Department to consider how different portfolios of Schools might contribute most to its wider objectives.

**1.17** In Waves 2 and 3, the Department gave little weight to indicative estimates of the likely capital costs for each application, but increased its focus on capital costs in Wave 4 by considering them separately from other premises issues. The overall affordability of recommended applications has been considered, but there is limited evidence of individual cost estimates having affected decisions, or that the Department has assessed how different combinations of approvals might affect Programme costs. The Department has been reluctant to automatically reject applications with high indicative costs, as up to half of Free Schools may occupy a different site from that initially identified. It has made increasing use of conditions in approving applications, making 12 Wave 4 Schools conditional on premises being found that offered value for money. However, these timing issues mean that the Department has not fully integrated cost into selection decisions and it requires close attention during pre-opening.

3 The lowest 30 per cent of areas by deprivation.

## Pre-opening

**1.18** Approved Schools enter a 'pre-opening' phase, working towards signing a seven-year funding agreement (rolling contract) with the Department before opening. From Wave 3, the Department introduced three formal checkpoints, meeting proposers to assess progress, for example, in appointing key staff and governors, recruiting pupils and establishing admissions arrangements. Previously, the Department met proposers monthly but on a less structured basis. Proposers must be judged as making adequate progress, have an appropriate site secured and complete required activities, such as a statutory consultation on the proposed School, before the Funding Agreement is signed.

**1.19** The Department has deferred or cancelled projects which it considered failed to meet these requirements. Across the first three waves, 14 projects have been delayed by the Department or at the proposer group's request. Reasons included insufficient proposer capacity (five cases) or lack of a suitable and affordable site (seven cases). Fifteen approved Schools were cancelled or withdrawn (Figure 3), for reasons including lack of a suitable and affordable site, attracting too few pupils, or departmental concerns over the capacity of proposers. Such decisions are made on a case-by-case basis. The Department wrote off some £700,000 in respect of these approved proposals.

**1.20** The Department also carries out due diligence checks on the suitability of people proposing to run Free Schools. Outcomes from these checks contributed to decisions to cancel several approved projects before Schools opened.

**1.21** Prior to opening, a 'readiness to open' meeting considers any remaining obstacles and key challenges for the School in its first year and sets out, where necessary, actions required to proceed. This meeting provides the Department's final assessment of a School's risk of delayed opening or of significant problems arising. No Schools have been deferred at this stage. Although the Department may act to address some risks, such as site-related issues, it makes individual judgements about the level of risk to accept as Schools proceed to open. Three Free Schools from Waves 2 and 3 were opened having been assessed with an overall 'red' rating (the highest level of risk) at this point. Wave 1 Schools were not given an overall rating, but three opened with a 'red' assessment in two categories and five with a 'red' assessment in one category.

**Figure 7**

## How the Department's processes have changed

	<b>Key ways in which the Department evaluates/monitors proposer groups</b>	
<b>Key developments in the Department's overall approach</b>	<p><b>Selection (application to approval)</b></p> <p><b>Timetable</b> – Changed the application window from a rolling basis in Wave 1 to a single annual window with effect from Wave 2.</p> <p><b>Criteria and scoring</b> – Short bullet-point published criteria in Wave 1. Increasing detail from Wave 2, including expectations of applicants and non-exhaustive list of contextual factors. Greater weight given to education plan in Wave 2 and, in addition, from Wave 3, groups' capacity and capability.</p> <p><b>Assessment</b> – Replaced Wave 1's short application and business case process with a detailed application followed by interview from Wave 2. Lighter-touch approach for experienced groups introduced from Wave 4.</p>	<p><b>Pre-opening (post-approval to opening)</b></p> <p><b>Timetable</b> – Lengthened period between approval to opening from between seven to 12 months in Wave 1, to up to 16 months in Wave 4.</p> <p><b>Progress checks</b> – Introduced from Wave 3 more structured check points to assess progression towards opening.</p> <p><b>Conditions</b> – From Wave 2, conditions applied to some groups that needed to be addressed prior to opening. From Wave 4, the use of conditions was systematically considered for all groups.</p>
<b>What makes a successful school?</b>		
<b>1 The right people with the right skills and governance structures to support them</b>	<p>Tests groups' capability and capacity, appreciation of roles and responsibilities, and access to the right skills at application and interview.</p> <p>Checks governance structures against model memorandum and articles.</p> <p>Financial and non-financial due diligence checks on Lead Proposer (checks on all remaining trust members and directors continue if approved in pre-opening). Introduced a lighter-touch approach to all due diligence from Wave 3.</p>	<p>Capability tested by reviewing and challenging proposers' financial and education plans.</p> <p>Closer scrutiny of governors' CVs. Introduced from Wave 4 an emphasis on business experience and a stronger message to all groups of the importance of strong governance.</p> <p>Monitor Principal Designate recruitment and appointment. Education advisers attend interview panels for all but most experienced trusts. For trusts directly recruiting candidates, advisers may benchmark candidate exercises.</p>
<b>2 A feasible education plan</b>	<p>Deploys education advisers to challenge education and staffing plans, in context of whole application. Same adviser attends interview, where possible.</p>	<p>Education advisers monitor and provide support to groups, reporting monthly and at fixed checkpoints. Advisers provide a final assessment before opening at the 'readiness to open' meeting.</p> <p>Education adviser guidelines for time per project replaced by a more risk-based approach ranging between one and eight days, with more time allocated if required on a case-by-case basis.</p>

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**Key challenges**

Inherent limitations in information available at key decision-making points.

Managing an enlarging Programme with fixed resources, deploying the right level of expertise to each application to adequately reflect the risks involved.

Key group members may subsequently change, key staff not yet appointed.

Managing demands on advisers' time in an enlarging Programme.

Matching advisers with appropriate experience and skills to applications, particularly during application and interview.

**How the Department is improving its approach**

From September 2013, the single application window per year has been replaced with three fixed windows per academic year to provide applicants with greater flexibility over when they can submit applications.

Greater emphasis on testing governance structures' capacity to run a successful school, beyond the initial opening.

Raising groups' awareness of their obligations to notify the Department of any changes to governing body personnel within 14 days.

Revised guidance to better align to Ofsted section 5 assessment framework.

Revised guidance and monitoring arrangements in response to issues identified at Al-Madinah School.

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**Figure 7** *continued*

## How the Department's processes have changed

**What makes a successful school?**

	Selection (application to approval)	Pre-opening (post-approval to opening)
<b>3 Sound financial plan to underpin delivery of education plan</b>	<p>Lead assessor assesses proposed School's financial viability and resilience, supported by EFA financial expertise when required. Education advisers assess how plans support the education plan.</p> <p>Emphasis on groups demonstrating financial capability.</p> <p>Broadened sensitivity analysis to assess financial viability with lower than expected pupil numbers.</p>	<p>Financial viability explicitly tied to pupil recruitment. All groups' budget plans are checked by the Free Schools Group, with more complex plans escalated to EFA for review.</p>
<b>4 Suitable premises</b>	<p>EFA gets detailed likely or average premises costs pre-approval to form part of the assessment process.</p> <p>In Waves 1 to 3 the Department produced approximate estimate site costs based on phase/type of school and whether in or out of London.</p>	<p>Capital costs within 10 per cent of average levels approved at official level. Pre-opening inspection by Ofsted for safety of building.</p> <p>Up until Wave 3, all capital costs were approved by ministers on a case-by-case basis.</p>
<b>5 Sufficient demand from parents and pupils</b>	<p>Seeks supporting evidence for expected pupil numbers, such as evidence of promotional materials, the number of interested parents and where they live in relation to the proposed school site, but does not validate this evidence.</p> <p>Although the Department makes contact with the relevant local authority of each group selected for interview, it does not routinely gather information on levels of demand from the local authority at this stage.</p>	<p>Introduced a stronger focus on expected pupil numbers, linked to financial and educational viability, and where necessary further assess groups' evidence and promotional material.</p> <p>Introduced termination clauses specifically related to low pupil numbers for all September 2013 openers.</p>

Source: Department for Education documentation

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### Key challenges

Effectiveness of post-opening assurance arrangements rely on trusts submitting their financial returns promptly.

Assessing viability associated with expected pupil numbers, which is inherently uncertain, particularly for Schools without a permanent site.

Site information is limited at selection stage and site costs not consistently part of selection discussions until Wave 4.

Schools may be delayed or cancelled in pre-opening due to lack of affordable site.

Site not close to parental demand identified by proposers.

Inherent limitations in the information available at the selection stage.

Pupil recruitment can be more challenging before the group has secured a site, recruited key staff and signed the funding agreement.

### How the Department is improving its approach

From Wave 5, budget plans will require better narrative explanation of how they underpin the education plan.

Groups must demonstrate financial viability at 70 per cent of income.

EFA financial specialists to train assessors to risk assess applications and involve External Assurance when necessary.

Search for sites earlier.

Considering not to proceed with applications where there is no prospect of finding a suitable or value for money site.

From Wave 5, definition of demand is widened to test need through expressed interest from parents, quality of local schools and need for extra school places locally.

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## Provider types

**1.22** By encouraging new providers to open Schools, the Department aims to stimulate competition and choice. According to our analysis of available data, the Department has successfully recruited a variety of new providers.<sup>4</sup> Parent and community groups make up 29 per cent of open Free Schools and teacher-led groups 18 per cent. However, these two groups combined only make up 22 per cent of Schools due to open from September 2014 onwards. Having opened their first Schools as a 'teacher-led' group, some groups have made new applications as 'existing providers' in later waves.

**1.23** The Department has encouraged a variety of offers from proposers. Open Schools have included, for example, three Montessori Schools, two Steiner Schools and three bilingual Schools, with further such Schools in the pipeline.

**1.24** The Department has invited independent schools to convert to Free Schools. In Wave 1, 32 per cent of applications (103) came from such schools, falling to less than 5 per cent (12) in Wave 4 after a change in the Department's selection criteria. The Department has approved 15 independent converters in total across Waves 1 to 4. Ofsted rated three of the five Wave 1 converters as 'requires improvement'. The 12 schools converted so far:

- will provide almost 4,900 places in total, including 1,600 new places;
- cost the Department over £8 million to write-off existing debts and £15 million to upgrade existing facilities and provide extra accommodation; and
- will have received estimated revenue funding of over £37 million by the end of 2013-14 in respect of pupils previously at the school.

**1.25** The Department has accepted applications from faith groups. When assessing these applications, it applies additional criteria intended to ensure these Schools are inclusive and open to pupils of all faiths and none. Across the four waves, faith schools made up 26 per cent of approved mainstream Free Schools, compared to 34 per cent of maintained mainstream schools and 20 per cent of mainstream Academies.<sup>5</sup>

<sup>4</sup> Proposers self-identify their group type.

<sup>5</sup> Alternative Provision and Special Schools cannot receive a faith designation.

# Part Two

## Programme costs

**2.1** This Part examines the Department's expenditure on Free Schools. Up to March 2014, the Department is forecast to spend £1.1 billion on Free Schools (**Figure 8**).

**2.2** The Education Funding Agency is responsible for acquiring and refurbishing premises for Free Schools, using the Department's capital funding. Schools are given ownership of freehold properties acquired; for leasehold properties the School is the tenant. There are legal arrangements in place intended to ensure that Schools cannot dispose of the land and buildings without the Department's permission and that properties revert back to its control should, for example, a School close.

**Figure 8**

The Department's expenditure on Free Schools<sup>1</sup>

	2010-11	2011-12	2012-13	2013-14	Total	2014-15 <sup>2</sup>	Total
	(£m)	(£m)	(Unaudited) (£m)	(Forecast) (£m)	(£m)	(Forecast) (£m)	(£m)
Capital spending on premises	1	49	196	497	743 <sup>3</sup>	770	1,513
Pre-opening support	1	9	31	27	68		
Revenue funding of open Free Schools	0	13	46	108	167		
Post-opening support	0	2	12	21	35		
Programme's management costs	4	16	34	12 <sup>4</sup>	66		
<b>Total expenditure</b>	<b>6</b>	<b>89</b>	<b>319</b>	<b>665</b>	<b>1,079</b>		

**Notes**

1 Figures are as at September 2013.

2 Non-capital costs are not yet determined.

3 The forecast figure to March 2014, as agreed with HM Treasury during Spending Review 2013.

4 From 2013-14, contractor costs were capitalised and included in capital spending.

Source: National Audit Office analysis of Department for Education data

## Capital spending on premises

### Estimating required funding

**2.3** Under its Spending Review settlement in October 2010, the Department's total capital budget was substantially smaller than it had bid for. It therefore earmarked £450 million to 2014-15 for the capital costs associated with opening Free Schools, half of the £900 million it originally estimated it required. It knew that the £450 million was insufficient and, in May 2011, produced a revised estimate of the capital funding needed, over £1.4 billion up to 2014-15 to open 350 Schools. To bridge this funding gap, it secured an extra £600 million capital for Free Schools in November 2011 from HM Treasury and used savings elsewhere in its capital budget, mainly on the Building Schools for the Future Programme. During the 2013 Spending Review, the Department forecast capital spending on Free Schools to March 2015 would total over £1.5 billion, just over 8 per cent of its total capital budget (Figure 8).

**2.4** Providing premises for Free Schools has been more expensive than the Department originally assumed. It has cost on average £6.6 million to acquire and convert premises, compared with £3 million the Department had originally estimated in 2010. Actual costs for new primary Schools have varied from £713,000 to £11.2 million, and from £1.2 million to £36.4 million for new secondaries. The higher average cost arose, in part, because the Department funded more secondary schools, which are more expensive than other school types, than it originally assumed. According to the Department, its 2010 cost assumptions were aggressive in terms of the cost savings it thought it could achieve. It increased its assumptions in May 2011 to reflect actual costs incurred on Wave 1 Schools and used cost assumptions in the 2013 Spending Review which reflected actual costs to that point.

### Total capital costs

**2.5** The Department estimates that the total capital costs for Free Schools in Waves 1 to 3 will be over £1 billion (Figure 9). Capital costs have increased over time; the average capital cost per place provided has risen by 35 per cent in Waves 1 to 3 (Figure 10). This partly reflects the inclusion after Wave 1 of Special and Alternative Provision Schools which have a high cost per place due to their relatively small size. Wave 3 also contained more secondary Schools in London, the South East and South West of England, where land and construction costs are higher, resulting in a 64 per cent increase in the average cost per place for secondaries.

**2.6** The total capital cost per place provided has varied widely for individual Free Schools (Figure 11 on page 30). Eighteen per cent of Schools (27) had capital costs of over £25,000 per place; 14 of these were mainstream Schools. These more expensive projects were often based in southern England, and involved using temporary accommodation, purchasing a property freehold and more extensive building works.

**Figure 9**

## Estimated capital expenditure on Waves 1 to 3 Free Schools

	Wave 1 (£m)	Wave 2 (£m)	Wave 3 (£m)	Total (£m)
Construction costs	124	299	343	766
Acquisition of properties	27	94	101	222
Temporary accommodation	4	12	11	27
<b>Total</b>	<b>155</b>	<b>405</b>	<b>455</b>	<b>1,015</b>

**Note**

1 Figures exclude 29 Schools where there are only indicative cost estimates, totalling £268 million.

Source: National Audit Office analysis of Department for Education data

**Figure 10**

## Total capital costs per place provided

	Wave 1	Wave 2	Wave 3	Increase/ (Decrease) from Waves 1 to 3	Average across all waves
Primary	£12,600	£14,200	£11,100	(12%)	£12,300
Secondary	£11,600	£12,900	£19,000	64%	£14,800
All-through	£900	£13,900	£11,300	Not applicable <sup>2</sup>	£12,000
<b>Mainstream schools</b>	<b>£11,300</b>	<b>£13,400</b>	<b>£14,500</b>	<b>28%</b>	<b>£13,500</b>
Special	–	£57,200	£63,700	Not applicable	£61,000
Alternative Provision	–	£21,700	£26,300	Not applicable	£24,000
<b>All schools</b>	<b>£11,300</b>	<b>£13,900</b>	<b>£15,200</b>	<b>35%</b>	<b>£13,900</b>

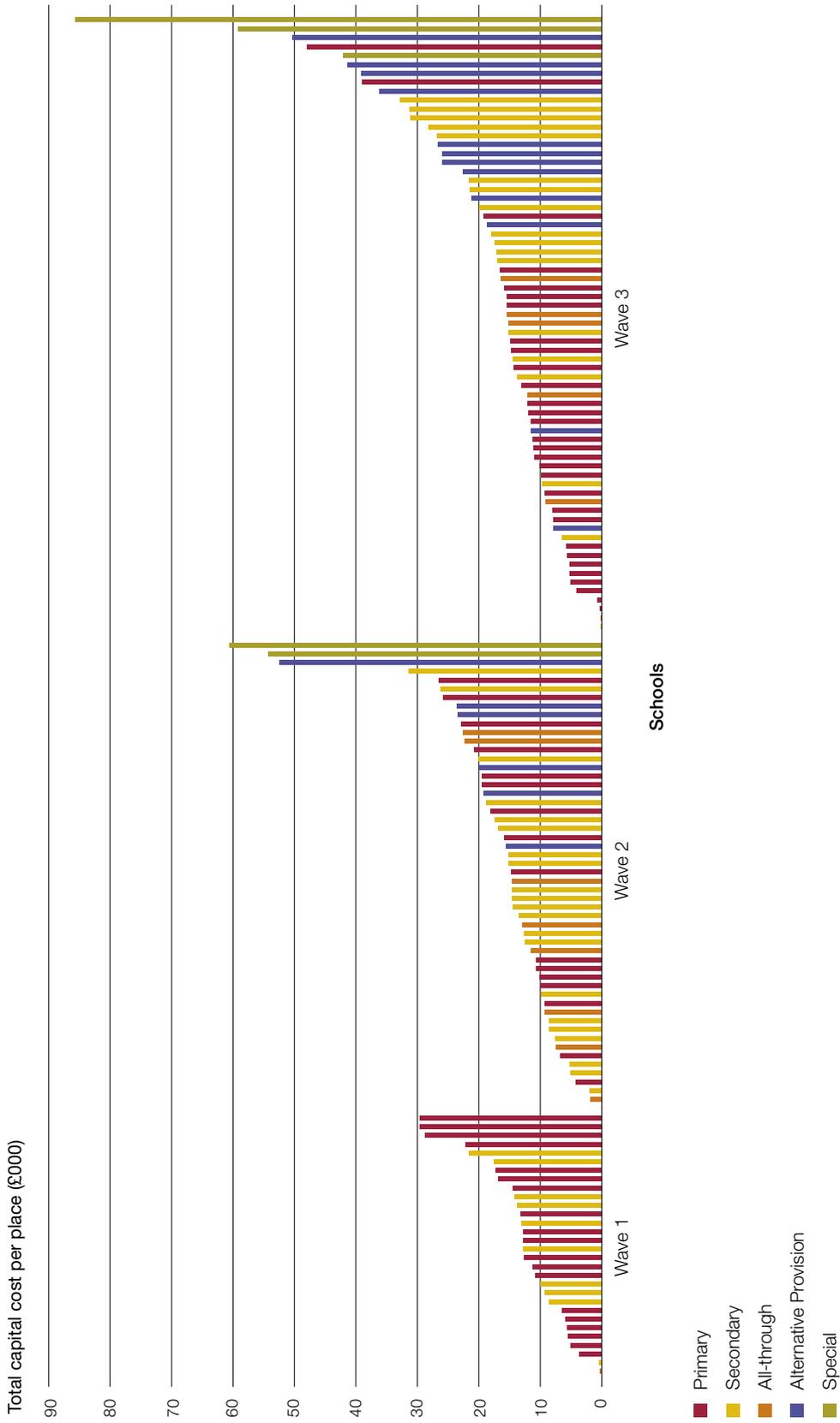
**Notes**

1 Costs are calculated for each wave of application, regardless of when a Free School opened, and includes costs for independent convertors (paragraph 1.24).

2 Wave 1 data cover just two Schools, so no calculation has been made.

Source: National Audit Office analysis of Department for Education data

**Figure 11**  
Variations in total capital costs per place provided



**Note**

1 Capital costs are calculated for each wave of application, regardless of when a Free School opened. The figures represent the actual costs incurred or the latest budgeted costs, depending on the progress made in acquiring a School's permanent accommodation. Figures include the costs for independent converters (paragraph 1.24).

Source: National Audit Office analysis of Department for Education data

**2.7** Approximately 60 per cent of Free Schools (107) opened in temporary accommodation, at a cost of at least £27 million (Figure 9). Thirty-five of these Schools then moved into permanent accommodation with the Education Funding Agency purchasing the freehold. However it paid over its valuations<sup>6</sup> for 63 per cent of these freeholds, compared with 30 per cent when purchasing the freehold for schools that did not need temporary accommodation. In total, the Agency has purchased the freehold for 58 (38 per cent) of the permanent premises acquired to date (**Figure 12**), paying £27 million over its valuations in 29 cases (50 per cent) within its total acquisition cost of £222 million (Figure 9).

### Construction costs

**2.8** The costs of building works have been lower for Free Schools than previous school building programmes, although comparisons do not take account of the differing nature of such programmes. Our analysis suggests that Schools' average construction costs have been approximately 45 per cent lower than costs in other school building programmes.

**2.9** Costs have been lower partly because the Department has taken an innovative approach to providing premises for Free Schools. It has used significant numbers of existing buildings to reduce costs, including properties not traditionally used for schools (**Figure 13** overleaf). It has also reduced costs by using existing framework arrangements to award contracts for building works.

**2.10** In order to reduce its costs, the Department also used less extensive building specifications than on its previous building programmes, such as Building Schools for the Future. It also adopted new space standards, which were approximately 15 per cent smaller for secondary and 5 per cent smaller for primary Schools than existing standards. It subsequently applied these reduced specifications and standards to all new school accommodation it funds, thereby reducing its cost benchmarks.

### Figure 12

#### Options used for acquiring Free Schools' permanent premises

	Wave 1	Wave 2	Wave 3	Across all waves
	(%)	(%)	(%)	(%)
Peppercorn lease	33	45	53	46
Purchase of freehold	37	38	40	38
Commercial lease	30	17	7	16

Source: National Audit Office analysis of Department for Education data

<sup>6</sup> The valuations were commissioned from chartered surveyors and provide an indication of a property's market value. They are based on past deals for similar premises and on the property's existing use. They may not therefore equal the true market value.

**Figure 13**

Properties acquired for Free Schools' permanent occupation

	Wave 1	Wave 2	Wave 3	Across all waves
	(%)	(%)	(%)	(%)
New build	30	34	34	34
School building	27	30	36	31
Office building	13	13	12	13
Council building	7	7	2	5
Other public sector <sup>1</sup>	3	4	6	5
Commercial building <sup>2</sup>	3	6	3	4
Community building <sup>3</sup>	7	0	6	4
Residential building	10	2	1	3
Other educational	0	4	0	1

**Notes**

- 1 Includes surplus hospital buildings, fire and police stations.
- 2 Includes warehouses, a garden centre and a builder's yard.
- 3 Includes community centres, church buildings and leisure facilities.

Source: National Audit Office analysis of Department for Education data

**Costs of individual Free Schools**

**2.11** The Department sets a firm budget for a Free School's capital costs once a site has been identified in the pre-opening stage, seeking ministerial and HM Treasury approval if certain cost thresholds are exceeded. When setting budgets, it checks that the costs of proposed premises are affordable and cheaper than alternative sites. It decides on affordability on a case-by-case basis and does not use a pre-set benchmark figure above which it deems premises to be too expensive. The Department has rejected sites as too expensive, and delayed opening seven planned schools because permanent premises could not be found at an acceptable cost. However, neither it nor HM Treasury have cancelled an approved School solely on cost grounds. It has subsequently increased budgets for 24 Wave 2 and 3 Schools (20 per cent), at a total cost of £13.6 million, in line with pre-agreed procedures.

**2.12** When setting the budgets, the Department makes no reference back to the indicative estimates prepared at the approval stage because of the uncertainties surrounding these (paragraph 1.17). Our analysis revealed that latest forecast outturn costs were higher than indicative estimates for 60 per cent of Wave 2 and 3 Schools, with forecast costs more than double for 20 per cent of Schools. In total, forecast costs were £110 million more than indicative estimates of £745 million. The Department has sought to improve the robustness of its approval estimates for Wave 4 onwards by asking the Education Funding Agency to start searches for premises before it has approved Free School applications, thereby enabling it to identify specific premises for applications under consideration.

## **Revenue funding**

**2.13** The Department forecasts that it will spend £167 million up to March 2014 on revenue funding to fund pupils at open Free Schools (Figure 8). There are three main sources of revenue funding for Free Schools, mirroring arrangements for Academies:

- core funding to cover day-to-day running costs;
- central services funding, to cover their purchase of services which are provided for maintained schools by local authorities; and
- Earmarked Annual Grant to cover emergencies and rental payments.

**2.14** Free Schools' core funding should be allocated on an equivalent basis to maintained schools and Academies in the same local authority area. From 2013-14, the Department introduced wider changes to funding for all schools which should provide this equivalent basis. All schools, irrespective of type, are now funded using the relevant authority's formula.

**2.15** Prior to these changes, and to avoid the complexity experienced in funding Academies, Free Schools' funding was temporarily based on average per-pupil funding for schools in its authority area, giving Free Schools some certainty over funding levels. Our analysis suggests this method did not, overall, provide Free Schools with a financial advantage over other types of schools. However, using average per-pupil funding inherently created specific disparities since averages lack the responsiveness to school circumstances which is the purpose of the authority formulae from which they are derived.

**2.16** The Department estimates it duplicated funding to local authorities totalling £80 million over 2011-12 to 2013-14 in respect of pupils in their first year at Free Schools. This arises because authorities receive funding for the period April to March. This funding is not then revised to reflect children moving to new Free Schools in the September of that period until the subsequent April to March period. Duplication has grown each year as the Programme has expanded and is not recovered from local authorities. Additionally, Free Schools initially tended to overestimate the likely total number of pupils and the number of pupils eligible for free school meals. The Department can clawback funding due to inaccurate estimates but, to minimise financial instability for Free Schools, it has not done so.

**2.17** On central services funding, from 2013-14, Free Schools and Academies will receive certain funding protections, including an extra £34 per primary and secondary pupil. The Department describes these protections as a transitional measure to reflect that these schools lack access to the economies of scale available to local authorities and to the support authorities provide to maintained schools. The Department has given a commitment that the rates payable to Free Schools and Academies and to maintained schools will converge but has not set a date for this. The Department estimates that funding protections for Free Schools will cost £1.4 million in 2013-14.

### **Financial support for new Schools**

**2.18** In line with other newly-opened Academies and local authority maintained schools, Free Schools receive financial support to help meet the pre-opening costs incurred in starting a new school, and the extra costs incurred as a result of the diseconomies of scale associated with operating a school until there are pupils recruited to all the planned year groups. For the first two waves of Free Schools, the Department negotiated the level of both pre- and post-opening support on a case-by-case basis, with wide variations in the level of support given (**Figure 14**).

**2.19** From Wave 3 onwards, the Department moved to providing financial support to primary and secondary Free Schools in the form of fixed-rate grants or pre-agreed formulae, thereby reducing the time spent on agreeing support for individual Schools. It calculated the fixed rates and formulae using the average level of funding given to such Schools under its previous case-by-case approach, rather than an assessment of the costs actually incurred by the Schools. As a result of these changes, while total expenditure on pre- and post-opening support has increased as the Programme has grown, the average amount given for pre-opening has fallen. For example, the average pre-opening support given to secondary Free Schools fell from £508,000 in Wave 1 to £300,000 in Wave 3. The average level of pre- and post-opening support given has been lower than the equivalent support given to other types of newly-opened schools.

**Figure 14**

## Financial support to newly-opened Free Schools

	Free Schools opening in September 2011	Free Schools opening in September 2012
<b>Pre-opening support<sup>1</sup></b>		
<b>Primary</b>		
Average	£274,000	£210,000
Range	£92,000–£447,000	£118,000–£369,000
<b>Secondary</b>		
Average	£508,000	£280,000
Range	£440,000–£562,000	£118,000–£541,000
<b>Post-opening support<sup>2</sup></b>		
<b>Primary</b>		
Average	£135,000	£111,000
Range	£63,000–£274,000	£66,000–£185,000
<b>Secondary</b>		
Average	£409,000	£319,000
Range	£239,000–£601,000	£196,000–£453,000

**Notes**

- 1 Figures exclude pre-opening support of £25,000 per school given to existing independent schools transferring to the state sector as Free Schools.
- 2 Figures for post-opening support are for Schools' first year of opening only.

Source: National Audit Office analysis of Department for Education data

**Programme management costs**

**2.20** The Department forecasts that it will spend £66 million on programme management to March 2014 (Figure 8), including £38 million on Department and Agency staff involved in opening and overseeing Schools. The number of such staff has increased from 119 in 2010-11 to 170 in 2013-14. The Department plans significant reductions in its own administration costs and staff numbers. It will need to carefully monitor the impact of changes, planned as part of these reductions, in aspects of the scrutiny applied to applications and individual Schools.

## Part Three

### Early indications of performance and oversight

**3.1** The first Free Schools have been open for only two years and, as new schools (with the exception of former independent schools) do not yet have a track record of exam results. This Part therefore reviews:

- how Free Schools are performing so far;
- how the Education Funding Agency oversees their financial management and governance;
- School occupancy and pupil characteristics; and
- Schools' use of freedoms.

We also reviewed how the Department uses performance information to manage the Programme and track its impact.

#### **Free School performance**

**3.2** The Department seeks to approve Schools which are capable of being judged 'outstanding' or 'good' by Ofsted. Ofsted inspects Free Schools within two years of their opening, as it does any newly-opened state-funded school, using the same inspection and monitoring regime as other state-funded schools. In advance of this inspection, the Department monitors Schools' educational performance, appointing an education adviser for each open School to assess, for example, their progress since opening, help the School prepare for its first Ofsted inspection, and monitor risks to educational performance (**Figure 15**). The Department had concerns about the educational standards of six Free Schools, as at October 2013 (one Wave 1 and five Wave 2).

**Figure 15**  
Monitoring the educational performance of Free Schools

	Department's education adviser visit <sup>1</sup> Takes place in the first term of the first year open			Department's progress visit <sup>2</sup> Takes place in the first term of the second year open			Ofsted inspection Takes place within two years of opening			
	Green	Green/ Amber	Amber/ Red	Outstanding	Good	Requires Improvement	Outstanding	Good	Requires Improvement	Inadequate
Schools opened in September 2011 <sup>3</sup>	6	3	0	0	16	6	4	14	5	1
Schools opened in September 2012	26	16	1	3						1 <sup>4</sup>

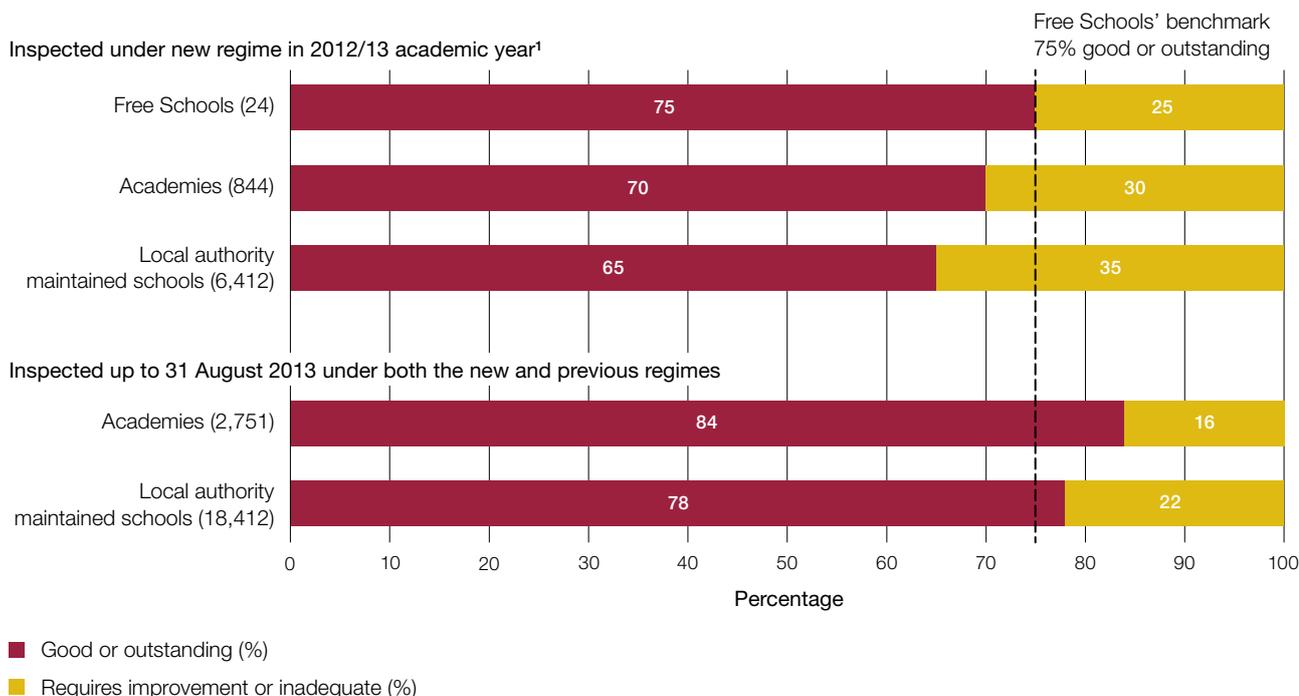
**Notes**

- 1 After their visit, the education adviser rates the School. Those rated 'red' receive a follow-up visit in the third term, and those rated 'amber' a phone call, to check that concerns from the first visit are being addressed and improvements being made. Some Schools receive on-going support, where required. The Department does not inform Schools of their ratings, the purpose of which is to guide the Department's own support activities.
- 2 For internal purposes, the Department categorises Schools' performance using similar criteria to those used during Ofsted inspections. The aim of these visits is to highlight issues for the School to resolve in advance of their first Ofsted inspection. These issues are discussed with the School but they are not informed of the Department's categorisation as it does not represent a formal judgement on the School's performance.
- 3 Education advisers visited 14 Schools in their first term, but not five independent converters or five Schools run by existing academy chains. Two of those visited were not rated. Four (three rated amber and one with no rating) were identified as causing significant concern, warranting a further visit.
- 4 Al-Madinah Free School was inspected by Ofsted in October 2013.
- 5 From 2013 high performing academy sponsors do not automatically receive a visit from an education adviser.

Source: The Department for Education; Ofsted

**3.3** By the end of October 2013, Ofsted had inspected 25 Free Schools under its new inspection regime that came into force in September 2012. This included all 24 opened in September 2011 (**Figure 16**) and one September 2012 opener, Al-Madinah, the inspection of which was brought forward in response to concerns raised with Ofsted and the Department for Education. Ofsted judged four schools to be ‘outstanding’, 14 ‘good’, five ‘requires improvement’, and two ‘inadequate’ – Al-Madinah and Discovery New School. The small number of inspected Schools means it is difficult to make a robust comparison of Ofsted inspection outcomes with other schools. Furthermore, the population of other schools inspected by Ofsted under the same regime as the 25 Free Schools is not directly comparable.

**Figure 16**  
Ofsted results for Free Schools opened in September 2011



**Notes**

- Figures for schools inspected under the same regime as the 24 Free Schools under-represent local authority maintained schools and Academies previously rated ‘outstanding’, since Ofsted does not require schools judged ‘outstanding’ under the pre-September 2012 arrangements to be re-inspected for five years.
- Covers inspections of 97 per cent of open schools in England on 30 June 2013. Includes schools inspected under current and previous regimes. As at 20 November 2013.

Source: Ofsted

**3.4** We examined how Ofsted's assessments of Free Schools opening in September 2011 compared with its assessments of neighbouring schools. We found that:

- fourteen out of seventeen primary Free Schools achieved Ofsted results that were either in line with or better than those of neighbouring schools, with three below;
- two out of five secondary Schools' assessments were in line with neighbouring schools, with three below; and
- one out of two all-through Schools was judged to be in line with neighbouring schools and one below.

**3.5** The Department accepts that some Free Schools may fail. If it considers a School's educational or financial performance to be unacceptable, it may intervene in accordance with the funding agreement. For example, it could transfer responsibility for the School to a new trust. The Department is currently applying some of these provisions to Free Schools for the first time (paragraph 3.9).

### **Overseeing financial management and governance**

**3.6** Once Free Schools open, the Education Funding Agency becomes responsible for overseeing their financial management and governance. Its approach is based on its arrangements for Academies and, as with educational performance, it emphasises the School's own responsibilities in this area. The Agency aims for its monitoring to be light touch and proportionate to the risks involved. It recognises the additional risks associated with newly-opened Schools in three ways:

- it assigns a named officer to each School, who can follow up on non-compliance and other issues identified by the Agency, School or others;
- the majority of Schools receive a visit from their named officer in the first term. The officer may be accompanied by staff from the Agency's External Assurance team to provide additional scrutiny over any financial issues identified. These visits may result in further intervention; and
- the Agency and Department review the Programme as a whole each month so they can respond to emerging issues.

**3.7** The Agency assesses and escalates identified risks in Free Schools, and its approach to intervention has evolved. The named officer prepares a summary of risks for each Free School in its first term of opening, using a range of sources including the 'readiness to open' meeting (paragraph 1.21), information from education advisers (Figure 15), and their own visit. The Agency's territorial boards then formally risk rate each School, escalating Schools of serious concern to a national list which informs subsequent monitoring. The Department introduced a more structured framework in September 2013 for intervention in Academies and Free Schools (covering educational performance, governance and financial management), providing more guidance to support professional judgements by its staff. In addition to embedding this framework, the Department and Agency's analysis of information they receive could be enhanced to help identify emerging risks. The Department is developing a business analytical capability to help manage risks across all Academies, including Free Schools.

**3.8** Free Schools' funding agreements state that they should provide the Education Funding Agency with specified information and notify it of particular events, such as a change in the membership of the School's governing trust. The Agency depends on high levels of compliance by Schools for information to support funding and oversight. Compliance has not been consistent in the Programme's early years. For example, Free Schools must file audited financial statements with the Agency, but for the latest financial year available, 2011-12, nine (56 per cent) of the 16 single Academy trusts with open Free Schools in that year did not submit these statements by the Agency's 31 December 2012 deadline, compared to 13 per cent of all Academies.<sup>7</sup> For the 2011-12 financial year, external auditors reported regularity concerns about one open Free School, Kings Science Academy. To increase Schools' awareness of their compliance obligations, the Department now places greater emphasis on financial management and governance in its pre-opening workshops with approved Schools.

**3.9** As of November 2013, three open Free Schools featured on the Agency's list of 32 Academies of national concern, each because of concerns about inadequate financial management and governance arrangements. Two were also rated as 'inadequate' by Ofsted, highlighting broader governance issues:

- Discovery New School opened in September 2011. Ofsted judged it to require special measures in May 2013, finding that governance was inadequate. The Agency also reviewed financial management and governance after the School failed to submit a timely budget forecast, and found significant non-compliance with mandatory financial requirements, such as not having an approved budget or a long-term financial plan. Ofsted's re-inspection found inadequate evidence of progress and on 22 November 2013, the Department requested from the School a statement of action to enable the special measures to be lifted. The Department intends to consider next steps once it has received this statement.

<sup>7</sup> Eight further Schools were part of multi-academy trusts which were not required to submit separate accounts.

- Following concerns raised by a whistleblower, and findings from the Agency's December 2012 financial management and governance review, it commissioned a formal investigation into Kings Science Academy, which opened in 2011. In May 2013 this reported major failings in financial controls, including that some pre-opening funding had not been used for its intended purpose, with some fabricated invoices submitted to the Department. The Agency judges that the School has made good progress in responding to a formal financial notice to improve, and it is also recovering almost £77,000 from the School. The Agency reported a potential fraud in April 2013. A police investigation was launched in November 2013.
- The Agency was contacted by whistleblowers about possible financial irregularities at Al-Madinah School, which opened in September 2012. The Agency launched a financial management and governance review, and a formal investigation. In September 2013 the investigation reported significant financial management failings, including irregular payments of £19,000. In October 2013 Ofsted judged the School as 'inadequate' and placed it in special measures. On 22 November 2013 the Department set out its intention to bring in a more experienced trust to deliver the improvements needed.

## School occupancy and pupil characteristics

**3.10** Good take-up of places underpins a Free School's viability and is the clearest indicator of local demand. It is natural that some new Schools will take time to reach full capacity depending on their planned expansion rate and recruitment performance. However, local parental demand has not always materialised and many Schools are initially attracting fewer pupils than their planned admission number (PAN).<sup>8</sup> Of Schools that opened:

- in September 2011, half (12) attracted their PAN when they first opened, increasing to an estimated three quarters (18) in their third year.<sup>9</sup> A quarter (6) were at least one-fifth below their PAN in their opening year, but this had reduced to five Schools in the second year and one School in the third year after opening;
- in September 2012, 16 per cent (9) attracted their PAN when they first opened, increasing to an estimated 40 per cent (23) in their second year. Forty-seven per cent (27) were at least one-fifth below their PAN in their opening year. An estimated 40 per cent of Schools (23) remained at least one-fifth below their PAN in their second year; and
- in September 2013, an estimated 30 per cent (28) attracted their PAN, and 38 per cent (35) were at least one-fifth below their PAN.

Overall, Free Schools have filled around three-quarters of their planned admissions when they first opened. To date, an estimated 86 per cent of Free Schools' total number of planned admission places has been filled.

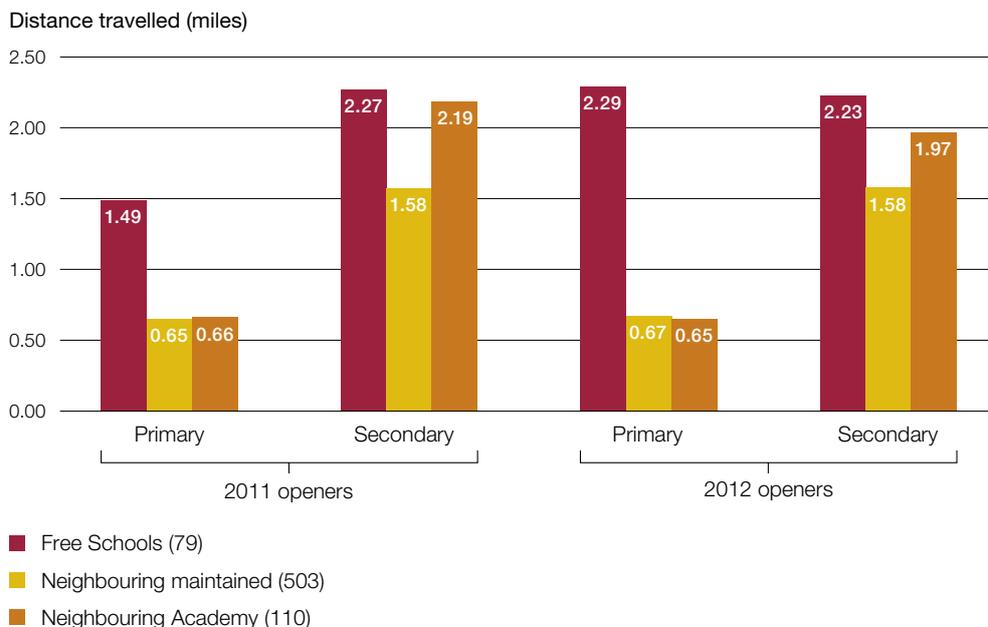
<sup>8</sup> The PAN is the number of places advertised by a Free School when it invites applications from parents. A School is considered to have met its PAN when 97.5 per cent of its PAN is achieved. Free Schools are funded based on estimates of how many pupils they expect to admit, which may differ from the PAN.

<sup>9</sup> Estimates are on the basis of data provided by open Free Schools to the Department in November 2013.

**3.11** Demand may be lower if a Free School is eventually sited some distance away from where the proposer group originally identified parental demand. Free Schools opening in temporary accommodation have been more likely to open with a greater proportion of unfilled places: 46 per cent of such Schools had more than one-fifth of planned admission places unfilled in their first year, compared with 30 per cent of Schools that opened in their permanent accommodation. Over 40 per cent of Schools opening with more than one-fifth of planned admission places unfilled signed their funding agreement within four weeks of opening.<sup>10</sup> Where lower than expected pupil numbers affect a School’s ability to set a balanced budget, the Agency may intervene to require a recovery plan.

**3.12** Our analysis of available data on 81 open Free Schools shows that they have so far drawn their pupils from wider catchment areas than their neighbouring schools. The distance Free School pupils travel to school is on average more than twice that of pupils in neighbouring maintained schools and over one and a half times more than that travelled by pupils in neighbouring Academies (**Figure 17**). On the whole, these Free Schools’ pupils are less likely to be entitled to free school meals than pupils in neighbouring schools (16 per cent of Free School pupils, compared to 25 per cent in neighbouring schools and 17 per cent across England), and are less likely to have English as an additional language than pupils in neighbouring schools (18 per cent of Free School pupils, compared to 36 per cent in neighbouring schools and 15 per cent across England).

**Figure 17**  
Distance travelled to school by Free School pupils



**Note**

1 Any maintained school or Academy which is a neighbour to more than one Free School will be counted more than once in the above figures.

Source: National Audit Office review of Department for Education’s data

10 The Department will deliberately delay signing a funding agreement until it is satisfied pupil numbers are sufficient.

## Use of freedoms

**3.13** The Department intends that the Free Schools Programme should encourage innovation. Free Schools have some freedoms which local authority maintained schools do not have, for example, they do not have to follow the National Curriculum or adhere to national pay and conditions for teachers; they may also choose to employ subject specialists as teachers without Qualified Teacher Status. The Department has not yet collected or assessed how Free Schools' use of broader freedoms are meeting its goal of innovation. The further development of the Programme gives the Department the opportunity to do this and it is considering how best to capture this information as the Programme expands.

**3.14** Amongst their flexibilities, Free Schools can choose to employ teaching staff without Qualified Teacher Status. As at November 2012, over 11 per cent of the teaching staff in 64 Free Schools' responding to the Department's 2012 School Workforce Census were unqualified, compared with just under 4 per cent for all state-funded schools in England.

**3.15** Free Schools can also be more flexible about admissions. All state-funded schools are required to comply with the Admissions Code, but the Department can allow derogations to the Code for mainstream Academies including Free Schools. By August 2013, it had agreed derogations for 35 Free Schools of which over three-quarters (27) gave priority to the children of the Schools' founders. Twenty-one objections were raised with the Office of the Schools Adjudicator between September 2011 and October 2013 about the admissions policies of Free Schools. Of these, ten were either fully or partially upheld.

## The Department's use of performance information

**3.16** The increasing scale of the Programme provides a growing evidence base of how Free Schools operate in practice. Once Schools have opened, the Department has not fully captured or evaluated which factors have most impact on School performance, such as occupancy trends or departure of head teachers. As the number of open Schools grows, the Department will be able to systematically analyse information about how they are performing and use this information to further strengthen its assessment and pre-opening process for future waves.

**3.17** The Department is developing key performance indicators covering, for example, site, pupil recruitment and governance, which it aims to use to identify and escalate risks to projects earlier and more consistently in the pre-opening process. It is trialling these indicators for Wave 4.

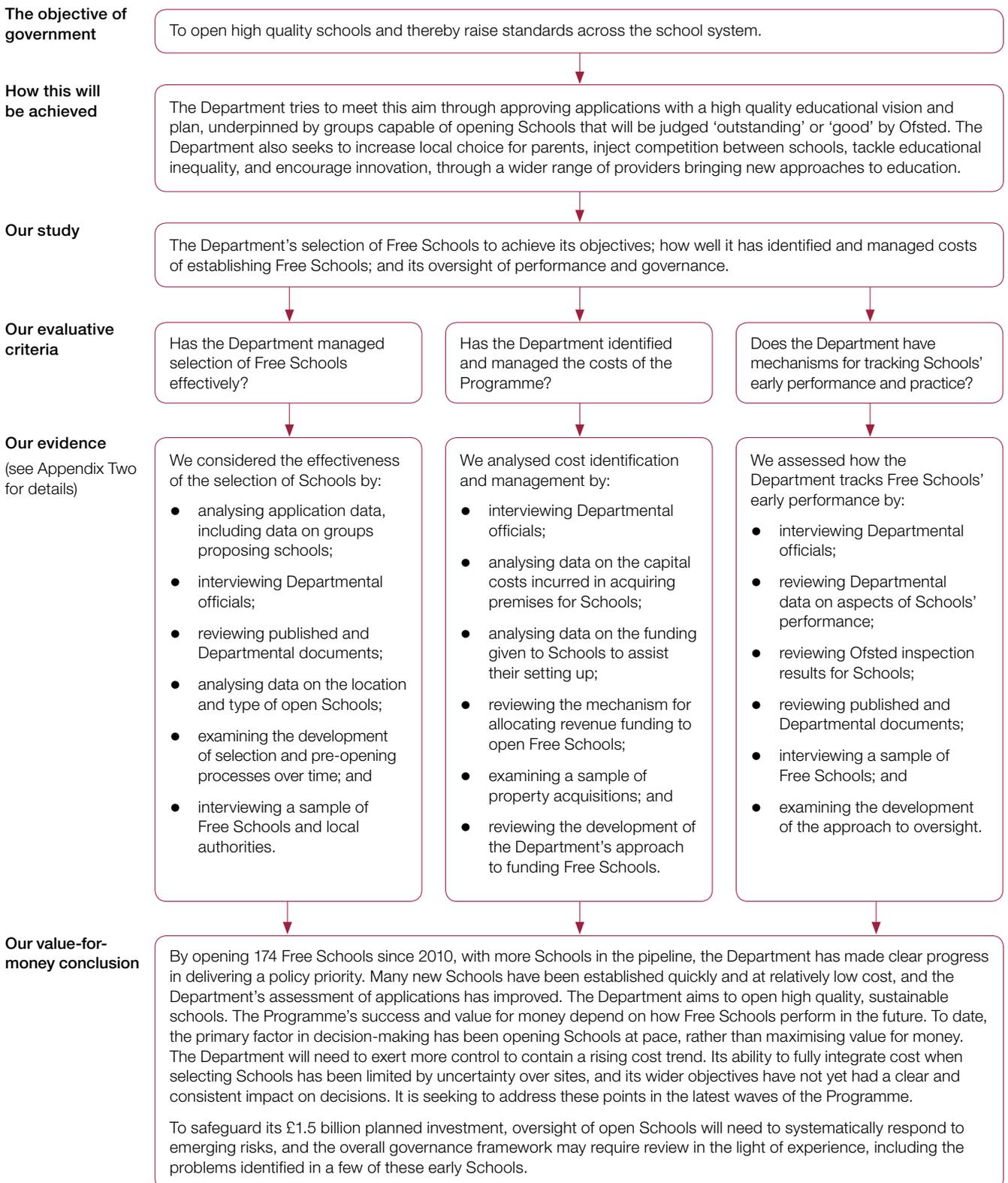
**3.18** The Department carries out impact assessments for individual Free Schools prior to opening, but has yet to set out how it will assess the overall impact of Free Schools on the performance of other schools in a local area. The Department has recognised it needs to develop ways of tracking progress and published a value for money framework for the Programme in November 2013. Its approach does not yet consider how investment in selected Schools maps to the Programme's objectives and will require a full set of indicators to support a clear assessment of the Programme's value for money.

# Appendix One

## Our audit approach

- 1 We reviewed:
  - the Department's approach to selecting and opening Free Schools;
  - the Programme's costs; and
  - early indications of the performance and oversight of open Schools.
- 2 We analysed what arrangements would have been optimal in terms of:
  - the Department's selection of Free Schools and their contribution to its Programme objectives;
  - its management of the costs of the Free Schools Programme; and
  - its oversight of Free Schools and their performance.
- 3 By 'optimal' we mean the most desirable possible, while acknowledging expressed or implied restrictions or constraints. Restrictions or constraints in this context are:
  - the Department's determination to open Schools quickly; and
  - the limitations imposed by a public spending settlement that must reconcile accountability for public funds with the policy aim of autonomy for schools.
- 4 Our audit approach is summarised in **Figure 18**. Our evidence base is described in Appendix Two.

**Figure 18**  
Our audit approach



# Appendix Two

## Our evidence base

- 1 We reached our conclusion on value for money after analysing evidence we collected between April and November 2013.
- 2 We applied an analytical framework with evaluative criteria to consider what would be optimal, in the selection of Free Schools from applications, management of programme costs, and oversight and performance of open schools. Our audit approach is outlined in Appendix One.
- 3 We examined the Department's processes for selecting Free Schools for opening and how these developed over time, and reviewed the results of these processes. We also examined where Schools had opened in terms of the need for school places and areas of deprivation:
  - We interviewed Departmental officials and reviewed Departmental documentation to understand how the Department selected Free Schools for opening and how its approach to this changed over each wave of applications.
  - We reviewed the Department's appointment of the New Schools Network and interviewed NSN about its role.
  - We analysed application data to identify how the Department had assessed applications and how it had applied its process to select Schools.
  - We visited six Free Schools and spoke to the local authorities in which they were based to gain their views on the process for applying and opening Free Schools.
  - To estimate the relative level of need for new school places, we used data collected by the Department from local authorities in May 2012. We used this to estimate the surplus or shortfall of places, based on existing capacity as a proportion of projected pupil numbers in 2015/16, as set out in our report *Capital funding for new school places (HC 1042)*, 15 March 2013. This is consistent with the method the Department used to allocate capital funding for new school places for 2013-14 and 2014-15. The Department has introduced a revised method of categorising need for the purpose of Free School applications, which may lead to some differences between estimates made by the NAO and by the Department.
  - We analysed the location data for applications and open Schools to determine their lower super output area. We then identified Schools opening in the lowest 30 per cent of areas by deprivation, using the index of multiple deprivation.

4 We examined the Department's expenditure on the Free Schools Programme, including its spending on the acquisition of premises for Schools, revenue funding support, and its administration costs.

- We reviewed internal Departmental documents to establish the Department's assumptions in its 2010 Spending Review bid and settlement on the amount of capital funding it needed to acquire premises for Free Schools.
- We analysed Departmental data on the capital costs incurred for each individual Free School to identify trends and variations in costs and examined a sample of six property acquisitions made.
- We interviewed Departmental officials and reviewed Departmental documents to understand the Department's actual expenditure on managing the Programme and its provision of revenue funding to open Free Schools.
- We modelled the revenue funding allocations made to open Free Schools to identify whether there was funding equivalence between these Schools and Academies and local authority maintained schools.

5 We reviewed how the Department and Education Funding Agency oversee the financial and academic performance of open Free Schools, and examined early indicators of their performance.

- We interviewed officials and reviewed relevant internal documents to understand how the Department and Education Funding Agency monitor the financial and academic performance of Free Schools, both in the run-up to and after their opening, and how they intervene in cases of poor performance.
- We visited six Free Schools to gain their views on the oversight regime and the support they had received from the Department and Agency.
- We interviewed Ofsted to discuss its role in inspecting Free Schools, and reviewed relevant published inspection reports. We analysed the Ofsted results of the first 24 open Free Schools against their neighbouring schools. For mainstream Free Schools, neighbouring schools are defined as being located within a set distance. This distance is defined as 80 per cent of the average distance pupils travel to school in the district in which the Free School is located and is limited to ten miles. All schools located within this distance from the Free School are included, up to a maximum of 15 schools. For Alternative Provision and Special Free Schools, all Special Schools within 15 miles are included, with a maximum of 20 schools.

- We analysed Departmental data on: occupancy levels; the number of unqualified teachers employed; and derogations from and objections about admissions in open Free Schools. Data on occupancy levels in open Free Schools was drawn from the School Censuses of 2012 and 2013, and from data provided to the Department by open Free Schools in November 2013. We reviewed data on unqualified teachers from the Department's 2012 School Workforce Census.
- We analysed available data for 81 open Free Schools from the January 2013 School Census to calculate distances pupils travelled to these Schools; the number of pupils entitled to free school meals and those with English as an additional language and compared them to neighbouring schools, applying the same methodology as above.
- We reviewed the Department's overall approach to tracking progress of the Programme, including key performance indicators and its value for money framework.



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