



House of Commons
Education Committee

The role of Regional Schools Commissioners: Government Response to the Committee's First Report of Session 2015–16

**Fifth Special Report of
Session 2015–16**

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The Education Committee

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Fifth Special Report

The Education Committee reported to the House on *The role of Regional Schools Commissioners* (HC 401), in its First Report of Session 2015–16 on 20 January 2016. The Government's response was received on 21 March 2016 and is appended to this report.

In the Government response, the Committee's recommendations appear in **bold text** and the Government's responses are in plain text.

Appendix: Government response

Government Response

In 2014, eight Regional Schools Commissioners (RSCs) were appointed across eight regions of England, each supported by a Headteacher Board (HTB). I was pleased that the Education Select Committee recognised that 'in many areas RSCs are working hard and are being ably supported by their HTBs'.

The government has set out its objectives and strategy for the education system in the White Paper which was published last week.

I welcome the Committee's report into the RSCs. This response sets out our commitment to continue the development of the role of the RSCs and to acknowledge the Committee's recommendations, and should be read in the context of the wider strategy as set out in the White Paper.

Lord Nash

Recommendations and Government Response

It is clear to us that RSCs were introduced as a response to the need to ensure appropriate oversight for the growing number of academies, and that the schools landscape is continuing to evolve. As such, oversight will need to develop further with it. For now our starting point is that the introduction of RSCs is a pragmatic approach to managing the growing task of overseeing academies. Once the mix of school structures becomes more stable a fundamental reassessment will be required. (Paragraph 10)

RSCs occupy an increasingly powerful position in the education system, but their responsibilities in relation to other components of the system remain unclear to many of our witnesses. The landscape of oversight, intervention, inspection and accountability is now complex and difficult for many of those involved in education, not least parents, to navigate. We recommend that the Government reflect on the need to improve understanding of the role of the RSCs. (Paragraph 23)

The department agrees with the Committee's view that the schools landscape is continuing to evolve, and that therefore, the role of the RSCs will also evolve. The recently published White Paper¹ sets out how, by the end of 2020, all remaining maintained schools will be academies or in the process of conversion, ending the two-tier system.

Within an increasingly school-led system, the responsibility for taking action to improve outcomes lies with the accountable body – that is governing board or the academy trust (single or multi-academy trust) or the governing board of maintained schools. But when a maintained school or an academy trust is failing to improve a school that has been identified as failing or coasting, it is important that RSCs, acting for the Secretary of State and exercising her powers as set out in the academy's Funding Agreement, are able to take action to secure rapid improvements.

As with any new system, the level of awareness and understanding of the RSCs' role will grow over time. The government is committed to building on the information that is already available about the RSCs and bringing this information together in one place on the government website, GOV.UK. The government also intends to publish a succinct summary of the role of RSCs; and to provide clear links for the public to find more detailed information, should they require it.

The government has also recently consulted on, and will shortly publish, the guidance which describes the responsibilities and powers delegated to RSCs resulting from the provisions in the Education and Adoption Act and how they will be carried out by RSCs in the name of the Secretary of State.

The responsibilities of Regional Schools Commissioners

The existing description of the role of the national Schools Commissioner is nebulous and does not make clear what is required from the position. We recommend that the Government sets out more clearly the role of the national Schools Commissioner and how it relates to the expanding role of the RSCs. Given the significance of the role of the national Schools Commissioner, we would expect to hold a hearing with the new appointee at an early date. The Government should discuss with us adding the position to the list of public appointments subject to pre-appointment hearings. (Paragraph 18)

The role of the national Schools Commissioner is both external facing, as outlined in the report, and inward facing, as set out in the department's written evidence to the Committee and at the oral hearings. The national Schools Commissioner is responsible for managing the RSCs, a role that involves support, oversight and challenge to RSC decision-making to ensure accountability, effectiveness, consistency and coordination of national practice.

By being in regular contact with the RSCs and holding them to account, (for example, during monthly forums) the national Schools Commissioner ensures consistency in the decision-making across the country and helps to share good practice. This also enables him to identify cross-regional issues and enable the relevant RSCs to work together.

The national Schools Commissioner is a civil service appointment, recruited on merit. The national Schools Commissioner is not appointed on the authority of the Minister

¹ <https://www.gov.uk/government/publications/educational-excellence-everywhere>

and therefore the role does not fall into the category of a ministerial appointment to a public body. On 1 February 2016, Sir David Carter took up post as the national Schools Commissioner, succeeding Frank Green CBE.

The Government should clarify the division of responsibilities between RSCs, local authorities, and Ofsted—including in relation to safeguarding—in a way that is comprehensible to schools and parents. (Paragraph 27)

The Government should publish a protocol for interaction between RSCs and local authorities to ensure that there is a shared understanding of roles. This should also set out expectations for information-sharing between RSCs, local authorities, and MATs. (Paragraph 122)

We recommend that Ofsted and the national Schools Commissioner consider further how they could ensure that RSC and Ofsted visits to schools are coordinated and do not create an unnecessary burden on schools. Further, they should ensure that schools are clear about the distinction between Ofsted inspections and RSC visits. (Paragraph 133)

The department agrees that it is important that the division of responsibilities between RSCs, local authorities and Ofsted are clearly communicated and that information is shared where appropriate. Through our guidance on ‘Schools Causing Concern’ and ‘Keeping Children Safe in Education’² the government will set out the different responsibilities of RSCs, local authorities and Ofsted, in relation to underperformance and safeguarding respectively.

RSCs and local authorities will want to, and have, established tailored processes to ensure the appropriate links, as set out in the guidance, are made at local level. All RSCs have built relationships with local authorities in their regions and have regular communications with them.

The Committee notes the importance of RSCs ensuring that they manage their visits appropriately in relation to Ofsted inspections. This already happens as a matter of course in all regions. Where an RSC is aware that a school has recently been inspected, the RSC will be sensitive to that and will draw on the findings of the report in determining next steps. RSCs also regularly update the relevant Ofsted Regional Director about intervention activity they are undertaking, including the intention to visit an academy. The RSCs also ensure that the academies and schools they are working with have a clear understanding of the purpose of any visits undertaken by them or by Educational Advisers, and Educational Advisers have clear protocols to support the work of academies.

² https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/447595/KCSIE_July_2015.pdf

We have received evidence that there is too much variation in the approach that RSCs take to their work and the standards they apply. RSCs should be identifying local challenges that impede school improvement so that these issues can be addressed; they must not demand or expect different standards in different regions. (Paragraph 33)

We recommend that the Government ensure a greater level of consistency in the work of RSCs, and explicitly include responsibility for co-ordination and consistency of standards in the job description for the national Schools Commissioner. We expect the national Schools Commissioner to report to us on how a greater level of consistency will be achieved. (Paragraph 34)

There is variation between regions in the level of meaningful consultation undertaken with local communities. We recommend that good practice is shared and standardised, to ensure that the effect of decision on a broad range of stakeholders is considered. (Paragraph 137)

The department recognises the importance of consistency in the standards that RSCs apply. Decision-making in line with national standards and criteria ensures consistency. RSCs currently use specified performance standards (such as the national floor standards for pupil attainment and progress and Ofsted judgements of school effectiveness) and criteria in their decision-making, which are set nationally. All decisions are taken in line with the legislation, Academy Funding Agreement and our published criteria³ – such as the criteria for sponsor approvals, the criteria for free school applications, and the Schools Causing Concern guidance. This framework ensures that the triggers for RSC intervention and the standards demanded are consistent across the country. The government also intends to publish an RSC decision-making framework.

However, the great value of the RSCs, along with their HTBs, is that they bring their local intelligence and educational expertise to bear on decisions about the schools and trusts in their regions. Within the national framework the RSCs' approaches may vary in response to regional priorities and the individual position of the school or academy in question – this is a strength of the system.

A focus on accountability, consistency and sharing practice across RSC regions is a key part of the role of the national Schools Commissioner. As is the case for any senior civil servant, the national Schools Commissioner can report to the Committee on his work with the agreement of the Secretary of State, in line with Cabinet Office guidance.

The department also recognises the importance of communicating and engaging with local communities about its work, including the work of the RSCs. A key strength of the system is that RSCs are embedded in local communities and bring local knowledge and expertise to decision-making. The national Schools Commissioner will continue to work with RSCs to ensure that good practice is shared and standardised across regions, as the Committee recommends.

There is already guidance in place related to formal consultation and communication with local communities around key decisions.

RSCs should publish their vision, workplans and priorities for their region, and seek input and buy-in to them from all relevant stakeholders. (Paragraph 37)

³ Listed in full at page 12

As part of the supplementary evidence provided to the Education Select Committee, the RSCs provided their regional vision statements. Updated versions of these will be published on our GOV.UK webpage⁴, alongside further information on the RSCs role and remit.

The RSCs already have regional strategies in place to inform and seek buy-in from relevant stakeholders to their plans and priorities. These communications strategies are tailored to regional and local circumstances, so in many cases RSCs are joining existing forums and using established networks, rather than set up a new infrastructure. However, the Department for Education recognises the wide interest in RSCs' work both within their regions and nationally and will seek to increase the accessibility and coverage of these types of communications.

The knowledge and skills needed to perform the role of RSC are considerable. The RSC system therefore relies heavily on identifying the right people to take on the role, and on the future supply of such system leaders. There is a need to nurture potential future RSCs to undertake the role. (Paragraph 40)

The department agrees that it is critical to ensure that there are potential future RSCs with the requisite skills and experience to undertake the role. It is important to note that all senior civil service appointments, including the appointments of RSCs, are made on merit and on the basis of fair and open competition, in line with the principles of the Civil Service Commission.

The academies system ensures that there is a growing number of headteachers, CEOs of MATs and other system leaders with the necessary skills to become future RSCs. The introduction of HTBs has also helped to ensure that RSCs are engaging with system leaders in their regions, both with the members themselves and via the connections that members bring to other system leaders.

4 <https://www.gov.uk/government/organisations/schools-commissioners-group>

The RSC regions

The division of London between three RSCs is unnecessarily disruptive. Good sponsors and expertise can be spread to other regions through co-ordination and co-operation between RSCs, and does not require dividing London in this way. (Paragraph 58)

London's educational expertise is clearly evidenced in numerous measures of school achievement. In 2015, only 2% of London schools were below the floor at KS2, compared to the national figure of 5%. In attainment measures, London outperformed every other region, scoring 60.9% at KS4 compared with a national average of 57.3% and 84% at KS2 compared with the national average of 80%.

There is a stark difference between the performance of London and its neighbouring regions. For example, in 2015, the percentage of London schools that were below the floor at KS4 was 3.8%, whilst the South East had 11.1% of its schools below the floor. Rather than keeping London's expertise and proven track-record in school improvement concentrated within the city, the aim is to spread that expertise into the wider geographic areas.

There are already signs of the success of this approach. For example, in the South East the RSC has arranged for two London HTB members to advise trusts in Kent and East Sussex. He has also facilitated support from eight London-based National Leaders in Education (NLEs) to help underperforming primaries in Medway. Equally, at trust level, the RSC for the East of England and North East London has overseen several trusts expanding their operations outside of London: Paradigm Trust has broadened from Tower Hamlets to Suffolk; and the Loxford School Trust that is located in Redbridge has moved out as far as Braintree.

However, the government is not complacent about school performance in London. The national Schools Commissioner takes the sustainability and continued improvement of London very seriously and intends to convene a 'pan- London' group of education leaders to develop a capacity map of where the support strength for the capital exists. The additional focus of this sub regional group will be to ensure that London schools that are underperforming continue to be challenged and supported in the same way as schools in any part of the country.

The Government should redesign the RSC regions so that they are coterminous with Ofsted regions, which itself is based on the previous system of nine Government Office Regions. This will include creating an RSC for London, and therefore increasing the number of RSCs by one. This will help with capacity in the short term. For the longer term, the Government should keep the design of the regions under review as the system develops, in order to take account of further growth of the academy sector and any future devolution to areas such as Greater Manchester, which may also require a dedicated RSC in due course. (Paragraph 59)

We would hope that our recommendation for matching the RSC regions with Ofsted's regional structure will ensure that effective working relationships are established in every case. (Paragraph 124)

Since they took up post, all of the RSCs have been working to establish effective working relationships with Ofsted and other partners.

The shape of the regions and the need to work across existing borders is a positive element of the structure. It means that the RSCs work with more than one partner and in some cases with more than one Ofsted Regional Director (RD). This enables sharing of approaches and experience and supports RSC consistency nationally. It also mitigates the risk of a region becoming inward-looking, rather than sharing expertise and experience across existing boundaries.

Capacity to fulfil their role

The “specialist contractors” appointed recently to support the academies and free schools programme are an important part of the school improvement system. We recommend that the Government review the amount of information currently in the public domain about their identity, appointment, work, monitoring and impact, with a view to improving transparency. (Paragraph 67)

To support the academies and free schools programmes the DfE issued an open tender to procure suppliers that provide specialist contractors. The tender was published on the Contract Finder GOV.UK⁵ on 12 August 2015 and closed 21 September 2015.

The department recognises the importance of transparency, as highlighted by the Committee, and will be publishing related supplier contracts on Contract Finder GOV.UK by 31 March 2016. The department will also publish an award notice on GOV.UK that illustrates the name of the supplier that has been awarded a contract, the business address and contract value.

The future of the role

There has been a gradual expansion of the role of the RSC since September 2014, and it is the Government's ambition for all schools to become academies. This implies a significant increase in the number of institutions for which RSCs are expected to have oversight, which will have implications for capacity and ways of working. The Government will need to monitor the situation closely as it develops, if the intention is for RSCs to become responsible for all schools. (Paragraph 44)

The expanding remit and caseload for RSCs should prompt an increased emphasis on working through others to secure school improvement. We welcome the DfE's commitment to providing greater resource to the RSCs, but are not yet convinced of the case for a significant increase in expenditure on the RSC offices themselves. Instead, the Department should consider whether the partners that the RSCs must work with to secure school improvement, such as Teaching Schools, have sufficient capacity to respond to their requests. (Paragraph 70)

5 <https://www.gov.uk/contracts-finder>

The department agrees with the Committee's recommendation that it should continue to monitor the capacity and ways of working of RSCs as the role develops, and also agrees that the RSCs should continue to work through others to help secure school improvement in underperforming schools, as laid out in the White Paper.

Academy Trusts (including MATs for all their academies) and governing bodies of maintained schools are responsible for school improvement in their schools, and are held to account for this. RSCs only intervene in schools where performance data or Ofsted judgement show that they are underperforming. RSCs work through system leaders and others to commission school improvement support.

As set out in the White Paper, the government will significantly expand the number of teaching schools and national and specialist leaders of education in order to create a comprehensive national network of school-led support for leaders to draw on as they choose. Funding for school improvement will be increasingly routed through these system leaders, who will be held to account for the quality and impact of the support they provide.

Headteacher Boards (HTBs)

There is currently confusion about the role of the Headteacher Boards, including whether they are decision-making bodies or purely a source of advice for the RSC. The Department for Education must clarify this, as it is a crucial component of ensuring there is suitable accountability for decisions made. We recommend that the Boards be re-designated as RSC Advisory Boards, to make it clear that the role of the Board is to provide advice to inform RSC decisions, rather than a mechanism for local accountability or to make decisions itself. The re-designation would also make clear that membership is not restricted to headteachers, given the existing scope for appointments and co-options. (Paragraph 83)

The role of the HTB is to advise their RSC on key decisions, bringing local intelligence and experience to bear. They also offer challenge to RSCs on their decisions as required. If an RSC were to take a decision that did not accord with the advice of the majority of HTB members on a particular matter, the RSC would flag this by reporting the decision to the relevant programme board and the Minister.

The department will publish a terms of reference for Headteacher Boards clarifying what their role and powers are.

The vast majority of HTB members are headteachers or former headteachers and the name of the boards reflect this. Of the 55 current HTB members across all eight regions, only one has never been a headteacher. Members who are not headteachers can only be appointed or co-opted where they clearly fill a gap in the knowledge or experience of the current board members.

The 'mixed economy' of elected and appointed members of the Headteacher Board should be retained. However the Government must ensure that the guidelines on making and managing public appointments are followed; RSCs should develop an explicit skills profile when recruiting individuals to appoint or co-opt to the Board, and use this to identify candidates. If the remit of the RSCs expands in the way proposed in the Education and Adoption Bill, headteachers of similarly high-performing LA-

maintained schools should be eligible for election, appointment or co-option in the same way as academy heads, and should be able to vote in Board member elections. (Paragraph 84)

The Government should ensure that the appointment terms for the Headteacher Boards allow for phased turnover rather than change all at once. (Paragraph 86)

The department does not agree that maintained school headteachers should be eligible for HTB membership. The HTB role is focussed on academies, academy sponsors and schools becoming academies – either sponsored or converters. The only involvement they have with maintained schools is where these schools will become an academy, either through a converter or sponsored route.

However, the RSCs draw from a range of sources when they make decisions, including representatives from dioceses, local authorities, academy sponsors, and representatives from a variety of different types of school.

Due to the different compositions and needs of each HTB, it is important that RSCs and boards are able to appoint and co-opt members where there are gaps in knowledge and expertise to ensure that they have the right balance in their membership. The department agrees to introduce an explicit skills profile to help identify these candidates.

There is already flexibility in place to allow the phasing of HTB membership. As the Committee recommends, the government will ensure that terms for appointed and co-opted members will allow for phased turnover to ensure continuity and enable the new boards to retain some of the process knowledge that has been acquired. When the terms for the current elected HTB members end in 2017, the department intends to elect new HTB members in each region.

Impact

The Government's review of Key Performance Indicators for RSCs should ensure that the KPIs do not prejudice the decisions made on academisation and changes of sponsor. In particular, we recommend that KPI 3(i) relating to the proportion of schools that are academies, should be removed on the grounds that it constitutes a conflict of interest. (Paragraph 92)

The government is currently carrying out a review of all of the Key Performance Indicators (KPIs). As outlined in the White paper, it is the government's objective that all schools will be academies or in the process of conversion by 2020. The KPIs are an important tool in achieving the goals of the government. However, it is also important to ensure that none of the KPIs has the potential to distort the behaviour of RSCs.

It is troubling that the DfE struggled to provide us with data on the performance of RSCs, given that KPIs were referred to throughout our inquiry and the Department's written evidence. In particular, the lack of data for KPIs 5–7 undermines the Department's claim that the impact of RSCs is being monitored and that RSCs are being held to account internally. The Government should produce an annual report on the work of RSCs, showing each RSC's performance against all of their (revised)

KPIs and their targets, and should undertake to publish online regular performance monitoring information as it is available. This is an important part of improving the transparency and accountability of RSCs. (Paragraph 96)

The government already intends to produce an annual report, as recommended by the Committee. Our intention is that from summer 2017, the Academies Annual Report will be rolled into the department's plans (presented to the Education Select Committee in December) to produce a set of financial accounts for the academies sector. This will bring together key performance data with audited financial information, presenting a much more rigorous picture of the health of the academies sector. This will include reporting on the RSC areas.

In addition to this, the new national Schools Commissioner also intends to publish a yearly report on the work of the RSCs. This will be accessible to parents and other members of the local communities served by the RSCs and will provide an additional important link between the sector and the public.

The department has robust arrangements for monitoring performance and the RSCs are held to account for the outcomes they achieve. There are a range of mechanisms that are used including regular meetings with the National Schools Commissioner and through the department's internal governance boards. The department is currently carrying out a year one review of the Key Performance Indicators (KPIs) and the new KPIs will be published in the Academies Annual Report out this academic year.

The impact of RSCs should be considered in terms of the improvement in young people's education and outcomes, rather than merely the volume of structural changes introduced or other levels of activity. This approach would mirror the way in which the effectiveness of local authorities is measured, such as the number of children attending Good or Outstanding schools, and would increase confidence in the work of RSCs. (Paragraph 101)

All the work carried out by the Department for Education contributes towards the department's overall vision and goals for the education system, as laid out in the White Paper. There are three system goals which are the outcomes the government is aiming to achieve for young people: safety and wellbeing, educational excellence everywhere and preparedness for adult life. RSCs are a key part of the strategy to achieve educational excellence everywhere; such that every child and young person can access high quality provision, achieving to the best of his or her ability regardless of location, prior attainment and background.

The RSC KPIs are specifically designed to focus on the areas where they have direct influence. It would be extremely difficult methodologically to specifically attribute changes in young people's educational and other outcomes (which are subject to a very wide range of influences) to the work of RSCs.

However, the Committee should also note that several of the RSCs' current KPIs are focussed on outcomes. KPIs 1 and 2⁶ focus on the percentage of academies which are below the floor standard and/or in Ofsted inadequate category, by length of time.

6 KPI 1: The percentage of academies, free schools, UTCs and studio schools below the floor standard, broken down by number of years below the floor. [These schools must have been open at least a year, and alternative provision

We would also like to take the opportunity to make a small correction to the supplementary evidence submitted by the Department to the Education Select Committee on 7 January 2016. Annex A includes the heading ‘the % of a) sponsored, and b) converter academies which the RSC has been involved in opening, which have moved into inadequate and/or fallen below the floor within the first 12 months- 2 years of being open’. In practice, the majority of academies captured by the data contained in the table will have opened before the RSCs were in place. Therefore, these figures do not solely reflect academies which the RSC has been involved in opening.

Accountability and transparency

While we recognise that there are strong reasons for Regional Schools Commissioners to have been appointed as civil servants, they have responsibilities and powers that extend beyond the scope of many other civil service roles. We believe their level of operational autonomy makes them a candidate for a more direct form of accountability than would be the case for other senior civil servants, and we recommend that the Government consider further what forms that accountability might take. In doing so, the Government should define the extent of the operational autonomy that RSCs have. (Paragraph 105)

We also recognise the ultimate responsibility of the Secretary of State and her ministers for work carried out in the Department’s name. As the House of Commons Education Committee, we form part of the mechanism for holding Ministers to account. As a result, Ministers should also expect to appear before us to be held responsible for the decision RSCs make in their name. (Paragraph 106)

There is a clear chain of accountability between each academy trust and the department. RSCs are civil servants appointed to take decisions in the name of the Secretary of State. They are agents of the Secretary of State and make decisions within a defined set of criteria, in the main governed by funding agreements and, in maintained schools, by statute. The Secretary of State remains responsible for the academy system and holds the commissioners to account for the performance of academies in their areas.

As mentioned previously, the department will publish an RSC decision-making framework, which will outline the role and remit of RSCs and their headteacher boards.

The department always welcomes scrutiny and advice from the Education Select Committee. As mentioned there is already a requirement for government to produce an Academies Annual Report - starting this year this report will focus on the work of the RSCs and so will provide Parliament with a further scrutiny mechanism.

There is a paucity of useful information available online about the work of Headteacher Boards, and this undermines a promising component of the RSC system. We welcome the DfE’s commitment to publishing more detailed minutes of Board meetings, in order to provide confidence in the nature of the advice given and to minimise the risk of impropriety. We further recommend that the DfE publish decision-making

and special schools are not included.]

KPI 2: The percentage of academies, free schools, UTCs and studio schools in Ofsted inadequate category, broken down by length of time. [Alternative provision and special schools are included.]

frameworks for RSCs to aid consistency of approach and transparency. This will allow RSC decisions to be made and recorded in a transparent way, with a rationale for each provided in reference to the published decision-making framework. (Paragraph 116)

The department already publishes a large amount of information on the work of the RSCs: notes of HTB meetings, conflicts of interest registers for HTB members and RSCs, information on the roles and responsibilities of the RSCs, and criteria for all types of decisions made by RSCs. In the future, the RSC KPIs will be published in the Academies Annual Report.

The following decision-making criteria are published:

- Sponsor approval criteria⁷
- Sponsor Capacity Fund criteria⁸
- Converter guidance/criteria⁹
- Significant change criteria¹⁰
- Free Schools application criteria¹¹
- Free schools proposer guidance¹²
- Admissions code¹³
- Schools Causing Concern guidance
- Academy Funding agreements sets out the criteria for intervention – and are publically available¹⁴.

Also published are:

- Role and responsibilities of the national Schools Commissioner and RSCs¹⁵
- Role of the HTB, names of HTB members and record of HTB meetings¹⁶
- Register of interest of the national Schools Commissioner, RSCs and HTB members¹⁷

7 <https://www.gov.uk/guidance/sponsor-an-academy>

8 <https://www.gov.uk/guidance/sponsor-capacity-fund>

9 <https://www.gov.uk/guidance/convert-to-an-academy-information-for-schools>

10 https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/275456/Making_Significant_Changes_to_an_Existing_Academy_Guidance_2014.pdf

11 https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/487713/Free_school_applications_criteria_for_assessment_-_mainstream_and_16_to_....pdf

12 https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/457828/Free-school-proposer-guide.pdf

13 https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/389388/School_Admissions_Code_2014_-_19_Dec.pdf

14 <https://www.gov.uk/government/publications/academy-and-free-school-funding-agreements-single-academy-trust>

15 <https://www.gov.uk/government/people/david-carter>

16 <https://www.gov.uk/government/organisations/schools-commissioners-group/about/our-governance#headteacher-board-for-east-of-england-and-north-east-london>

17 <https://www.gov.uk/government/organisations/schools-commissioners-group/about/our-governance#register-of-interest>

As mentioned above, the department will also shortly be publishing an RSC decision-making framework, as well as a yearly report on the work of the RSCs.

In addition, the DfE has robust processes in place to manage both RSCs and HTB members' conflicts of interest. RSCs and HTB members must declare any actual or perceived conflicts of interests covering the last five years. A register of interest for the HTBs is publically available¹⁸ and is reviewed every six months to ensure that it is up to date.

Where a conflict of interest arises the decision will be taken by people not in conflict, for example a HTB member may leave the meeting while specific schools are being discussed. Where an RSC has a link to an interest in relation to an academy or sponsor in their region, decisions which impact on that academy/sponsor will either be taken by another RSC or escalated to the national Schools Commissioner.

Relationships with other stakeholders

To increase confidence in the work of RSCs, a formal complaint and whistleblowing procedure should be established to provide a means for decisions to be challenged or reviewed. (Paragraph 129)

Any complaints about a decision made by a RSC may be directed to Sir David Carter, as the RSC's line manager. If a formal complaint is lodged, it will be dealt with in accordance with the department's formal complaints procedure, which involves an independent officer investigating the complaint and making a recommendation. To date, one formal complaint about an RSC decision has been considered and no evidence was found to uphold it.

We will also set out a clearer process for how the local community can get in touch and raise concerns about RSC decisions.

RSCs take decisions on behalf of the Secretary of State. Therefore their decisions are subject to judicial review. Information on applying for a judicial review is available online¹⁹.

18 <https://www.gov.uk/government/organisations/schools-commissioners-group/about/our-governance#register-of-interest>

19 <https://www.justice.gov.uk/downloads/courts/administrative-court/applying-for-judicial-review.pdf>