REFORM

Academy chains unlocked

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Reform

Acknowledgements

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Executive summary

Since first introduced under Labour, academy schools have been the main way that governments have sought to raise the standard of schools. Their popularity with policymakers means that two fifths of state-educated children in England now attend an academy. While there are different forms of academies, all have greater responsibility over the curriculum, staffing and finances than other state-funded schools.

Yet the evidence that academies have improved school education is not clear cut. Labour's academies have almost certainly led to sustainable improvements in pupil outcomes. However, the Coalition Government's academies have had variable impact, with some lowering, some sustaining and others improving education in those schools, depending on the starting point of the school. Taken in its entirety, the evidence suggests that the recent academies are not having the transformative impact on education that was expected by government.

The Conservative Government has changed its approach to academies. It now expects all new academies to join or establish an academy chain – groups of two or more academies run by the same sponsor – believing that chains will help unleash the potential of academies to spread educational excellence across the country. Yet, as with individual academies, the evidence on academy chains shows variable impact on pupil attainment. There is a dearth of information explaining why, as no research has established a full enough picture of what academy chains do.

To address this research gap, *Reform* has undertaken the first survey of academy chains. The respondents were chief executives from 66 academy chains responsible for a total of around 700 academies. The results show a varied picture of chain operations, with some highly centralised and others devolving more responsibility to schools. It also shows that most chains want to expand, regardless of their current size. However, their key priority is to reduce disparities in pupil attainment across their chain, suggesting that chains want a role in spreading excellence. While many are interested in running low-performing schools, the school's finances and geographical location remain a barrier.

Drawing on these results, along with unstructured interviews with chain chief executives, the report highlights four problems with current policy. First, academy chains are not routinely granted enough financial autonomy over their academies. Second, the process of matching schools to chains is not transparent or independent, and is therefore open to conflict. Third, this opacity is hindering competition between chains. Fourth, chains are not effectively incentivised to run schools that are in need of support.

Reform recommends a new approach to the funding, commissioning, oversight and accountability arrangements for academy schools to help them reach their potential. It recommends that funding for academies be allocated to the chain for them to dispense as they see fit, alongside more robust accountability measures. Commissioning decisions should be taken by an independent body, based on transparent criteria, and with all chains able to put themselves forward to run schools. There should be more stringent, and more generous, grants for chains that decide to run schools that have previously failed, find themselves in financial difficulties, or are otherwise undesirable to run.

Reform's recommendations are aimed at helping the Government achieve its ambition of improving education for all. Without a rejuvenation of this flagship government programme, academies will not have the impact they were hoped to have. The academy chain survey results can be found in Annex B.

Summary of recommendations

1. All revenue funding for academies should be delegated to academy chains before being distributed by the chain to its academies. The academy chain should take responsibility for funding its academies and agreeing how much each academy should receive. The delegation of academy budgets to chains should be irrespective of the chain's size or performance. The Department for Education's (DfE) funding allocation to the academy chain must be based on a national funding formula (NFF) for pupils to ensure each chain's settlement is fair. As the implementation of the NFF has been delayed until 2018-19, the delegation of academy funding to chains should start immediately to allow chains to more easily address inconsistent funding across academies in different local authorities.

2. The DfE should amend the *Academies Financial Handbook* to remove the requirement on trusts to have an appeals mechanism in place for headteachers that wish to dispute how the chain distributes its funding.

3. There should be one, independent body responsible for commissioning academies. This would require merging the financial accountability functions of the Education Funding Agency (EFA) with the oversight on standards of the Schools Commissioning Group (SCG). The responsibility for funding academies should not rest with the independent commissioner, but remain with an executive agency of the DfE. If all schools become academies, the Government should consider merging the new commissioning body with the schools wing of Ofsted, so that there is one independent regulator of all schools.

4. The DfE should evaluate the capacity of the new independent commissioning body. It should undertake a skills audit and consider external recruitment, such as from existing headteacher boards, to address skills gaps.

5. The independent commissioning body should develop, agree and manage the Secretary of State's contracts with academy sponsors. Sponsor bids and the management of sponsor contracts ('funding agreements') should be jointly assessed on evidence of financial propriety and educational standards in the chain. Every funding agreement should include an expectation of the chain's educational performance, in addition to financial performance. This element of the sponsor agreement could relate to the DfE's MAT performance tables. However, there should be scope for the commissioner to develop bespoke funding agreements to encourage sponsors to take on schools that have both poor finances and pupil outcomes.

6. Ofsted and the independent commissioning body should consult with academy chain leaders to identify the characteristics of an 'inadequate' academy chain. In the long-term, these characteristics should be based on pupil outcomes, such as the aggregate MAT performance measures developed by the DfE. Until performance measures are sufficient to judge all academy chains, a framework for recognising poor practice should be used to inform a judgement.

7. The DfE should facilitate a real-time online sponsor forum with instantaneous information on approved sponsors and schools requiring or desiring a sponsor. Once a school or academy is deemed 'inadequate', its information should automatically be uploaded to the sponsor forum. Any other maintained school looking for a sponsor may upload their information voluntarily. Academy sponsors should be uploaded on the forum as soon as they are approved. The forum would allow sponsors to contact schools and vice versa.

8. The online sponsor forum should facilitate expressions of interest from sponsors to take over a school. The expressions of interest, similar to a short bid, will be submitted online and set out how the sponsor will improve standards in the school, including supporting evidence. These expressions should be assessed by the independent commissioning body on the basis of the needs of the pupils in the school and the capacity of the sponsor. The capacity of the sponsor should be determined by its current performance and a growth readiness check.

9. Academy chains should continue to be able to seek approval from Regional School Commissioners to voluntarily release some or all of their schools. The schools in question must not be deemed 'inadequate' or 'coasting', and the chain should be required to find a sponsor willing to take the school(s) on. The school swap should not require permission from the headteacher or local governing body of the school in question. There should be a three-year protection on a school before it can be swapped again.

10. The Government should abandon its proposal to introduce parental petitions in favour of requiring all chains to have a clear method for engaging with their pupils' parents.

11. All infrastructure funding for academy chains should be pooled to create a struggling school premium. The school commissioning body should identify schools that are attached to this premium, either due to poor educational performance, their small size, geographical remoteness or poor financial circumstances. The premium should follow the school, and any sponsor winning a bid to take over the school should be paid the premium, and no more.

12. The commissioning body should consult the sector to identify a percentage of the struggling school premium that can be recouped by government if the trust fails to deliver to its sponsor agreement.

13. All academy chains should be expected to invest their own reserves in their infrastructure, in addition to public capital funding through the struggling school premium. If a trust is required or seeks permission to release some or all of its academies, it should absorb any deficits and keep any reserves.

14. The DfE should amend the *Governors' Handbook* to allow maintained schools and academies to pay local governors.

15. Ofsted should review its framework on inspecting governance in academies. It should focus inspection on identifying strong internal accountability at every level within a trust. While it should be made explicit that parent governors are not required, Ofsted should continue to expect a clear mechanism for engaging parents in every individual academy.

16. The Government should continue to seek private funding for its Academy Ambassadors programme. It should consider encouraging the development of teaching trusts to attract and develop aspiring middle and senior leaders of academy chains.

17. There should continue to be no restrictions on a local authority's (LA) ability to sell services to an academy chain, both within and outside their LA region.

Glossary of key terms

Academy chain	A formal partnership between two or more academies. The partnership can be in the form of a multi-academy trust, umbrella trust or collaborative partnership.
Academy	A state-funded school that receives funding directly from central government rather than a local authority (including free schools, studio schools and university technology colleges). It is not statutorily required to follow the National Curriculum, follow national terms and conditions for staff, or involve the local authority in running the school.
> Sponsored academy	A previously maintained school that was identified as 'inadequate' by Ofsted and required to become an academy as part of the Government's intervention strategy.
> Converter academy	A previously maintained school that voluntarily applied to become an academy and is usually judged as either 'good' or 'outstanding' by Ofsted.
Academy trust / trust	A registered charity and company whose members must appoint trustees to uphold the academy's contract with the Secretary of State for Education.
Articles of association	A contract between the Secretary of State for Education and the academy trust setting out the internal management, decision-making and running of the academy trust.
Board member / member	A person with ultimate responsibility for the trust, including the ability to appoint trustees and sign the articles of association. They cannot be employees of the trust, and there must be at least three members to form a multi-academy trust.
Chief executive / chief executive officer	The executive leader of an academy chain, appointed by the directors. They are part of the executive team and may also be a trustee.
Education funding agency (EFA)	The executive agency of the Department for Education whose statutory responsibility it is to allocate current and capital funding to all academies, and all maintained schools through local authorities.
Executive team	The people appointed by the trustees to run the academy trust, including the Chief Executive, Finance Director or Executive Principal.
Funding agreement	A contract between the Secretary of State for Education and the academy trust which provides the framework for the academy trust to operate within.

General annual grant (GAG)	The stream through which academies receive the majority of their current funding. The funding is allocated through the EFA, and it does not include capital funding or the Pupil Premium Grant.
Governing body	The group of individuals that are legally responsible for a maintained school. In an academy trust, the trustees can delegate governance functions to a (local) governing body, but it is not required to do so.
Maintained school	Schools that are funded through the local authority, including voluntary-aided (such as faith schools), community, voluntary-controlled and foundation schools.
Multi-academy trust (MAT)	An academy trust with responsibility for running three or more academies (three academies is the DfE's normal working definition). Some trusts are counted as MATs in official figures even if they run just one academy, if the MAT has plans to grow.
Regional school commissioner (RSC)	A person that manages the work of the School Commissioners Group in a specific region (see below).
Rebrokerage	The process of finding a new sponsor for an academy whose funding agreement has been terminated due to an 'inadequate' judgement from Ofsted. This is carried out by the National or Regional School Commissioner.
Schools commissioners group (SCG)	A group of civil servants in the Department for Education responsible for developing high-quality academy sponsors, tackling underperformance in maintained schools and academies through academy conversion and rebrokerage, and establishing new school provision through free schools.
Sponsor	An organisation or person that has received approval from the DfE to support an underperforming academy trust. They could be an existing academy trust, a university, a business, an independent school, a diocesan body or a charity.
Trustee / director	The individuals appointed by the academy trust's members with responsibility for the trust's strategy, financial stewardship and overall performance. They must comply with their statutory duties as both company directors and charitable trustees.

1
Academies and chains

1.1 An 'all academy' vision

The Government has set out an endgame for the academies programme. Since publishing its white paper earlier this year, it has reaffirmed its "continued determination to see all schools to become academies in the next 6 years".[1] Retracting its previous proposal to mandate all schools to convert or have plans in place to convert by 2022, the Government's current policy is to seek new legal powers to direct all schools to become academies in areas where the local authority "can no longer viably support its remaining schools" or when it "fails to meet a minimum performance threshold across its schools".[2]

This marks a substantially different policy approach towards school autonomy than that of both the Coalition Government and any predecessor government since the *Education Reform Act 1988*. Grant-maintained schools and City Technology Colleges, introduced and developed by the 1987 and 1990 Conservative Governments, were the first forms of independently-run, state-funded schools in England and their boards had greater control over governance, funding and the curriculum.[3] This specialist school movement was expanded upon by the 1997 Labour Government's City Academy programme with one substantial difference: city academies acted as a challenge to existing poor school provision.[4] Only those schools judged as 'inadequate' by Ofsted were taken over by a sponsor (usually a charity, business or philanthropists), with additional capital funding invested by both the sponsor and government.[5]

The *Academies Act 2010* pioneered a new approach. In addition to using school autonomy as a lever to challenge poor performance, the Coalition Government hoped autonomy would allow already good schools to get even better. The Act allowed any school judged by Ofsted as 'outstanding' or 'good with outstanding features' to apply for academy conversion,[6] making the attainment of those Ofsted ratings an attractive goal. However, just how attractive academisation would become was not fully understood.[7] From 2010 the number of academies grew exponentially: the 200 existing academies established under eight years of Labour reached over 1,000 academies in just one year of Coalition.[8]

Today around 65 per cent of state-funded secondary and 18 per cent of state-funded primary schools are academies.[9] That equates to roughly 66 per cent of state school pupils aged 11 to 16 years and 20 per cent of pupils aged 5 to 11 years currently being taught in academies.[10] This new environment means the Government is embarking on a radically different set of policies from both the Labour and Coalition Governments. While many consider the explicit push to convert all schools to academies as endorsement of the academy model, removing the choice to convert is, by extension, removing some of the incentives to become an outstanding school. If this implication is understood, then the Conservative Government's policy of coerced academisation suggests it has lost belief in the power of school autonomy as a carrot for 'good' and 'outstanding' schools to improve.

This is premature. No published research has yet examined the impact of the Coalition's converter academies while also robustly comparing like-for-like schools (those that later go on to become academies). The National Foundation for Educational Research has compared the performance of converter academies with maintained schools that have

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1   Department for Education, 'Next Steps to Spread Educational Excellence Everywhere Announced', Press release, (2016).

2   Ibid.

3   City Technology Colleges specialised in vocational qualifications and many of the early academies specialised in the Arts.

4   The specialist school movement also grew through the creation of new, local-authority maintained Technology Colleges, whereas all but three of the original City Technology Colleges established has now converted to academy status.

5   House of Commons, *Academies under the Labour Government* (London: The Stationery Office, 2016).

6   This requirement was later relaxed to allow any 'good' school to apply for conversion.

7   BBC Radio 4, 'A Subversive History of School Reform, Analysis', 24 July 2016.

8   Department for Education, *Schools, Pupils and Their Characteristics: January 2016*, 2016.

9   Ibid.

10   Ibid.

the same "propensity" to convert.[11] It found that in 2015 average KS4 (GCSE) attainment was one-third higher in academies than similar maintained schools, with disadvantaged pupils making on average one-third of a GCSE grade more progress from KS2 to KS4 in academies.[12] Results for primary converter academies were not statistically significant.

Recent research by the London School of Economics and the Education Policy Institute (EPI) does, however, support the stick hypothesis for post-2010 sponsored academies. It shows there is a leap in KS4 attainment[13] in the year prior to becoming an academy which is not sustained in the years after conversion and falls to zero improvement after three years.[14] This suggests it could be the imminent threat of conversion that causes schools to focus on KS4 pupils and temporarily boost results. However, the researchers state it is difficult to discern how much of the fall in results is due to the sponsored academies getting worse or comparative maintained schools getting better.

The research on Labour's pre-2010 sponsored academies is more substantial and positive. Research shows that for these schools there were marginal improvements in KS4 results in the four years prior to becoming an academy and then much greater, sustained improvements each year for at least three years after conversion.[15] However, evidence suggests that over time sponsored secondary academies attract a higher attaining intake,[16] coexistent with a lower attaining intake in neighbouring maintained schools.[17] Other research has found no difference in pupil attainment in primary sponsored academies, but one GCSE grade improvement for pupils eligible for free school meals in secondary schools.[18]

In *How to run a country: Education, Reform* made the case that all schools should be afforded the freedoms of academies,[19] as international evidence suggests that school autonomy, supplemented with strong public accountability, are common features of high performing school systems.[20] Nonetheless, any change in the system must look carefully at the school's motivation for academisation. While both the original city academies and current sponsored academies had a strong financial incentive to convert,[21] the idea behind the programmes was to challenge existing poor provision of schools. However, it is not clear that 'coerced academisation' retains either the carrot or stick hypothesis of school improvement.

Nevertheless, there must be recognition that the current school system is stuck between two different models with different commissioning and oversight arrangements. Given the scale of academisation, it is unlikely that the trend towards full academisation in England can be reversed. It is policymakers' job to get the most out of the new system. One emerging phenomenon in which there is much hope is the academy chain. The sections below explore how academy chains could, in theory, support school autonomy and improve pupil results, particularly for the disadvantaged.

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11 In this research, 'similar schools' refer to the proportion of pupils achieving 5+ A*-C GCSEs, the proportion achieving National Curriculum level 4 in English and maths, proportion of pupils on Free School Meals, number of pupils in the school and the school's most recent Ofsted rating.
12 National Foundation for Educational Research, *Analysis of Academy School Performance in 2015* (London: NFER, 2016).
13 The researchers control for pupil characteristics and pupil mobility.
14 Andrew Eyles et al., *The Impact of Post-2010 Sponsored Academies* (London: LSE in partnership with EPI, 2016).
15 Andrew Eyles et al., *The Impact of the Academies Programme: Research Findings from the Education Policy Institute and the London School of Economics* (London: LSE in partnership with EPI, 2016).
16 Measured by KS2 primary results.
17 Eyles et al., *The Impact of Post-2010 Sponsored Academies*.
18 National Foundation for Educational Research, *Analysis of Academy School Performance in 2015*.
19 Amy Finch and James Zuccollo, *How to Run a Country: Education* (Reform, 2015).
20 Sean Coughlan, 'Academies 'Promising Trend' Says OECD', *BBC News*, 3 May 2016.
21 City Academies were typically given start-up grants of around £25 million from government and would need to source around £2 million private sponsorship, though some of this included funding for new buildings. See Justine Parkinson, 'Why the Fuss over City Academies?', *BBC News*, 17 March 2005.

## 1.2 Academy chains: making the most of school autonomy

As the number of academies has grown, so too has the number of academy chains. Academy chains are groups of academies that together hold one contract (funding agreement) with central government through the Education Funding Agency (EFA). Academy chains are not-for-profit organisations (legally defined as both a company and charity) with trustees legally responsible for delivering the contract, and a chief executive or executive principal held to account by the trustees.[22] Articles of association, agreed with the EFA, set out the internal management and decision-making power within the academy chain.

The Department for Education (DfE) usually adopts the term multi-academy trust (MAT) to refer to an academy trust that runs three or more academies. The authors prefer to maintain the term academy chain for two reasons. Firstly, the DfE has given some standalone academies MAT status, as these MATs have aspirations for future growth.[23] Secondly, some academy chains are made up of more than one MAT, despite having the same academy sponsor. For example, AET is an academy chain with one MAT (Academies Enterprise Trust) and a subsidiary trust (London Academies Enterprise Trust).

The authors use the term academy chain herein to refer to all MATs with two or more academies, MATs with the same sponsor, umbrella trusts and collaborative partnerships – where individual academies have separate funding agreements with the DfE. In reality, the overwhelming majority of academy chains referred to in this report will be MATs. We retain the term MAT to refer to the survey questions and responses, and to any literature that adopts this term.

Despite the growth in academy chains, just under half of all academies are standalone schools, and the majority of chains have only two to five schools (see Figure 1). The largest chain has 69 academies which is much smaller than the average size of schools previously managed by a local authority (roughly 160 schools) or some of the international private schools (Doga has just under 100).[24]

Figure 1: Rise of academies by size of academy trust
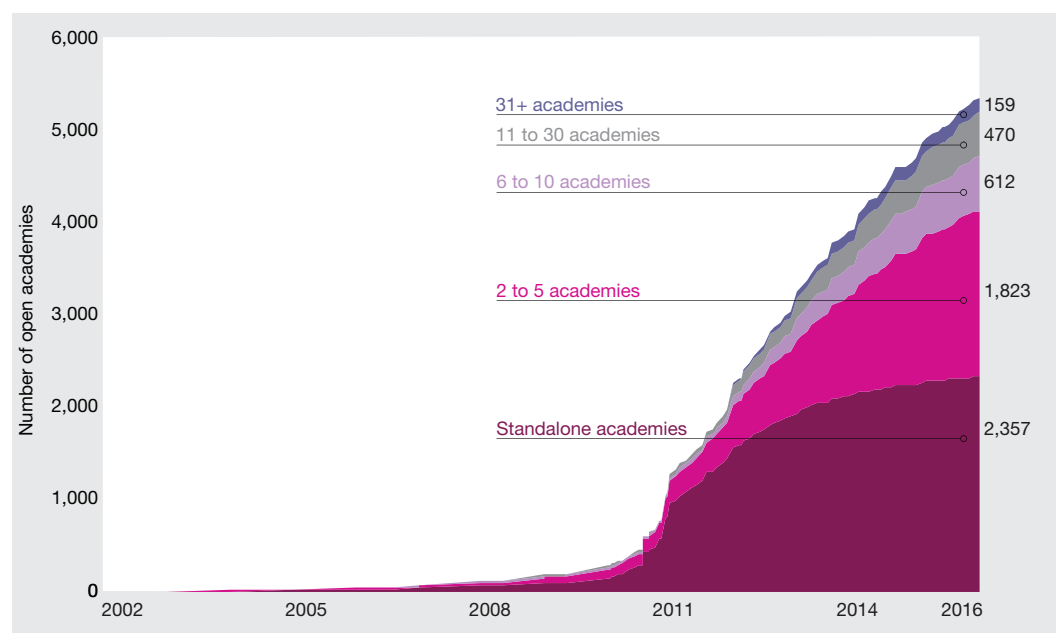
22 National College for Teaching and Leadership, *Governance in Multi-Academy Trusts*, 2015, 4.
23 It is understood that the motivation is to make it less bureaucratic for a trust to take on new schools.
24 Doga Schools, "About Us," Webpage, 2016.

The Government believes that academy chains are "the best long term formal arrangement for stronger schools to support the improvement of weaker schools".[25] The recent white paper, *Educational Excellence Everywhere,* set out an expectation that "[m]ost schools will form or join MATs, given the benefits they offer".[26] Schools converting to academy status will be expected to join a chain, and will only be allowed to operate as standalone academies in "exceptional circumstances".[27]

This marks a fundamental structural change to education in England, with academy chains set to replace the role of the local authority (LA) in directly running schools. It is therefore reasonable to ask firstly whether the function of an academy chain and LAs are comparable and, if they are, whether one is better placed to drive school improvement than the other.

The Government considers there to be four key advantages to academy chains over local authorities. According to its white paper, *Educational Excellence Everywhere*, academy chains:

> ⋗ ***Prevent geographical monopolies** with different MATs operating in a given area, increasing diversity of provision and giving parents more choice and competition. If performing well, MATs can scale their success nationwide, taking effective models from one part of the country to the toughest areas in a way that no high-performing local authority ever could*

> ⋗ *Provide opportunities to **bring together educational expertise with business and financial skills** in innovative and efficient organisations that can deliver better outcomes from the resources available*

> ⋗ *Offer a clear, **single point of accountability** where the leader of the MAT has the powers and funding to bolster standards in the schools for which he or she is responsible, and is completely accountable for the results*

> ⋗ ***Direct funding for the whole group** of schools where it can do most good, commissioning support and services from a variety of providers, or developing the services themselves if they think they can perform better*[28]

There is no clear evidence on whether the academy chain model of school improvement outlined above is more effective than the LA model. Some consider the comparison to be fundamentally flawed, as LAs and academy chains take different roles in the management of their academies. [29] Nevertheless, the EPI has attempted to compare the two, and finds that academy chain performance is just as variable as the aggregate performance of schools run by local authorities.[30]

That academy chain performance is variable is the main conclusion of the research on chain effectiveness. The DfE has found an even split of academy chains above and below overall average improvement in KS2 value-added three years after takeover, and slightly more chains below than above[31] for KS4 value-added.[32] The EPI research (which used the DfE's methodology but also calculated performance for LAs) similarly found an even spread across chains and LAs in the top and bottom quintile for performance and improvement. For two years running, the Sutton Trust has found that there are about as

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25 Department for Education, *Educational Excellence Everywhere*, 2016, 5.
26 Ibid., 58.
27 Ibid.
28 Ibid., 59.; emphasis added.
29 See Department for Education, *Statistical Working Paper: Measuring the Performance of Schools within Academy Chains and Local Authorities*, 2015; Merryn Hutchings, Becky Francis, and Philip Kirby, *Chain Effects 2016: The Impact of Academy Chains on Low-Income Students* (London: The Sutton Trust, 2016).
30 Jon Andrews, *School Performance in Multi-Academy Trusts and Local Authorities - 2015* (Education Policy Institute, 2016).
31 However, this is not necessarily an accurate reflection of the trust's impact at KS4 as it represents a disproportionate amount of historically underperforming schools. This is not the case at KS2.
32 Department for Education, *Statistical Working Paper: Multi-Academy Trust Performance Measures: England, 2014 to 2015*, 2016.

many academy chains that have narrowed the attainment gap (compared to two years prior) as those that have seen a widening of the attainment gap.[33]

Research published by *Reform* has highlighted the potential of academy chains.[34] In *Education in chains*, Grotberg and Robb argued that academy chains could provide clearer, more capable governance at a lower overall cost. This could be achieved through more expert management, skilled governors recruited into full-time, salaried positions, opportunities for professional development and mechanisms for driving economies of scale through central procurement of goods and services across all academies.[35] However, it is not yet clear whether academy chains are able to capitalise these opportunities.

The next stage for policy research is to understand why variation between academy chain performance exists, and examine what behavioural aspects are associated with high performance. This means understanding more about what academy chains do. For a fair assessment to be made, academy chains must be given time to develop. However, a greater understanding of how chains are currently operating will help cast light on whether they are on track to reach their potential.

1.3 Chain whispers

To date, there has been no rigorous analysis of how academy chains operate. Anecdotal evidence and case studies have informed the majority view, and while there have been several recent attempts to monitor the performance of academy chains, there is not enough evidence to draw conclusions about successful characteristics. Nevertheless, there have been numerous attempts to monitor the development of academy chains, identify good practice from case studies and share views on what works.[36] The Education Select Committee has also established an inquiry to investigate what makes a successful MAT.[37] While the evidence base is weak, the brief overview below offers a starting point for assessing the Government's four claims, and provides context on commonly held assumptions about academy chains.

1.3.1 Geographical reach

The education white paper states that the absence of arbitrary geographical limits on growth means "MATs can scale their success…in a way that no high-performing local authority ever could".[38] The logical implication of this position is that geographical flexibility makes academy chains a more effective arrangement for addressing regional performance disparities than local authorities.

As academy chains grow across LA boundaries, one important consideration is how geographically condensed or dispersed chains should be. The Chief Inspector of Ofsted, Sir Michael Wilshaw, has presented both wide geographical dispersion of academies within chains and lack of leadership capacity as "a considerable challenge".[39] In oral evidence to the Education Select Committee, the National Schools Commissioner, Sir David Carter, commented that some chains "set up in the very early days…were geographically too widespread" and that he "remain(s) a real fan and believer that a closer geographical mix is the best one".[40]

33 Merryn Hutchins, Becky Francis, and Philip Kirby, *Chain Effects 2015: The Impact of Academy Chains on Low-Income Students* (London: The Sutton Trust, 2015); Hutchings, Francis, and Kirby, *Chain Effects 2016: The Impact of Academy Chains on Low-Income Students*.
34 Anna Grotberg and Matthew Robb, *Education in Chains* (*Reform*, 2015), 10
35 Ibid., 23.
36 See, for example, Department for Education, *Characteristics of Successful Multi-Academy Trusts*, 2015.
37 Education Select Committee, 'Multi-Academy Trusts Inquiry', Webpage, 2016.
38 Department for Education, *Educational Excellence Everywhere*, 15.
39 Sir Michael Wilshaw, 'Focused Inspections of Academies in Multi-Academy Trusts', 10 March 2016, 3.
40 Sir David Carter, 'Oral Evidence to the Education Select Committee: Multi-Academy Trust Inquiry', 15 June 2016.

1.3.2 Commercial skills

The DfE expects that, as academy chains expand, individual academies will benefit from streamlined and more highly skilled executive boards, particularly in sponsored chains.[41] This, they suggest, will have the dual benefit of allowing more effective professional management of the schools in the trust and allowing school-level governors to focus on the more direct needs of pupils, as opposed to school administration.[42]

There is wide agreement that commercially skilled trustees and board members are a feature of high-performing academy chains, underlining both the potential chains have to attract high-skilled people and their ability to deliver better outcomes. When identifying characteristics of successful chains, the DfE emphasise the importance of commercially skilled roles by suggesting a succession plan for "key posts" within the chain, including the Chief Executive Officer (CEO) and Finance Director.[43] A pamphlet by the Association of School and College Leaders, the National Governors Association and Browne Jacobson echo the importance of commercial skills on the academy chain executive board, particularly as the chain expands.[44] Research into US Charter Schools also recommends the executive board taking a more strategic role and devolving operational responsibility for schools.[45]

1.3.3 Accountability

Proponents of academy chains believe they offer a simpler accountability structure than schools maintained by the LA. In maintained schools, central government, the council and the school leadership play a significant role in determining school performance: central government exercises control over curricula; local authorities set and monitor a local financial framework; school leadership delivers the prescribed curricula and manages their delegated budget.[46] By contrast, the school leadership in an academy chain is ultimately responsible to the trustees. The chain leadership has a high degree of autonomy and is itself responsible for monitoring and evaluating the performance of its individual academies.[47]

Concerns remain however about holding chains to national standards in terms of school performance and financial accounting. For example, in evidence submitted to the Education Select Committee, academics from the Alliance Manchester Business School questioned the ability of the EFA to effectively oversee financial management on a chain level, and suggested financial data be published by individual academies to improve accountability.[48] The Sutton Trust, teachers and the national leaders of governance have also questioned whether the chain model – by virtue of its large scale – actually erodes accountability on a local level.[49]

1.3.4 Economies of scale and financial autonomy

The Government's white paper argues that "[h]igh quality sponsors can… delivering (*sic*) economies of scale and strong financial sustainability".[50] The implication is that chains deliver these savings by centralising functions, such as procurement and staff terms and conditions, in return for a 'top-slice' charged to the school. The chain leadership can also

41   Department for Education, *Educational Excellence Everywhere*, 50; Department for Education, *Accountability and Governance: Research Priorities and Questions*, 2014, 10.
42   Department for Education, *Educational Excellence Everywhere*, 50.
43   Department for Education, *Characteristics of Successful Multi-Academy Trusts*, 8.
44   Association of School and College Leaders, National Governors' Association, and Browne Jacobson, 'Leading and Governing Groups of Schools', 2015, 26.
45   Charter Board Partners, *Governance Best Practices* (Washington DC, 2014).
46   Department for Education, *Making "Prescribed Alterations" to Maintained Schools*, 2016.
47   National College for Teaching and Leadership, *Governance in Multi-Academy Trusts*; Department for Education, *Educational Excellence Everywhere*.
48   House of Commons Education Select Committee, *Multi Academy Trust Inquiry: Written Evidence Submitted by Professor Pam Stapleton and Dr Anne Stafford*, 2016.
49   House of Commons Education Select Committee, *Multi-Academy Trust Inquiry: Written Evidence Submitted by the Sutton Trust*, 2016.
50   Department for Education, *Educational Excellence Everywhere*, 80.

implement other models of school financing, such as school-to-school loans, to address regional differences in need, procuring goods and services for all schools centrally and developing their own services where appropriate.[51]

There is a clear appetite to exercise such financial autonomy amongst academies: in a survey of converter academies conducted by *Reform* and The Schools, Students and Teachers Network (SSAT) in 2014, greater financial autonomy was the most cited reason for conversion.[52] Case studies run by the DfE also suggest that high-performing academy chains have sought to maximise back office efficiencies across their chains by central procurement of services such as catering, utilities, human resources and printing services,[53] and have developed revenue generation schemes such as IT systems and teacher training packages. For example, some have developed performance management and pupil data management systems in-house and are now selling them to software providers. Others sell teacher training packages externally to outside schools and chains, which helps recoup the costs of the programme development.[54] Some outstanding academies within chains will lead a Teaching School Alliance, attracting additional public funds to run school-led initial teacher training, continuing professional development and other research and leadership development programmes.[55]

1.4   Chains as the new 'middle tier'?

As more schools become academies, it is expected that academy chains will become the main vehicle for delivering school improvement. Relatedly, it is likely that chains will take on much more of the LA's role as the 'middle tier' for schools, becoming the main operational body between central government and schools. While the white paper sets out a clear, four-point rationale for why academy chains might be more transformative than local authorities, it is crucial that there is a greater understanding about how academy chains operate and the effect these decisions have on pupil performance.

To address this gap in policy research, *Reform* undertook a survey of academy chain chief executives. The objective was to understand the different operational decisions chains make and evaluate whether these differences are associated with the size, age or geographical distribution of the chain. While the results presented here do not compare academy operations with performance, the research aims to open up the 'black box' of academy chains and provide information that could, in future, be used to assess academy chain effectiveness.

It is hoped the results presented here, and the subsequent analysis, will be a useful resource to researchers, policymakers, and the school system alike. Chapter 2 presents the survey results for four areas: inclusive growth, governance and leadership skills, accountability and efficiency. Chapter 3 presents some solutions to the problems identified in the academy chain survey.

51   Department for Education, *Educational Excellence Everywhere*.
52   Amy Finch et al., *Plan A+ 2014: The Unfinished Revolution* (Reform, 2014), 3.
53   Department for Education, *What Does a High Performing Academy Sponsor Look Like?*, 2014.
54   Kreston Reeves, *Academies Benchmark Report 2015*, 2015.
55   National College for Teaching and Leadership, 'Teaching Schools: A Guide for Potential Applicants – Detailed Guidance', Webpage, (2016).

2
Academy chain survey

This Chapter presents a selection of results from *Reform*'s survey of academy chain chief executives. For a full list of survey responses, see Annex B. The survey was conducted online between May and August 2016. *Reform* received a total of 66 usable survey responses from executive leaders[56] of chains with two or more academies. This represents a sample of approximately 9 per cent of all academy chains with two or more academies, and 15 per cent with three or more.

The chains that responded to the survey were broadly comparable to the total population of academy chains with two or more academies. The mix of primary and secondary academies, the proportion of pupils on free school meals (FSM) and pupils with English as an additional language (EAL) are similar in the survey compared to all academy chains. There is, however, a skew in the survey towards chains with more academies and more pupils, more sponsored academies, and greater geographical dispersion between academies in the chain. The authors have attempted to mitigate these difference in the analysis. More details on the representativeness of the sample are outlined in Annex A.

Initial results from the survey were presented at a small, private roundtable held at *Reform* in early August 2016. The roundtable was attended by chain chief executives that had taken part in the survey, senior officials from the DfE, academics and representatives from sector organisations. The discussion was held under The Chatham House Rule, but the authors have made clear when the below analysis has been informed by the discussion. Following the roundtable, the authors held unstructured interviews with six chain chief executives and one senior official at the DfE. The names of those interviewed are listed in Annex C. Chapter 2 presents the findings of the survey as well as the main arguments made at the roundtable.

2.1 Chain efficiency

As academy chains build larger pupil rolls, it is reasonable to expect that, at some point, they will achieve economies of scale. This means that their size would allow them to operate more efficiently than smaller chains and standalone academies due to greater centralisation, increased purchasing power, and operational effectiveness. For example, procuring goods and services for all academies in the trust centrally might allow them to 'bulk buy', lowering their unit cost. Centralising curriculum development or, equally, allowing high-performing individual academies to pilot curriculum designs, might help improve pupil performance across the chain.

While an overwhelming majority of respondents in *Reform*'s survey believe economies of scale in academy chains are possible, there has been no rigorous analysis of the size at which chains need to be to deliver this. Indeed, one roundtable attendee expressed scepticism about the extent to which significant efficiencies can be achieved by central procurement in academy trusts, as savings can be offset by extra costs associated with growth.

However, some roundtable attendees indicated that efficiencies can be achieved through better staff deployment in larger chains. For example, where a smaller chain may have middle managers that solely oversee one school, a larger trust may deploy them as regional managers across several academies, utilising spare capacity and sharing best practice. Larger chains with a bigger pool of staff may also be better placed to use existing permanent staff flexibly to cover sickness or parental leave, instead of using costly temporary or supply staff. As a national employer, larger academy chains might be able to attract and retain more highly skilled, productive employees, because of the progression opportunities they may offer.

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56   There were 53 chief executives of academy chains that responded. The remaining 13 respondents were either executive heads or directors in the trust. However, the term chief executive is used to refer to respondents throughout this report.

2.1.1 Level of centralisation

Most academy chain sponsors provide their academies with additional services funded by top-slicing[57] each school's revenue, known as its general annual grant (GAG). The top-slice funds the chain's operational costs, such as central staff salaries and any services delivered centrally by the chain. For example, in exchange for a 4 per cent top-slice for all academies in the chain, the academy chain trust may hire executive directors, develop staff terms and conditions and manage procurement.

Chains vary in the level of control they have over individual school operations (see Figure 2). The most centralised service is the development of staff terms and conditions, closely followed by procurement and dealing with staff grievances. The least centralised services, i.e. those that are, in most cases, delivered by individual academies, are services delivered on site, such as printing and photocopying and catering. It is somewhat surprising, however, that the virtual learning environment (VLE) is, in many chains, delivered by individual academies. These chains are either small in size (number of academies and pupil roll) or run by dioceses.

Figure 2: Operational autonomy within academy chains

Q10. Consider the following operational functions for individual academies. Who carries out these functions? (Answers are multiple choice)
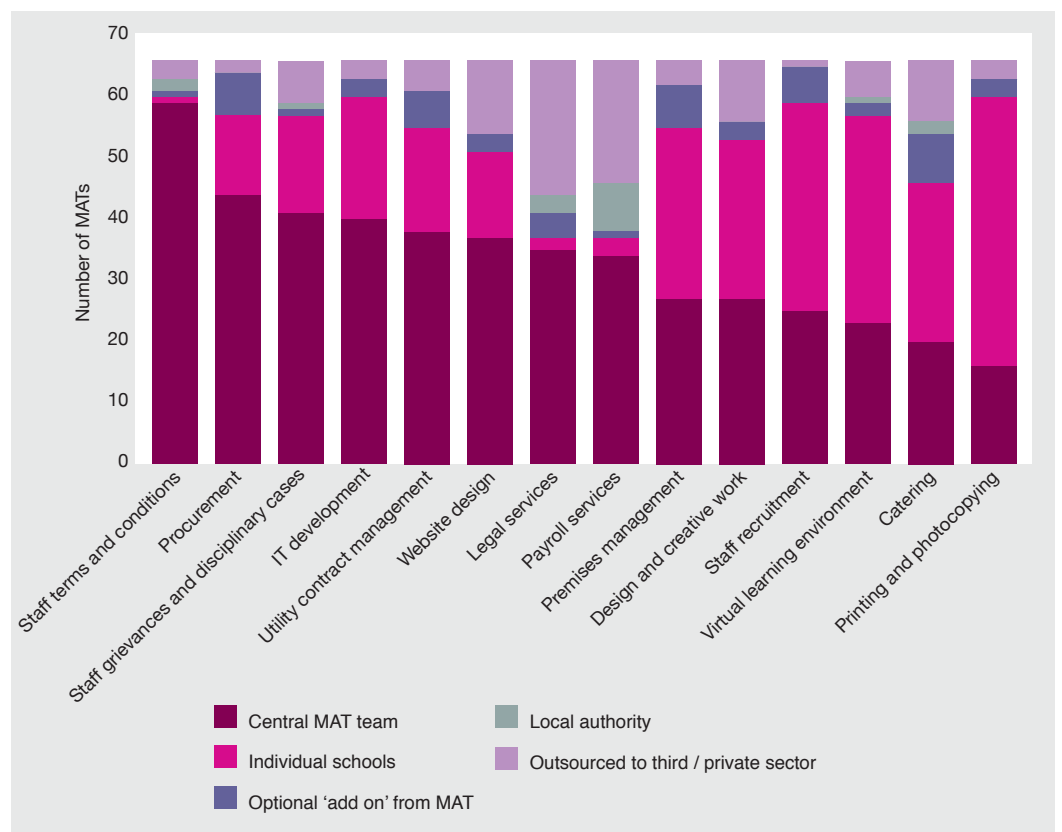
It is reasonable to ask whether those chains that deliver more services centrally charge their academies a higher top-slice. However, there is no apparent relationship between the number of services delivered by the central team and the size of the top-slice.

On average, academy chains charge 4.5 per cent for primary and 4 per cent for secondary schools (see Figure 3). However, a small number of chains reported charging no top-slice (6 chains; 9 per cent). Contrary to what might be expected, these chains are not run by

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57   Some chains prefer 'fee' or 'charge', but the authors have retained the colloquial term top-slice as it implies that the individual academy's funding is managed by the chain.

dioceses, nor do they run studio schools or university technology colleges. They are all, however, small chains with respect to school numbers (between two and four academies).

Figure 3: The range of academy chain top-slicing amounts

Q11. (a)-(b) Consider your primary/secondary schools. On average, what percentage of revenue does the central MAT team hold back or top-slice from the General Annual Grant of these schools?
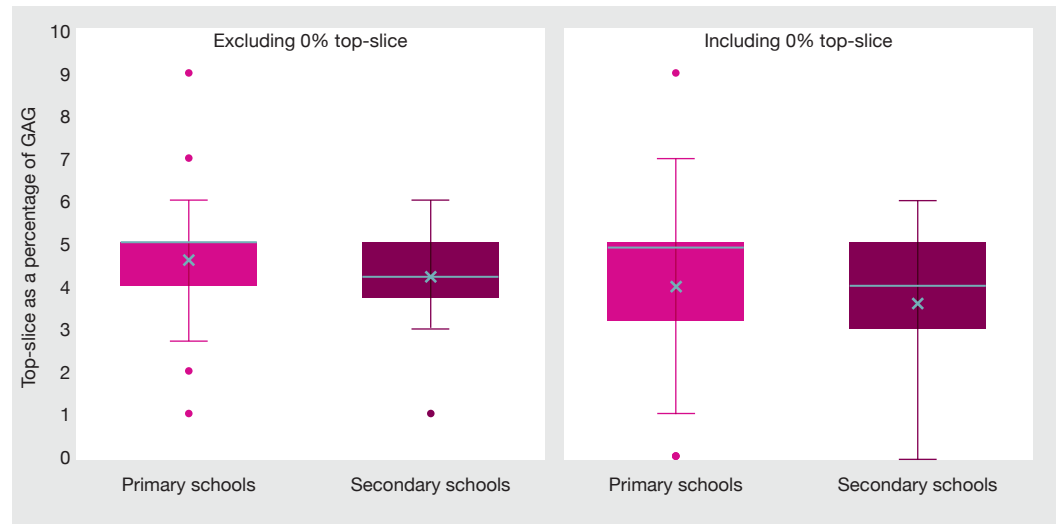
The level of financial control the central team has may impact the number of functions delivered centrally. It is reasonable to hypothesise that academy chains with more financial autonomy are better placed to invest in central operations, and ultimately better able to drive efficiencies across the chain. For example, a chain that varies the top-slice across different academies may, in the short term, be able to give more support to a school in need and reduce support to a school that is doing well.

However, the majority of survey respondents (52 chains; 80 per cent) indicated that they do not vary their top-slice across different academies,[58] suggesting that this flexibility is currently under-utilised. The most popular reason for varying the top-slice among the remaining 14 academy chains was the support required by the school, with the majority charging more for academies that are struggling. One chain reported charging 0.5 per cent less as a fee for a PFI school; another reported charging less for those academies that joined the trust first.

Another way to more flexibly direct funding and resources across the academy chain is by pooling all of the academies' GAG funding. GAG pooling requires agreement from the EFA and means that chains can distribute their funding to academies in the way they see fit. The survey responses indicate this practice is not commonplace: 53 (80 per cent) said they do not pool GAG funding. However, of those who said they do not, 17 (30 per cent) indicated that they would like to. The most common reasons cited for not yet pooling GAG funding were resistance from the headteachers and governors of the academies losing out.

2.1.2 Size

As organisations become bigger, their purchasing power increases. As academy chains grow, so too should their ability to benefit from economies of scale and lower overall operating costs. It is difficult, however, to accurately assess the extent to which chains are currently achieving economies of scale. This is in part because school and academy

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58   This excludes variation between primary and secondary top-slices. Most academy chains surveyed vary the top-slice amount for different phases of school.

funding for similar pupils in different LA areas will vary significantly, in absence of a national funding formula.

Instead, we can examine how much the central team in a chain delivers (as a proxy for a reduced unit cost) relative to its size. The survey results suggest that, contrary to what may be thought, larger academy chains deliver slightly fewer services than smaller chains when outliers are removed (see Figure 4).[59] This is a somewhat surprising finding. In research for this report, academy chain chief executives have explained that the chain leadership can take different approaches to their academies, often offering more support to individual academies that are struggling (such as sponsored academies) than academies that come from a position of strength.

Figure 4: The number of functions delivered centrally by size of academy chain
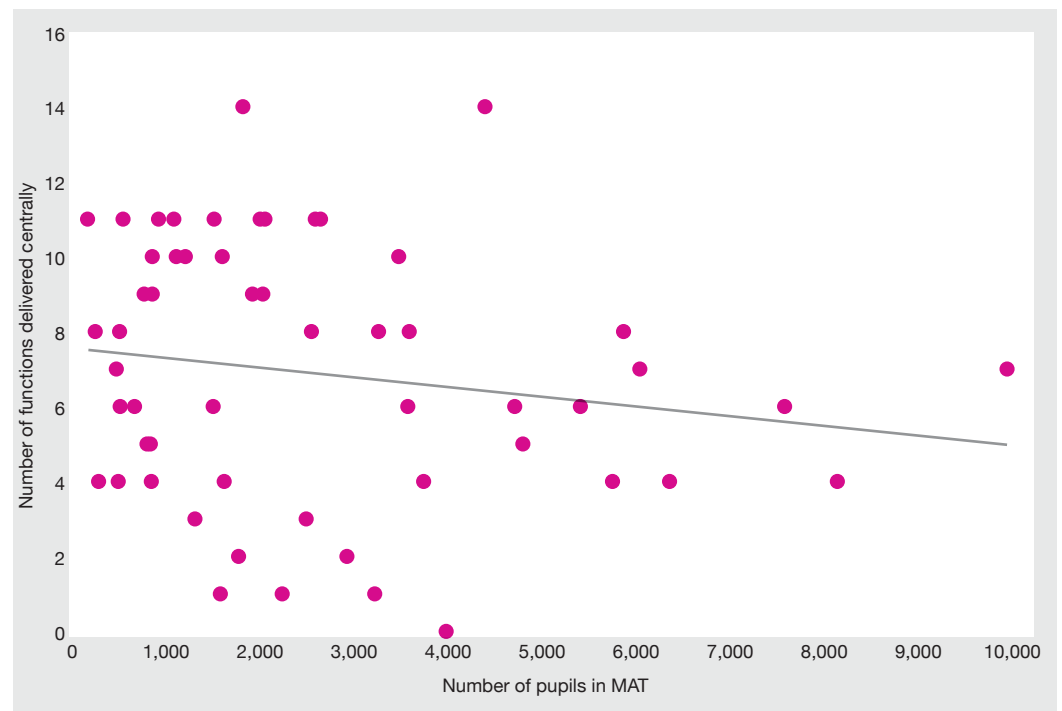
Note: Chains with pupil sizes larger than 10,000 have been excluded from this graph as they are statistical outliers.

At present the majority of academy chains are relatively small: over 80 per cent of chains have between two and five academies, and over 90 per cent have 4,000 pupils or fewer.[60] This is significantly smaller than the average LA, which has 110 primary schools and 29,673 primary pupils, and 22 secondary schools and 20,952 secondary pupils.[61] One respondent said of economies of scale in the survey: "This is a myth. You can't replace 150 LAs with 1,500 MATs and claim economies of scale." This suggests that chains have not yet reached a size where they are able to benefit from the level of purchasing power available to local authorities, and thus that expansion should be encouraged if greater economies of scale are to be achieved.

Moreover, the survey results indicate that the majority of chain chief executives do not think they have grown large enough to begin reducing average costs across the chain. Most respondents suggested that in order to start benefitting from economies of scale, an academy chain must have between eight and 20 academies and between 2,500 and 7,500 pupils, with a mean response of 12 academies and around 5,000 pupils. This is more than double the number of pupils (2,068) and nearly three-times larger than the number of academies (5) in the average academy chain.

59   This is not statistically significant.
60   *Reform* calculations; Department for Education, *Open Academies and Academy Projects in Development*, 2016.
61   Department for Education, *Local Authority and Regional Tables*, 2016.

Figure 5: Chief executives' view of economies of scale by size of academy chain
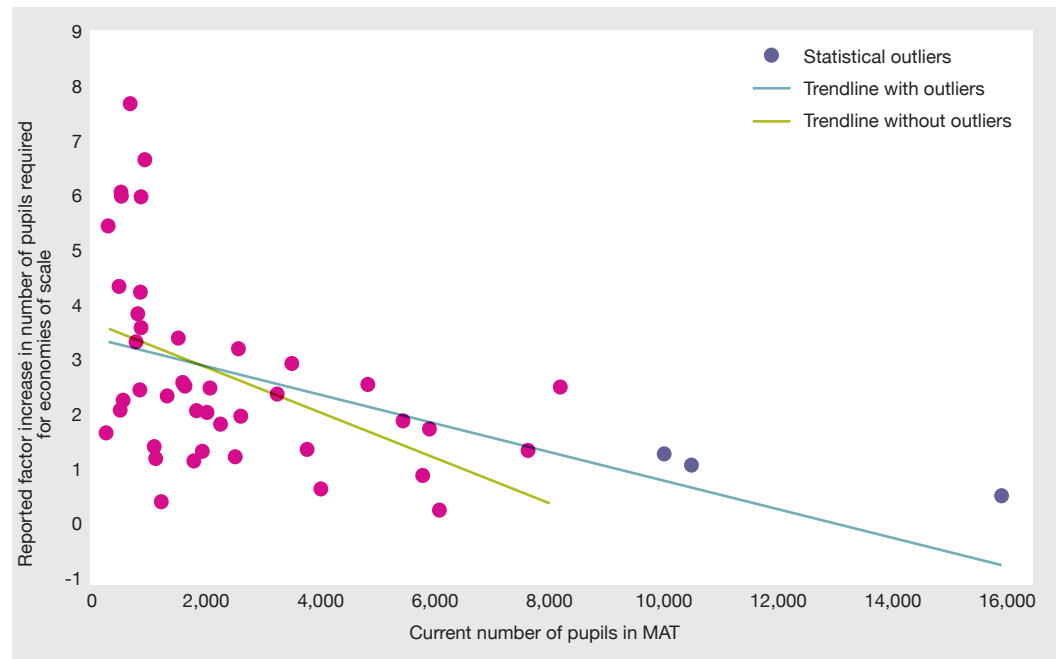

Larger academy chains estimated that they needed to grow by a smaller amount to achieve economies of scale, and some indicated that they were already large enough. This suggests that academy chains do lower their operating costs as they expand, but highlights that the majority currently feel insufficiently developed to do so.

2.1.3 Geographical dispersion

The geographical dispersion of academies within the chain was also offered as a factor determining the extent to which economies of scale can be achieved. Roundtable attendees suggested that having groups or 'clusters' of academies is more efficient because it becomes possible to streamline regional management and make use of staff in multiple academies more easily. The frequency with which staff work between different schools, and the arrangements for them doing so, is likely to impact the efficiency of the chain. Our survey results indicate that most forms of deploying staff between schools are commonly offered 'sometimes', but that it is comparatively rare for staff to be frequently moved between schools for sickness or maternity/paternity leave (see Figure 6).

Figure 6: Likelihood to offer different types of staff deployment

Q23. How often do you offer the following forms of staff movement between schools in your MAT?
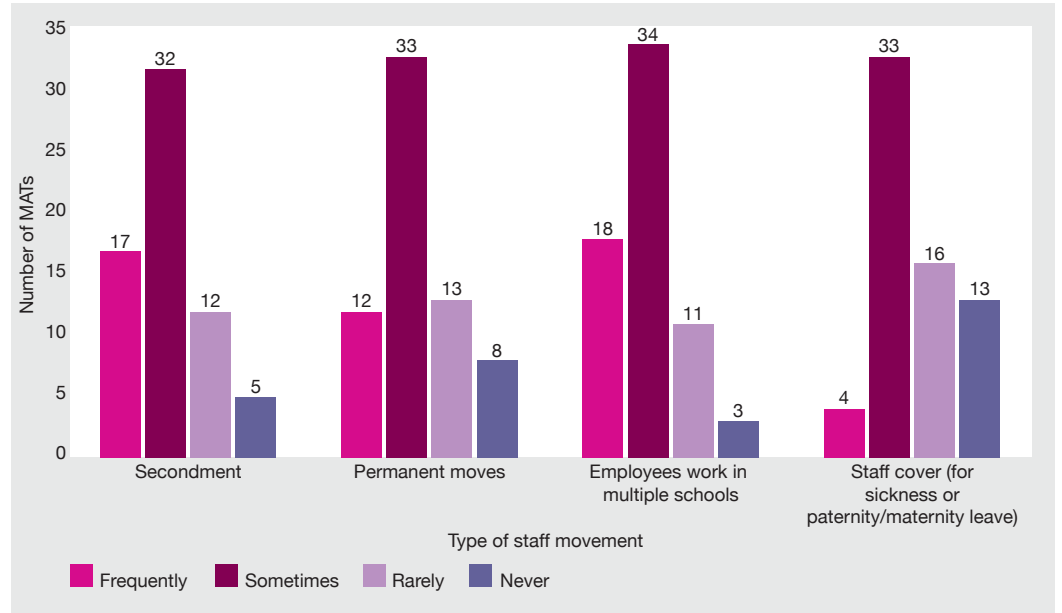
The relationship between closer geographical dispersion and more flexible staff deployment is also supported by our survey findings. As shown in Figure 7, the most geographically concentrated quartile of survey respondents are the most likely to flexibly utilise staff across different schools within the chain, whereas the least geographically concentrated quartile are the least likely to make use of such flexible working.
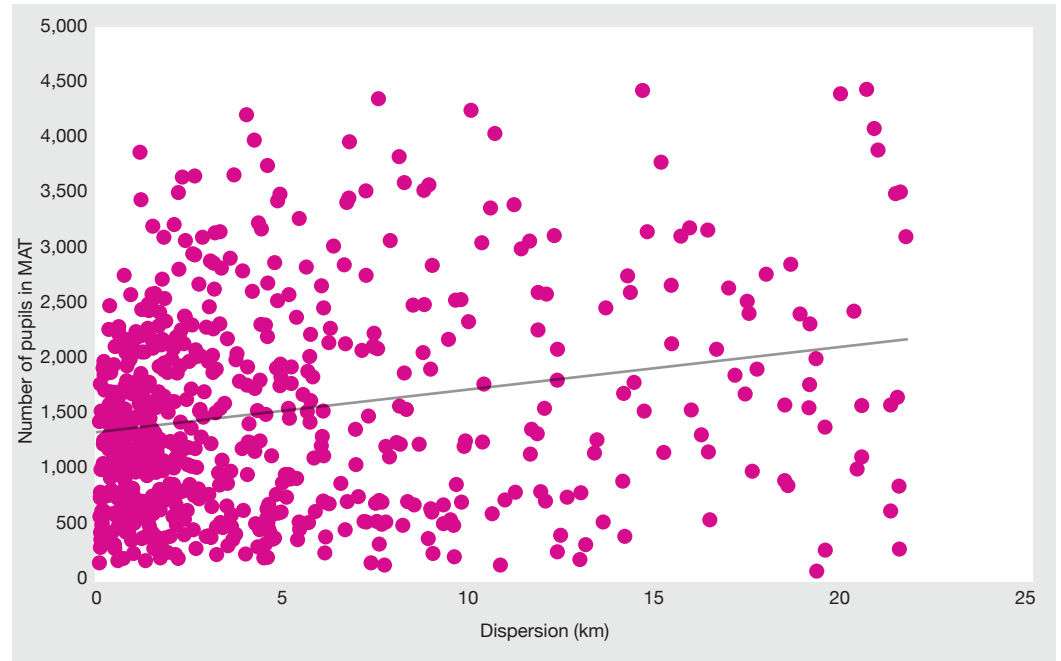
Figure 7: Relationship between geographical dispersion and staff deployment practices
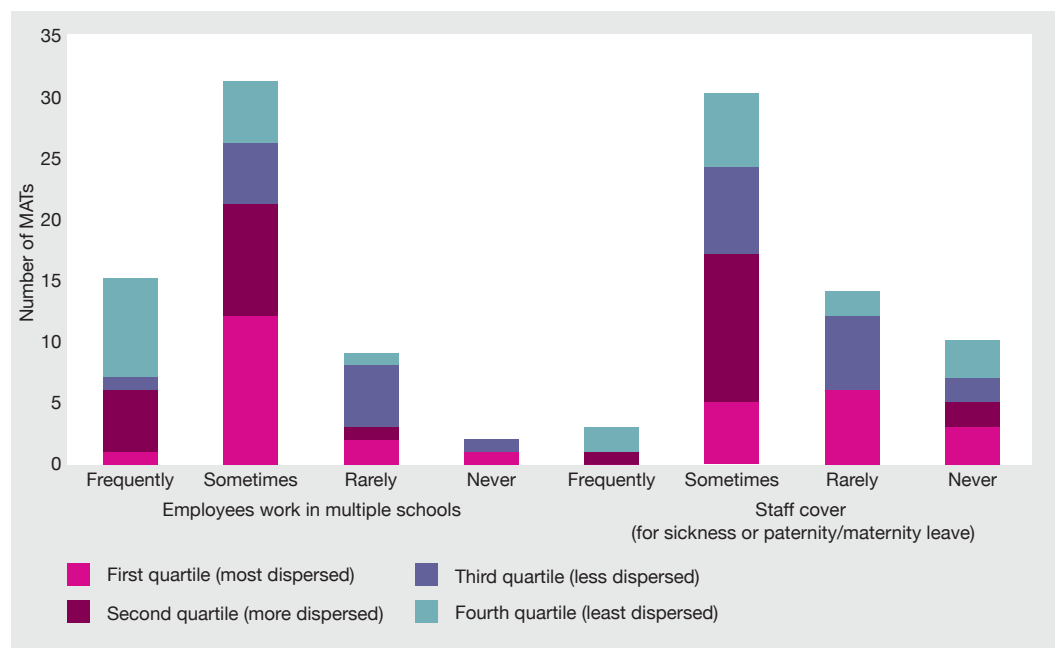
Note: Dispersion was assessed by calculating the average distance between each academy in the chain and the centre-point between all academies in the chain.

However, nationwide, bigger trusts are more likely to be more widely spread geographically, measured by the average distance between each academy and the centre point of the trust.

Figure 8: Relationship between pupil numbers and geographical dispersion (all trusts)

Note: Dispersion was assessed by calculating the average distance between each academy in the chain and the centre-point between all academies in the chain.

The larger trusts in the sample less commonly reported deploying staff across multiple academies and to cover for sick or parental leave. This suggests that the greater geographical spread associated with larger trusts can act as a barrier to flexible staff deployment. This underlines the importance geographical dispersion plays in optimising trust development, so large chains are able to benefit from the efficiencies flexible staff deployment can deliver.

2.2 Leadership and governance

2.2.1 With freedom comes responsibility

Conversion to academy status results in the acquisition of a number of additional responsibilities. Legal responsibility for the school moves from the LA (or other relevant body) to the academy trust. The trust becomes the employer, gaining responsibility for pensions, payroll, purchasing compliance, legal and financial liabilities, admissions and much more. It needs to ensure that agreements are made on all previous contracts and liabilities held by other parties, such as the LA.[62] During the conversion process, the trust will seek legal guidance to establish the initial arrangements, but the legal responsibility the trust holds once set up is still significantly greater than a maintained school.[63]

The acquisition of these responsibilities is reflected in the skills that the survey respondents valued most at different levels of governance. At the trustee level, which holds the greatest level of accountability after the Member, the most highly-prized set of skills was financial, accounting or legal experience (see Figure 9).

62   Department for Education, *Treatment of Surplus and Deficit Balances When Maintained Schools Become Academies*, 2015.
63   Department for Education, *Governance Handbook*, 2015.

Figure 9: Number of MATs rating below skills as one of the 3 most important

*19. (a)-(c) Consider your [MAT trustees. executive board, school governing bodies].
Please tick by the three skills or attributes you consider most important for the effective
functioning of that team. Please only tick three.*

Legend:
- Parents
- Teaching experience
- Knowledge of the education sector
- Commercial or business expertise
- Governance expertise
- Leadership experience
- Data handling
- Academic background
- Financial, accounting or legal experience

## 2.2.2 The hindrances of volunteerism

Given the increasing complexity of the role of governors through both academisation and
chain expansion, the need to recruit skilled governors is overwhelmingly apparent.[64] There
has been wide-spread lamentation across the sector of the inconsistency of governance
in both maintained schools and academies. However, this does not necessarily equate to
a lack of skills. It has been suggested that it is unrealistic to expect unpaid volunteers to
devote the amount of time required to effectively fulfil these extensive governance
responsibilities.[65] Our survey did not find a high level of dissatisfaction with the skills of the
trustees, executive board or school governors but one respondent noted that the issue
was about having the time to support and challenge, rather than the skills.

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64   See, for example, Chapter 3 in Department for Education, *Educational Excellence Everywhere*.
65   Grotberg and Robb, *Education in Chains*.

Figure 10: Satisfaction level of skills of Trustees

19. (d) How satisfied are you with the current skills mix of your Trustees, Executive Board and school governors? Please explain your answer.
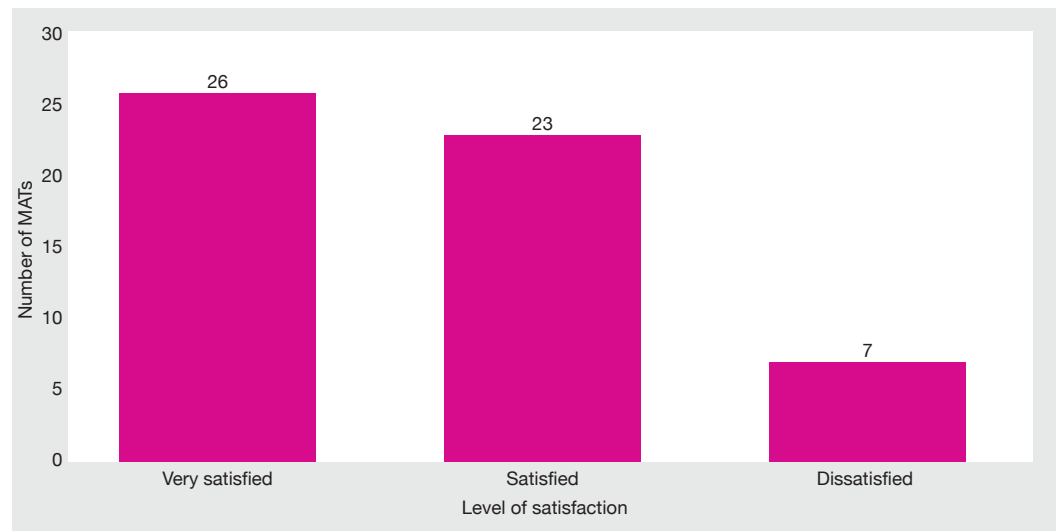
A survey of governors by the National Governors' Association (NGA) and *Times Educational Supplement* (TES) in 2015 found that 51 per cent of respondents were employed and 14 per cent were self-employed. Of those who were employed, 40 per cent did not receive their statutory additional leave allowance for governance duties.[66]

Maintaining the role of governance as a voluntary one may be limiting what we can expect of governors, as Gerard Kelly, former editor of the TES, has said.[67] The DfE does not currently provide for the payment of trustees in their model articles of association and trusts would need authorisation from the charity commission to do this. In maintained schools there is no provision to pay governors except in some cases of intervention.[68] However, there are paid roles at a trust level, such as the chief executive and accounting officers.

One implication of professionalising academy chain governance in this way is the phasing out of parent volunteers. Respondents to the survey considered the most valuable skills for the trustees and executive board to be financial accounting or legal experience, leadership experience and commercial or business expertise. Parents were among the least highly rated at these levels of governance. Indeed, the DfE has announced plans to remove the current requirement to have parent trustees.[69]

Figure 9 above shows that parental representation is more popular at local governing level than the trust-wide level. While the governing bodies may be merged or governors removed when an academy chain takes over a school, no respondents were specifically removing parent governors (see Figure 11). In our roundtable discussions, chief executives voiced the importance of parental engagement. Although it was recognised that representation as governors is not necessarily the best way to achieve this, the levels of political risk in not including parents on the governing body are high.

66   Ellie Howarth, 'The 2015 NGA/TES Survey of Governors and Trustees', *Governing Matters*, October 2015.
67   Gerard Kelly, 'It's Essential That Governors Are Paid for Their Work', *Schools Week*, 26 October 2015.
68   Department for Education, *Governance Handbook*.
69   Department for Education, *Educational Excellence Everywhere*; Department for Education, *Governance Handbook*.

Figure 11: Approaches taken to the governing body of a newly acquired school within a MAT

Q20. When taking over a school or academy what approach do you usually take to their governing body?
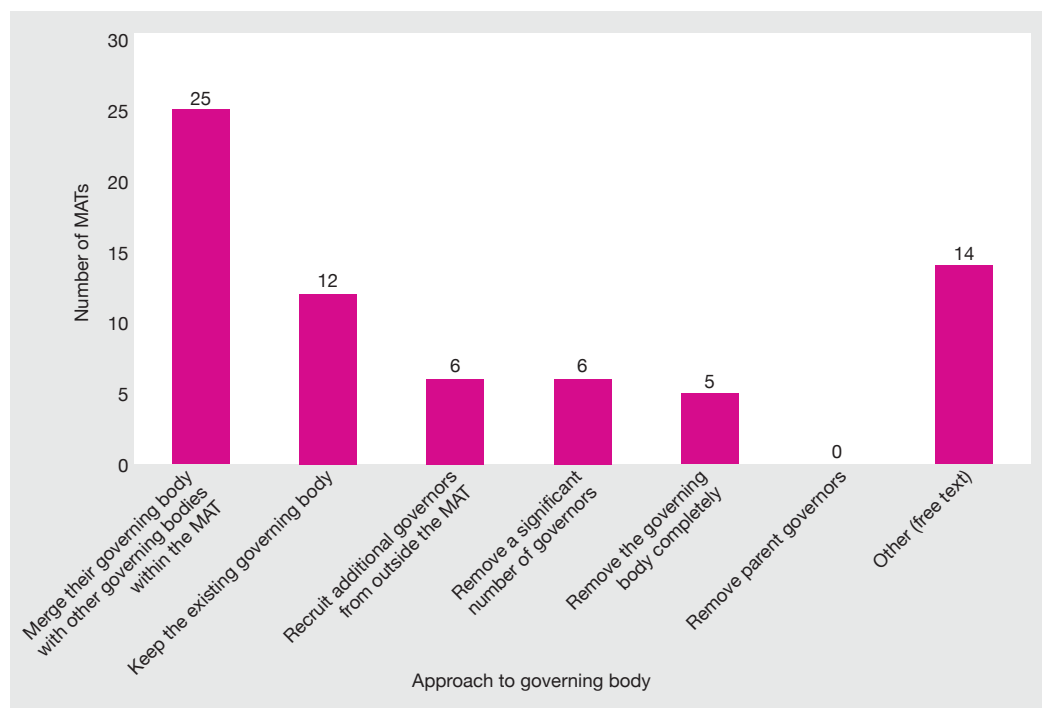
Some academy chains, such as Oasis Community Learning and E-ACT have established boards of local representatives, such as parents, staff and the wider community, who communicate their thoughts with the board but are not given governance responsibility.[70]

With the demand for such highly skilled governance, recruitment is a serious issue. The NGA and TES survey found that half of all respondents agreed it is difficult to recruit governors/trustees.[71] In its recent white paper, the DfE sets out its expectation that the expansion of academy chains will lessen the quantity of governors needed, as high-quality governing boards take over more and more academies.[72]

2.2.3 Mixed messages

As academy chains expand and require more complex models of governance and delegation, there is an increased risk of duplication or confusion between the role of the chief executive and local governance.[73] Members of local governing bodies may be unclear on their role when the school academises and governance responsibility moves to the members and trustees of the trust, especially if they are still being referred to as governors. There have been cases of academy chains experiencing resistance to change from local governing bodies, which the chain is under no obligation to devolve any power to.[74] The Chief Executive of the NGA says that the NGA frequently receives queries from members of local governing bodies of academies in chains that have misunderstood that decision-making power lies with the trust or that believed academisation was not going to substantially change their role.[75]

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70 Oasis Community Learning, *Scheme of Delegation* (OASIS, 2016); E-ACT, *E-ACT's New Governance Structure: An Overview* (One E-ACT, 2016).
71 Howarth, 'The 2015 NGA/TES Survey of Governors and Trustees'.
72 Department for Education, *Educational Excellence Everywhere*.
73 Department for Education, *Governance Handbook*.
74 Richard Vaughan, 'How Cutting up Credit Cards Saved a Scandal-Hit Chain', *Times Educational Supplement*, 29 July 2016.
75 Emma Knights, 'When It Comes to Local Governance, We Want to Have Our Cake and Eat It... but Perhaps We Can', *The NGA Blog*, 5 February 2016.

One chief executive at *Reform's* roundtable expressed concern about duplication by having local governing bodies and regional directors, but said that teachers were resistant to getting rid of local governing bodies. There was general agreement that when there are less than five academies in a chain, the most efficient structure is to have one governing body. Above this size, the governance structure becomes more complex and therefore a clear scheme of delegation is important.

Current Ofsted guidance is that inspectors should seek to meet with those responsible for the governance of the trust. The recent Ofsted handbook acknowledges that in some cases there "may be a local governing body that is wholly advisory, with no formal governance responsibilities", and that inspectors must ensure their meetings are with those "directly responsible for governance".[76] However, it does not say that chains should be judged unfavourably if they have decided not to have this level of governance.[77] Yet evidence from our roundtable suggests that experience on the ground is a different matter: chief executives felt that Ofsted did not understand how governance in an academy chain should work.

2.3 Barriers to inclusive expansion

In order to ensure national coverage of high-quality sponsors, the white paper sets out plans to encourage "sponsors to grow" by "increasing their incentives and minimising barriers".[78] The Government is right to tackle barriers to chain capacity. The support high-quality chains can offer new academies is likely to help them better utilise the autonomy associated with becoming an academy. As discussed, larger academy chains are also likely to be able to drive efficiencies by increasing their purchasing power.

The Government's drive to encourage academy chains to expand is partly explained by their ability to expand into multiple regions across the country, allowing "proven educational models to be scaled" and "the system's best leaders to run more than one school".[79] Results from the survey reveal a strong desire amongst chain chief executives for their chain to grow. In the short term (next two years) an overwhelming majority of chain CEOs (92 per cent; 61 chains) said they wanted to expand by taking on more academies. Only four chains surveyed (6 per cent) wanted to have the same number of academies in two years' time, and no chains wanted any fewer.

Expansion plans are ambitious: all but four want to expand by at least 50 per cent, and more than half want to over double in size (with some – even those of a comparatively large size already – planning for a four-fold expansion). Those chains already with 15 or more academies are slightly less ambitious, but are still, on average, planning to double in size.
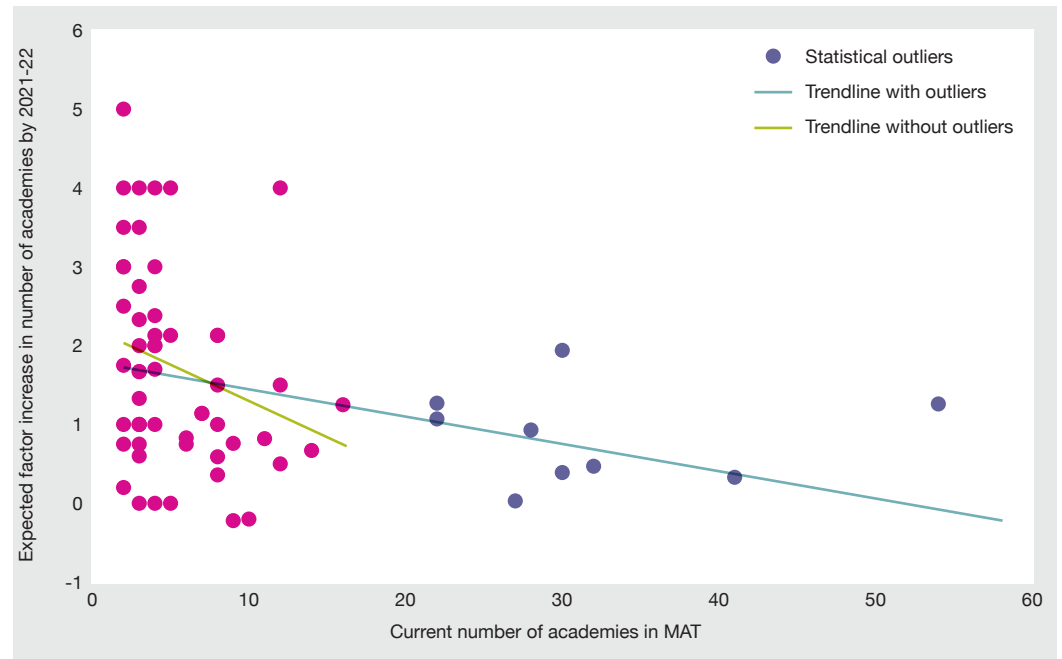
76   Department for Education, *School Inspection Handbook*, 2016, 16.
77   Department for Education, *School Inspection Handbook*.
78   Department for Education, *Educational Excellence Everywhere*, 83.
79   Ibid., 16.

Figure 12: Relationship between current chain size and their plans to expand by 2021-22


However, the survey results show that academy chains do not always look to expand when encouraged to do so: over one-third of respondents indicated that they have at some point refused to take on a new school when asked formally to do so by someone external from the chain, such as a Regional School Commissioner (RSC). This suggests that, at present, there are a number of barriers to chains developing in the way the Government intends.

2.3.1 Size, type and location

The survey results indicate that the location of the school can act as a barrier to chain expansion. Of respondents who claimed to have refused to take on a new school, the most common reason (50 per cent) cited for doing so was the location of the school.

Figure 13. Reasons for rejecting a school

Q18. (a) Have you ever declined to take on a new school when formally asked by someone external to the MAT, such as a Regional Schools Commissioner? 18. (b) If yes, what were the reasons? Tick all that apply
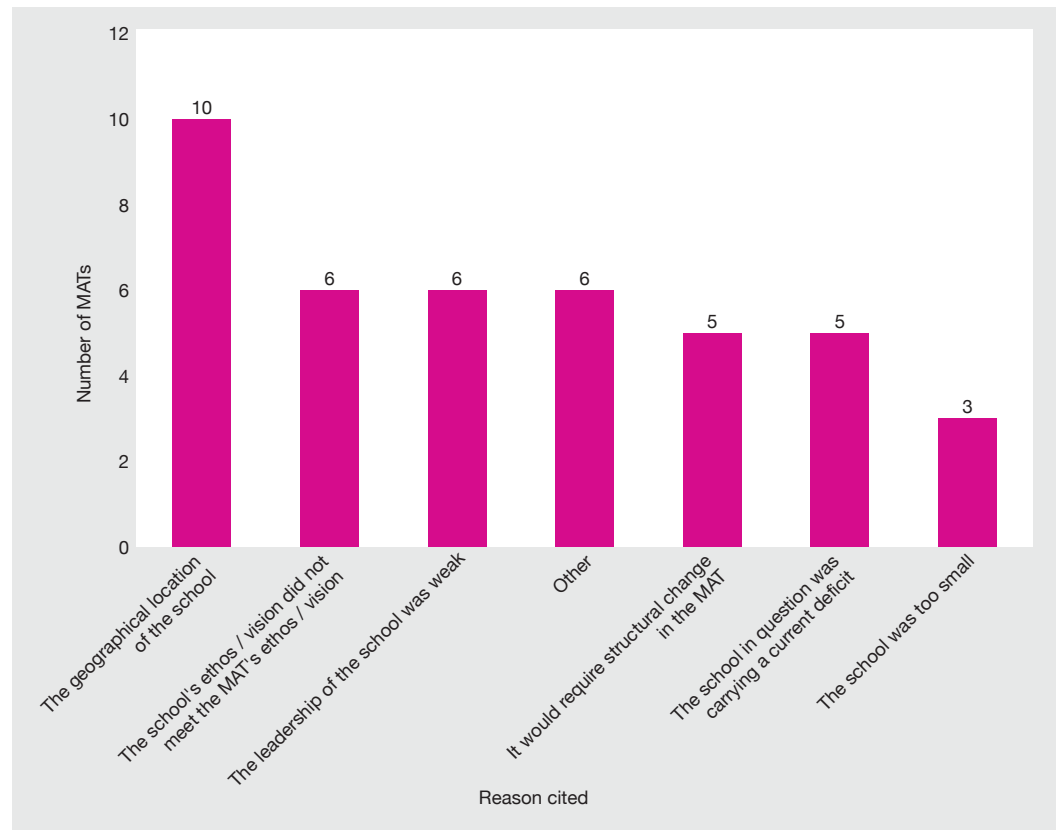
In the roundtable for this paper, chain chief executives and sector experts explained how geographical location can act as an expansion barrier, and also commonly described a reticence to take on primary and smaller schools – both of which attract lower levels of pupil funding. The reasons are described below.

Taking on schools that are a significant distance away from the other academies in the chain may require a costly management restructure of an academy chain. If, for example, a chain has clusters of academies with regional managers, taking on a school that falls outside of any of its existing catchments may require investment in new management. By contrast, responsibility for a new school that is nearby to others in the chain could be absorbed by existing management. Concerns have also been raised within the sector about the effect a wide geographical spread of academies within a chain has on school-to-school collaboration,[80] which may exacerbate reluctance to take on rural schools. The respondents who indicated that geography has been a barrier to expansion have on average nearly 10,000 pupils, whereas those who did not cite geography as a reason for not taking on a school have only around 4,500.

Leaders of academy chains are also less willing to take on smaller schools. This is because they are typically more expensive to run.[81] Though smaller schools will generally have lower overhead costs than larger schools, there are nevertheless base costs associated with running a school of any size. As the funding a school receives from government is determined by the number of pupils, such costs represent a proportionally

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80   House of Commons Education Select Committee, *Multi-Academy Trust Inquiry: Written Evidence Submitted by the National Governors' Association*, 2016.
81   Mark Bray, 'School Size and Unit Costs: International Evidence and Its Usefulness', *Research in Rural Education* 5, no. 1 (November 1988).

higher amount of the total school budget for schools with a low number of pupils.

The relative costliness of smaller schools helps to explain why primary schools are seen as less attractive expansion projects, as primary schools have, on average, nearly four times fewer pupils than secondary schools.[82] The average amount of funding per pupil is also lower for primary than for secondary school pupils (by an average of 27 per cent in the academic year 2014–15), compounding the relative expense of primary schools.

2.3.2 Financial problems

The survey also shows that chain leaders commonly prioritise financial stability. Nearly two-thirds of respondents indicated that they ranked getting more academies out of a deficit as "quite" or "very" important when asked to consider their short-term priorities. The chains surveyed are also, perhaps unsurprisingly, reluctant to take on schools in financial difficulties. Twenty-four chain CEOs indicated that they are aiming to take on schools with sound finances, whilst only five claimed to want to take on schools in financial difficulties.

Figure 14: Academy chain expansion plans

Q. 16. (c) If your MAT is aiming to run more academies within the next two years, what type of schools is it aiming to take on? Tick all that apply.
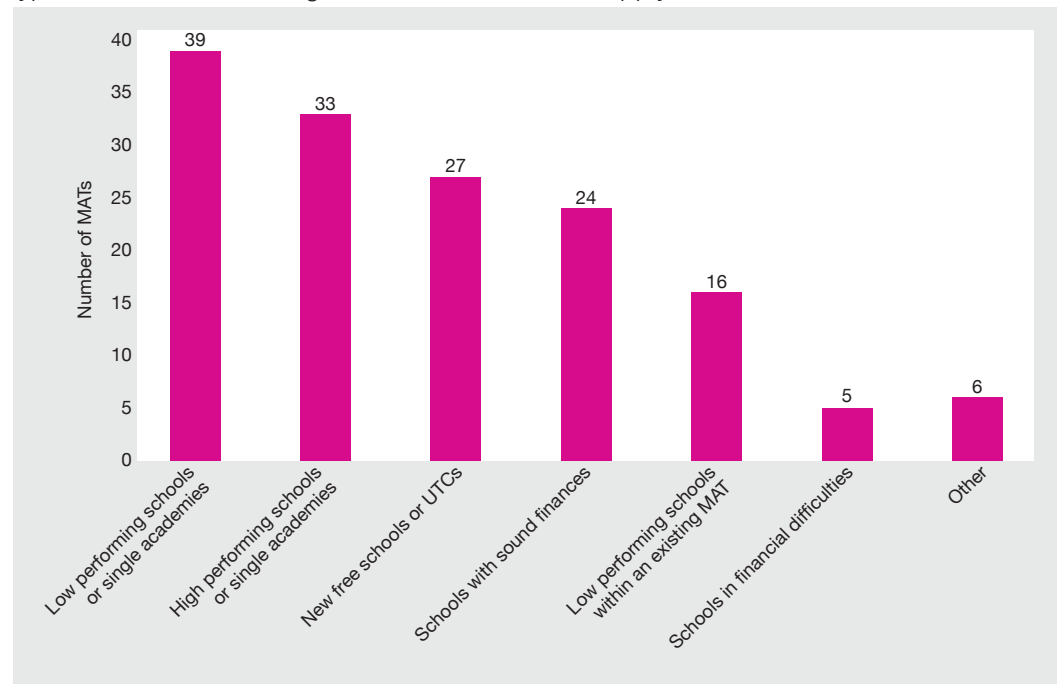
Two notable points emerged from academy chain chief executives and sector experts who provided further detail on the characteristics of financially unattractive schools and the barriers to expansion they can present.

Schools that have an existing private finance initiative (PFI) – a long-term loan from a private company used to finance capital development projects – were frequently described as financially unviable expansion projects. In research conducted for this paper, a regional schools commissioner (RSC) described schools with a PFI as "by far" the most difficult cases to find a sponsor for. This was echoed by chain chief executives, with multiple people suggesting a PFI would preclude a school from joining their chain. One chief executive reported that 18 per cent of the total budget for one of their schools is spent on PFI repayments, whilst another estimated the cost of paying just the interest on a PFI loan for a school they assessed as equivalent to the annual salary of a mathematics

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82   Department for Education, *Edubase.* 2016.

teacher. Though subsidies for PFI payments can form part of academies' non-pupil-related funding,[83] it was suggested that the EFA typically do not provide such support.

Even in cases when chains have agreed to add a school with a PFI to their chain, reports of this delaying the process of joining the chain are common.[84] Concerns from the PFI company regarding the transfer of responsibility for the loan from the LA to the academy chain are often the cause of such delays.

It was also suggested that maintained schools can be more attractive than stand-alone academies to chains looking to expand if the school has weak finances. This is because if a maintained school has a deficit when it converts to an academy and joins an academy chain, the deficit is typically absorbed by the local authority and thus does not damage the financial position of the chain. By contrast, a standalone academy holds full liability for its finances and it is sometimes expected that an incoming chain takes on the deficit of an academy.

2.3.3 School performance

As shown in Figure 14 survey respondents were most likely to indicate that they aim to take on more schools that are currently low performing, though almost as many (39 compared to 33) suggested they aim to take on high-performing schools.

The white paper sets out plans to introduce 30-month "improvement periods" for schools that are currently poorly performing, to help incentivise chains to take them on.[85] During the improvement period, Ofsted will not inspect the school, allowing time for the chain to improve performance. This might help to explain why academy chain leaders are seemingly unperturbed by the prospect of taking on poorly performing schools in the future. In research for this paper, chain chief executives also suggested that the greater scope to improve schools that start at a low base already means that Ofsted is more likely to look favourably on the performance of chains taking over poorly performing schools.

However, some also reported a reluctance to take on schools that are Ofsted-rated 'requires improvement' because such schools are challenging and are not as easy to deliver 'quick wins' as schools that are in special measures. They suggested this can cause a 'gaming' of the system whereby chains wait for a poorly performing school to drop into Ofsted's category 4 ('inadequate') from category 3 ('requires improvement') before bidding to take over the school. On takeover, the chain can make some easy gains to pull the school from category 4 to 3 because the Ofsted rating was a blip rather than a long-term problem with the school. The chain will have appeared to have made significant improvement in the school without the same effort invested in those schools that have been 'inadequate' for longer. It is difficult to verify this hypothesis from the data on Ofsted judgements and academy takeover. Further research should examine the extent to which chains game the accountability framework – both Ofsted judgements and league tables.

2.4 Chain accountability

It is crucial that academy chains are held to account for the performance of their academies. They must be able to demonstrate that pupils in their academies are making progress, particularly for those from disadvantaged backgrounds.

There are a number of different accountability mechanisms for academy chains:

> Performance tables – in July 2016, the DfE published the first performance

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83   Education Funding Agency, *Funding Allocation Pack: 2016 to 2017 Academic Year: A Guide for Mainstream Academies and Free Schools Open before 1 April 2016*, 2016.

84   For example, see Polly Curtis and Jeevan Vasagar, 'Schools Prevented from Becoming Academies by Bank Fears over PFI Deals', *The Guardian*, 16 September 2011; John Dickens, 'Toxic PFI Legacy Is Pushing Schools towards Financial Ruin', *Schools Week*, 4 December 2015; Browne Jacobson, 'Converting to Academy Status for PFI Schools', Webpage, (2016).

85   Department for Education, *Educational Excellence Everywhere*, 14.

tables[86] for academy chains with three or more academies. Chains were given a current 'value-added' score and an 'improvement in value-added' score for both KS2 and KS4, weighted to the number of pupils in each school it has had for a year or more.

> Ofsted – since 2014, Ofsted has conducted focussed 'batched' inspections of academy chains. When it is due to inspect several academies from the same chain in a year, these are grouped together, and publicly available data on other non-inspected academies is reviewed by the inspector. No Ofsted 'judgement' is made, but in most cases a letter to the academy chain and Secretary of State is published.[87]

> Education Funding Agency (EFA)– academy chains are required to publish their financial accounts each year. The EFA reviews the accounts and gives academy chains a notice to improve if there are concerns about financial controls.[88] In exceptional circumstances, the EFA can ask the RSC to hand some or all of a chain's academies to another.

> Schools Commissioner Group (SCG) – since September 2014, RSCs and NSCs have had powers delegated from the Secretary of State to rebroker academies from one chain to another if the above accountability systems highlight serious problems.

In addition to these, there are a range of other bodies that have statutory duties to uphold company and charity law relating to academies, such as the Charities Commission, Companies House. The Public Accounts Committee and National Audit Office help hold government to account for its spending on schools.

2.4.1 The reach of the Schools Commissioners Group

Reform's survey of academy chains suggests that, in finding new academy chains to both rebroker academies and convert 'good' and 'outstanding' maintained schools, the Schools Commissioners Group (SCG) is not always able to convince a chain that taking over the school is in the chain's or school's best interest. As Figure 15 shows, a majority (61 per cent) of chains had at some point declined to take on a new school when asked by the SCG.

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86 Department for Education, *Multi-Academy Trust Performance Measures: England, 2014 to 2015*, 2016.
87 Rt Hon Nicky Morgan MP, 'Letter to Her Majesty's Chief Inspector', 22 January 2016.
88 Education Funding Agency, 'EFA Investigation Publishing Policy', Webpage, (2016).

Figure 15: Chains' power to refuse

Q18. (a) Have you ever declined to take on a new school when formally asked by someone external to the MAT, such as a Regional Schools Commissioner?
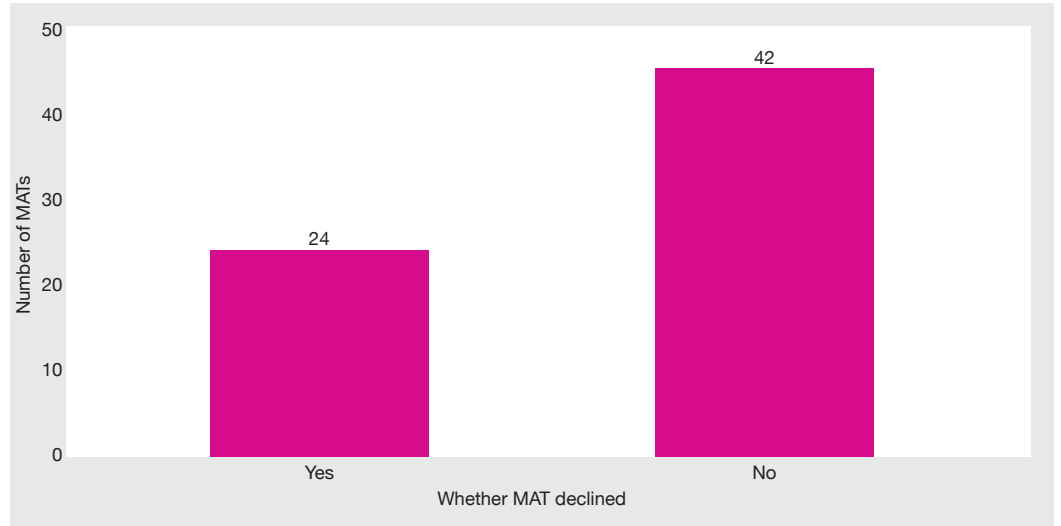
Nevertheless, the SCG holds more sway than most other groups of people, including other officials at the DfE. Figure 16 shows that chain chief executives frequently decline to take on new schools when asked by headteachers or governors of a school; they are much less likely to decline when asked by a RSC, NSC or Ofsted.

Figure 16: Sway over academy chain growth

Q.18(c) How often do you decline to take on a new school when asked by the following?
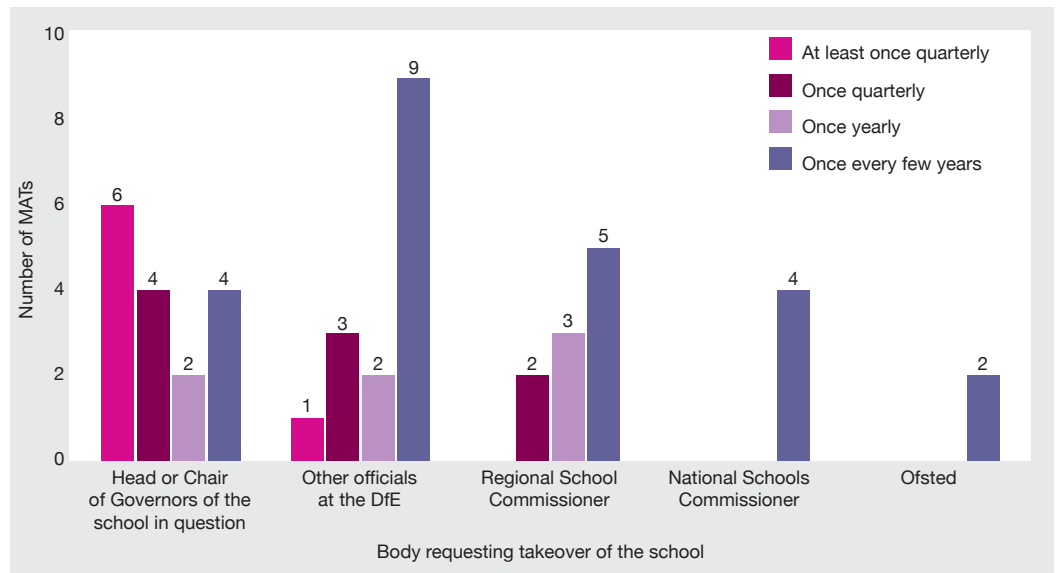
2.4.2 Reasons for rebrokerage

There is very little publicly available information on the conditions that must be met before rebrokerage is considered. Where guidance on this is provided, it is typically vague. For example, in a presentation to prospective academy sponsors, officials from the DfE's Academies Group and the East Midlands and Humber RSC Office outlined areas of concern which may lead to rebrokering. These include cases where: they "are not reassured that the existing trust has the capacity to bring about the necessary

improvements at the academy"; where they "have serious concerns about the financial performance and/or governance of a trust"; and "where we have had complaints or where the school is not actively promoting British values".[89]

It is likely that there are more concerns about academy performance than official data reveals. Figure 17 shows the number of academies that have forcibly or voluntarily moved between academy sponsors.[90] The data collected by the DfE distinguishes between academy moves that are "due to intervention" and those that are "not due to intervention". As can be seen, there has been a much higher percentage of moves in the last two years due to formal intervention.

Nevertheless, in an interview for this paper, a senior official from the DfE confirmed that all cases of academies moving sponsors (as shown in Figure 17) were a result of intervention. The chains whose academies moved "not due to intervention" simply did not receive formal warning notices, and voluntarily complied with the RSCs' desire for them to release an academy. While there are clear reasons for complying with the DfE before formal intervention processes start, it is suspect that such actions are presented as voluntary. This illustrates the high-stake scrutiny felt by both academy chains and the DfE.

Figure 17: Number of academies changing sponsor by year
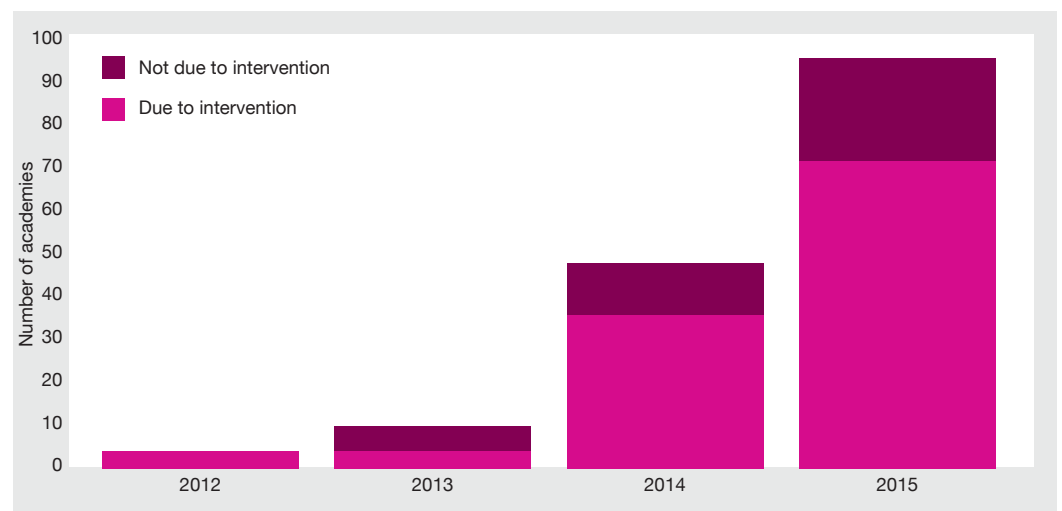
Source: Department for Education, Freedom of Information Disclosure, April 2016, 2016-0013791.

Note: The data for 2016 is incomplete, and so not included here.

In the absence of a measurable framework against which chains can be assessed, it is difficult to ensure academies are rebrokered consistently. This undermines the accountability of both RSCs and chain leaders. Without clear criteria for rebrokerage, it is difficult to assess whether RSCs are using the power as often as needed. Indeed, figures obtained via a parliamentary question reveal that in the last two years, 70 per cent of academies rated 'inadequate' by Ofsted have not been rebrokered, leading to suggestions that too little is being done to intervene in cases of poor performance.[91] Conversely, some survey respondents indicated they do not feel chains are always given sufficient "breathing space" to improve an academy's performance before external intervention occurs. A framework for measuring the performance of academy chains would also make it much easier to assess the performance of chain leaders, strengthening their accountability.

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89   Chris Senior and Debbie Usherwood, *Funding for Challenging Schools - Brokerage and Rebrokerage* (East Midlands and Humber New and Growing Sponsor Programme, 2016).
90   According to the figures, no academy has moved more than once.
91   John Dickens, 'DfE Fails to Rebroker 70 Per Cent of Failing Academies', *Schools Week*, 16 June 2016.

Nevertheless, analysis of previous rebrokerages cast some light on the areas of performance deemed sufficiently important to merit this intervention. Figure 18 gives an overview of some high-profile rebrokered academy chains. Themes from the key reasons for rebrokerage should part of a more formal framework going forwards.

Figure 18: High-profile rebrokerages

Chain name	Dates	Key reasons for rebrokerage	Intervention
AET	Between December 2014 and April 2015	> 40 per cent of primary and 47 per cent of secondary academies considered "less than good" by Ofsted > Attainment gap between most and least disadvantaged pupils 8 per cent higher than national average in attainment at level 4 reading, writing and mathematics > Weak management	> Eight academies rebrokered > Resignation of chief executive > Trust precluded from expansion
E-ACT	Between May 2014 and April 2015	> 38 per cent of academies deemed inadequate by Ofsted > In eight of the 11 secondary academies for which KS4 data is available, the percentage of disadvantaged pupils making expected progress in mathematics was below the national expected figure > Weak management	> Ten academies rebrokered > Resignation of director-general > Resignation of two board members
Perry Beeches	In progress	> Academy financial rules broken by related-party transactions, including CEO being paid salary by third-party supplier. > Academy financial rules broken by trust failing to retain FSM eligibility evidence for a period of six years.	> Five academies and free academies to be rebrokered > Resignation of chief executive > Resignation of executive head > Trust precluded from expansion
Lilac Sky	In progress	> Headline KS2 results fell by 20 per cent below the national average. > KS2 and KS4 progress below national average for two consecutive years.	> Nine primary academies rebrokered > Trust is closing

Sources: Sean Coughlan, 'England's Largest Academy Chain 'Failing Too Many Pupils," *BBC News,* **February 4, 2016; Department for Education,** *Freedom of Information Disclosure,* **2016, 2016-0034749; Education Funding Agency,** *Review of Financial Administration and Governance at E-ACT: Final Report,* **2013; Wilshaw, Sir Michael, 'Focused Inspections of Academies in Multi-Academy Trusts', 10 March 2016.**

2.4.3 Criteria for takeover and expanding sponsors

When performance of a standalone academy or chain is deemed sufficiently poor, RSCs are tasked with "identifying a new sponsor to take on responsibility for the academy where this is necessary."[92] The process of assigning an academy to a new chain sits entirely with the RSC, although their decisions will be informed by an advisory headteacher board. However, there is no publicly available specification for incoming academy chains that wish to take over rebrokered academies.

The National Schools Commissioner (NSC) has taken steps to address the currently opaque identification of academy chains ready to expand. As part of a broader package of support for chains, the DfE is developing a framework for 'growth readiness', based on a MAT's current systems, processes and educational performance. In research for this paper, the DfE provided *Reform* with a tentative growth framework for MATs, including evidence of:

> A track record of school improvement

> Financial sustainability

> Risk management

> Strong governance

> Good people and leadership

The DfE will be running pilots over the next year to test this with MATs. The continued development of the framework, alongside new performance measures for MATs[93] will provide important information for RSCs when making decisions about chain growth and rebrokerage. Setting criteria for identifying poor performance in chains will also be crucial for effective commissioning and public trust in the academy chain system.

2.5 Survey summary

This Chapter has presented the first quantitative analysis of what academy chains do, including the extent to which operational functions are centralised. There is a mixed model of delegation across all functions, but some responsibilities are more commonly centralised than others, and the local authority retains an important role in some administrative functions. Given the richness of this data, it should be possible to link such results to future performance data on academy chains.

This Chapter also highlights a number of problems with the existing policy framework for academy chains. The first is the clear disparity between the current size of academy chains and the expectation of the size needed to achieve expected economies of scale in the chain. The survey shows that both larger and more geographically condensed chains are more likely to make use of flexible staff deployment, suggesting there are productivity gains to be achieved in some chain models.

The second concern is the clear discontentment among chief executives with the skills of their governing bodies. This brings into question why so many chains retain a school's existing governing body when it takes over the school. Third, current policy is not encouraging academy chains to take on schools in financial difficulties or in different geographies. This is problematic for a sustainable and inclusive expansion of academy chains.

The survey shows that some chief executives are in frequent communication with the EFA and RSCs, and a significant minority has declined to take on new schools when asked. A wider literature review has nonetheless found no clear criteria for a chain being asked to

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92   Department for Education, *Regional Schools Commissioners Decision Making Framework*, 2016, 7.
93   The DfE expects these to be published alongside performance tables for schools in January 2017.

take on more schools or having academies removed. The transparency of the commissioning process is in itself a concern, but significant still are the unintended consequences of risk aversion in a private, opaque and impartial commissioning process.

The next chapter provides more detail on these problems and proposes a number of recommendations to solve them.

3
Academy chains unlocked

The results of *Reform*'s survey of academy chain chief executives highlight a number of weaknesses in the Government's approach to the academies programme. As Chapter 2 showed, current policy does not effectively help weak schools access high-quality academy sponsors, nor does it encourage strong sponsors to build financial resilience and develop professional governance structures.

Further expanding the academies programme to all schools without first addressing these weaknesses poses risk. As Chapter 1 highlighted, evidence of the post-2010 converter academies programme is only just emerging and, if initial research is correct, the impact on pupil outcomes is either small or non-existent. This should give policymakers reason to pause for thought.

Nevertheless, the Government has been unequivocal in its desire for all schools to become academies. One reason is that the mixed model of maintained schools and academy chains is difficult to sustain, as divestment in the LA model of school improvement has significantly reduced resources. However, this divestment has not been balanced by intelligent investment in the alternative academy chain model which, the Government believes, offers a better mechanism for school improvement.

This Chapter proposes a new system of funding, commissioning and oversight for academies to help the emerging middle tier of academy chains mature. The recommendations focus on improving the policy framework for academies, irrespective of whether more or all schools become academies. The proposals are intended to strengthen the academy chain in relation to headteachers, improve the matching of academies to chains, encourage inclusive growth and develop professional support for sponsors.

3.1   A stronger academy chain

"Make GAG pooling easier, provide more funding, enable growth."

As Chapter 2 showed, many chain chief executives consider it their role to address variations in pupil outcomes across academies in their chain, particularly by raising the performance of their weakest academies. *Reform*'s survey found that reducing attainment disparity across the chain was the most important short-term priority for chief executives, shortly followed by getting more schools out of 'special measures' or 'requires improvement' Ofsted categories.

There are a number of different levers available to the leadership of an academy chain to exercise this power. The chief executive, with agreement from their trustees, may wish to redirect funds from high performing academies to support weak ones, or to help an academy in financial difficulty. This may be especially the case if the chain has academies in different local authorities, as the absence of a national funding formula (NFF) means similar schools and academies get vastly different amounts of money.[94] Equally, the academy chain may wish to change how it manages its academies, such as introducing unannounced inspections or modernising its governance structure.

These powers over academy financing and governance are already permitted under current policy, and some chief executives make use of them. As Chapter 2 highlighted, just under half (46 per cent) of academy chains responding to *Reform*'s survey said they had either already pooled funding from their academies' GAG (20 per cent), or wanted to do so (26 per cent). Other systems of flexible finance include a pooled academy improvement fund and academy-to-academy loans.

Nonetheless, the policy framework for academy chains is not supportive of those chief executives that are risk averse, or work with headteachers resistant to change. One reason is that, while the *Academies financial handbook 2016* permits the pooling of GAG funding, the chain is required to have an appeals mechanism in place for its headteachers.[95] As a last resort, the headteacher may appeal to the Secretary of State for reconsideration of the

94   See page 35, Department for Education, *Academies Financial Handbook 2016*, 2016.
95   Ibid., 34.

trust's decision. It is not known how many, if any, such appeals have been made. However, it is clear from interviews for this paper that the mere existence of the appeals process means that some chief executives are uneasy about redistributing funding to address attainment disparities in their chain.

It is also possible that having the choice over whether to pool GAG funding puts the chief executive in a weak position with respect to headteachers. The current norm is for academies to pay into the chain through a 'top-slice'.[96] However, interviews for this paper suggest this creates a system in which the headteacher views the academy as a client buying into the chain service rather than as a branch of the chain.

This tension between headteachers and chain leadership was the subject of a recent *TES* interview with the new Chief Executive of E-ACT, David Moran. Commenting on how he and E-ACT's trustees had approached transforming the academy chain when a third of its academies were in special measures and ten of its academies were passed to other trusts, he was reported to say: "[s]uddenly I came along and said, 'We now have a school improvement strategy, we're a school improvement organisation. We don't sell services to you – we are you and you are us'. A lot of principals didn't like that."[97] This is evidence of the difficulty of changing the culture within academy chains and the strength of leadership required to do so.

Funding all academies through chains, rather than chains through academies, would turn this power struggle on its head. The academy chain would more formally be regarded as the employer of all staff in the school, as it already legally is. It would send a clear signal that the chain is responsible for academy financing, and holds ultimate responsibility and accountability for the performance of each individual academy. The benefit would be a more efficient allocation of resources across academies within chains, as those chief executives currently inhibited from using financial powers would have explicit and unequivocal authority from government.

This proposal would not be consistent with the existing requirement on trusts to establish an appeals process for headteachers wishing to dispute their individual academy's settlement. To support chief executives needing encouragement to establish their own chain funding formula, this requirement must be removed.

The absence of an NFF for academies makes greater flexibility over funding academies particularly important, as chains spanning more than one LA currently have to address large inequities in funding, even when their academies have similar pupil characteristics. Nevertheless, delegating academy budgets to chains without implementing an NFF is not a long-term solution, as it would maintain the current funding inconsistencies and could lead to the best chains cherry-picking academies in well-funded areas. Thus, while government should delegate academy funding to chains immediately, it should nevertheless implement the NFF as soon as possible and base chain funding on NFF allocations.

To delegate academy budgets to chains, the GAG currently given to individual academies would instead be given to academy chains, regardless of their size or track record of performance. It would be a decision for the chain as to how individual academies are funded. The trustees may wish to maintain the existing deal it holds with academies – for example, to hold back a certain percentage from all pupil funding for all its academies. This 'status quo' option would act as a safety net for those chain boards wishing to maintain the amount they currently charge academies for their services.

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96   Also referred to as 'hold back' and 'partnership fee'.
97   Vaughan, 'How Cutting up Credit Cards Saved a Scandal-Hit Chain'.

Right to maintain the status quo

Chain A currently charges all its academies a top-slice of 5 per cent of GAG funding. In a system where chains are funded directly, the chain may decide to allocate its academies different per pupil amounts – that is, to introduce its own chain per pupil formula. The status quo option would be for Chain A to distribute 95 per cent of per pupil funding to each of its academies, thus retaining 5 per cent for its central operations.

It is not expected that the status quo option would require additional capacity or skills in the academy chain, nor create additional bureaucracy. The chain need only know how much it is receiving from the EFA for which academies, and calculate a percentage of that to allocate to each academy.

As highlighted in Section 2.4 there have been several high-profile cases of financial impropriety in both academy chains and LAs.[98] However, it is not expected that devolving the academy budget to chains would lend itself to any further mismanagement than the current system. Under the proposed reform, it is just as conceivable that chains will hold less money than they will hold more money from academies, as top-slices may still be calculated as a proportion of GAG funding. Chains will still be required to submit annual accounts and obtain independent financial audits.

Recommendation 1

All revenue funding for academies should be delegated to academy chains before being distributed by the chain to its academies. The academy chain should take responsibility for funding its academies and agreeing how much each academy should receive. The delegation of academy budgets to chains should be irrespective of the chain's size or performance. The DfE's funding allocation to the academy chain must be based on a NFF for pupils to ensure each chain's settlement is fair. As the implementation of the NFF has been delayed until 2018-19, the delegation of academy funding to chains should start immediately to allow chains to more easily address inconsistent funding across academies in different local authorities.

Recommendation 2

The DfE should amend the *Academies Financial Handbook* to remove the requirement on trusts to have an appeals mechanism in place for headteachers that wish to dispute how the chain distributes its funding.

3.2   A beefed-up commissioning body

The proposal to transfer all academy revenue funding to academy chains must be accompanied by strong and effective commissioning and decommissioning of academy sponsors. While the schools inspectorate, Ofsted, and performance tables help hold schools to account, it is clear that those funding and managing contracts with trusts have an important role to play in the accountability system for academy chains.

In the context of schools policy, the commissioning process includes:

> an assessment of educational need, such as percentage of pupils below expected levels of reading;

> the identification of an academy sponsor to address that need;

> the establishment of a contract with the sponsor;

> the continual evaluation of the sponsor's performance;

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98   Audit Commission, *Protecting the Public Purse 2014: Fighting Fraud against Local Government*, 2014.

> termination of the contract where necessary, particularly in cases of underperformance, such as poor pupil progress ('decommissioning').

The commissioning of academies is undertaken by two separate bodies: the EFA, which is an executive agency of the DfE responsible for funding schools,[99] and the SCG, which is part of the DfE responsible for matching schools to academy sponsors.[100] Ofsted, the independent regulator, has a role in advising the EFA and SCG on the decommissioning of academies (through batched inspections), but is not formally involved in finding new sponsors or establishing new contracts. Figure 19 outlines the responsibility of each commissioning body, its staff costs and workforce numbers.

Figure 19: The school commissioning bodies, 2015-16

	Staff (full-time equivalent)	Administration costs	Responsibilities
Education Funding Agency	851	£49.6m (staffing only)	> Agree funding agreements > Allocate funding > Oversee compliance > Receive academy accounts > Support capital projects
School Commissioners Group	64-80	£5.3m	> Challenge underperformance > Build strong sponsors > Open high-quality new provision > Facilitate collaboration

Sources: Department for Education, *Education Funding Agency: Annual Accounts, 2014-15*; Department for Education, 'Regional Schools Commissioners: Regional Vision Statements', Webpage, (2016); Lord John Nash, 'Regional Schools Commissioners: Answer to Written Question' (HL5859, 3 February 2016).

Notes: *These are the four categories of responsibility used in each of the eight RSCs' vision statements.

The sections below outline three problems with the current system for commissioning academies. The first is no clear distinction between the funding and regulation of academies, which has enabled the Government to pursue its interest in fast expansion of the academies programme, without enough regard to pupil outcomes. This paper suggests instead an independent body to commission academies. The second is a lack of capacity in the current commissioning bodies. The paper suggests a merged commissioning body to encourage joint-working and the maximisation of existing expertise. The third is lack of clarity on expected educational standards when commissioning. The paper suggests that every funding agreement includes an element on expected outcomes for the chain as a whole.

3.2.1 Prevent commissioning cronyism

Both the EFA and SCG have considerable power in deciding which trusts own which academies. While there are formal procedures for exerting this power, and the SCG in particular has committed itself to greater transparency,[101] both agencies are part of the Government and therefore partial. Below presents anecdotal evidence of past commissioning decisions that have led to school and chain failure.

In an interview with *TES,* the chief executive of E-ACT, David Moran, was reported to say that, in the early stages of the Coalition Government, the DfE was still turning to E-ACT to

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99   It is managerially and budgetarily separate from the DfE but carries out some of its executive functions.
100 House of Commons Education Select Committee, *The Role of Regional Schools Commissioners, First Report of Session 2015-16*, HC 401 (London: Stationery Office, 2016).
101 Ibid.

take on more schools, even when failings in the chain's financial management were obvious: "[w]e are talking about a previous administration that didn't have a focus on inputs and outcomes, but merely had a focus on converting a certain amount of schools."[102] In an interview for this paper, the chief executive of AET similarly attributed past failure in some of the chain's academies, in part, due to rapid expansion, which foreshadowed the development of their trust's infrastructure and was encouraged by the DfE.

While these examples of chain failure predate the creation of RSCs, there is nothing in the new commissioning structure that prevents unwarranted favouritism of some trusts over others. As discussed in 2.4.3 it is difficult to identify this practice without clearer, evidence-based criteria for successful and failing chains. However, in interviews for this paper, some chief executives felt disengaged from the commissioning process, while others considered themselves to be "in the loop". There are ongoing efforts to address this, such as the DfE's development of MAT performance tables, which will help to make the commissioning process less subjective. However, because academy chains are a relatively new phenomenon, some commissioning decisions will be based on processes rather than pupil outcomes. The development of a system to assess the 'growth readiness' of chains, as discussed in Section 2.4, is a welcome step.

The potential for conflict of interest is also a problem for the EFA, whose remit is to both allocate funding to trusts and oversee compliance. This is problematic as it is not in the EFA's interest to improve its auditing systems, as any instance of financial impropriety reflects poorly on the Government's academies programme.[103] In interviews for this paper, at least one chief executive commented that the detail of funding agreements and auditing is undertaken by a civil servant within the DfE, not the EFA, which brings the impartiality of financial regulation into further question.

Chapter 2 highlights the frequent contact between the EFA, school commissioners and the chain chief executive. As Figure 64 shows (in Annex B), the EFA was cited as the second-most frequently used source of advice, after other academies within the chain. RSCs were ranked fourth. However, Figure 63 shows that 75 per cent of academy chain chief executives reported being in contact with a Regional or the National Schools Commissioner at least termly. It is important, therefore, to ensure that the formal relationship between the Government, commissioners and academy chains is right.

Recommendation 3

There should be one, independent body responsible for commissioning academies. This would require merging the financial accountability functions of the EFA with the oversight on standards of the SCG. The responsibility for funding academies should not rest with the independent commissioner, but remain with an executive agency of the DfE. If all schools become academies, the Government should consider merging the new commissioning body with the schools wing of Ofsted, so that there is one independent regulator of all schools.

3.2.2 Increase commissioning capacity

The growth in the number of academies has put immense pressure on the EFA, which, since 2012, has been responsible for calculating academy funding, negotiating the funding agreements and monitoring compliance. There have been several reports highlighting failures in the EFA. The Public Accounts Committee reported in 2014 that the EFA "needs to improve efficiency, transparency and accountability in the education sector, especially in respect of the growing number of academies."[104] The Comptroller and

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102 Vaughan, 'How Cutting up Credit Cards Saved a Scandal-Hit Chain'.
103 Eleanor Harding, 'Academy Bosses Spend Thousands of Taxpayers' Money on Luxury Services', *Mail Online*, 2016.
104 Public Accounts Committee, *Education Funding Agency and Department for Education Financial Statements* (Public Accounts Committee, 2014), 3.

Auditor General has given the EFA an "adverse opinion on the truth and fairness" of its financial statements for the last three years running, and as recently as April 2016.[105]

The SCG and the increasing pressures put on it has not been without criticism either. The role of National Schools Commissioner was created by the previous Labour Government in 2008 to extend the academies programme. In September 2014, the incoming Secretary of State, Nicky Morgan, announced an expansion of the SCG to include eight Regional Schools Commissioners (RSCs). While their remit remains unchanged from that set out in Figure 19, the scope of the remit has expanded significantly since the introduction of the *Education and Adoption Act 2016.* The Act requires the Secretary of State (through the RSC) to give an Academy Order to any maintained school deemed 'inadequate' by Ofsted and, from 2018, to consider giving an Academy Order to any school (maintained or academy) considered 'coasting' under the DfE's new definition.[106] This will undoubtedly increase the workload for RSCs.

While the competency and expertise of RSCs has not been publicly questioned,[107] there is recognition of a lack of workforce capacity to run the commissioning process. In recognition, the Government increased the RSC administration budget from £4.5 million in 2014-15[108] to £5.2 million in 2015-16 (see Figure 19). This has enabled some RSCs to recruit a Deputy RSC.[109] However, since having increased the SCG budget, Lord Nash, Parliamentary Under Secretary of State for the School System, has commented that "I expect in time we may need more regional school commissioners – they will certainly need more people".[110]

Survey view

"The academy programme now needs a national framework for its operations… RSC[s] need to have the capacity to deliver their defined role."

Despite the problems identified, it is not clear whether the commissioning structure for schools is in need of additional resources or more effective management, or both. Given that per pupil funding for schools will undergo a real-terms cut over this Parliament,[111] *Reform* does not recommend additional funds for commissioners without first pursuing other options, including structural reform, to increase capacity.

One option to be considered is the potential productivity improvements resulting from merging the EFA and SCG into one body. This may facilitate more joint-working and reduce duplication. However, a full audit of the skills needed in the independent commissioning body should be undertaken. The DfE could consider recruiting skilled commissioners from existing headteacher boards. These boards already have a remit to advise the RSCs in a voluntary capacity, and so have both sector and commissioning experience.

Recommendation 4

The DfE should evaluate the capacity of the new independent commissioning body. It should undertake a skills audit and consider external recruitment, such as from existing headteacher boards, to address skills gaps.

3.2.3 Commission for outcomes

A benefit of having just one, independent commissioner is that academy chains' finances and performance may more easily be considered in tandem. Currently, the model funding agreement and articles of association for academy chains focus almost exclusively on

105 National Audit Office, *The Report of the Comptroller and Auditor General on the Department for Education's 2014-15 Financial Statements* (London: National Audit Office (NAO), 2016).
106 HM Government, *Education and Adoption Act 2016*, Chapter 6.
107 Though anecdotal concerns about the consistency of approach taken by different RSCs has been raised in interviews for this paper.
108 £4.504 million in real terms (2015-16 prices).
109 John Dickens, 'Another Eleven £95,000 Deputy Directors Appointed to Help RSCs', *Schools Week*, 3 June 2016.
110 House of Commons Education Select Committee, *Academies and Free Schools: Fourth Report of Session 2014-15*, HC 258 (London: Stationery Office, 2015).
111 *Reform* has calculated a 5 per cent real terms squeeze, taking into consideration cuts and rising prices. See Emilie Sundorph, 'The breakdown of future schools funding and costs', *The Reformer Blog*, 1 June 2016.

governance and financial propriety. While good governance is crucial to school performance and pupil attainment, the model agreements make limited reference to the performance of academies within the chain, and there is no reference to the overall performance of the chain.

This is a wasted opportunity. While there are clear statutory intervention powers that the Secretary of State holds in relation to underperformance for individual academies and schools, and charity law that governs financial propriety, there are no clear criteria for an underperforming chain. As highlighted in Section 2.4, this makes the decommissioning (rebrokerage) process appear arbitrary and questionable. In interviews for this paper, a number of chief executives expressed distrust of the system for rebrokerage – particularly the consistency of approach across all chains.

In addition, the results of *Reform*'s survey and subsequent expert roundtable suggest that a chain's finances and educational performance are intrinsically linked. What was described as a "toxic mix" of poor standards and poor finances can dissuade chains from taking over prospective schools. Many high-profile cases of chain rebrokerage were a result of both financial and educational under-performance.

To encourage a more holistic approach to commissioning, the model funding agreements for academy sponsors should include a section on pupil outcomes in addition to assurances on financial propriety. The outcome element could relate to an aggregate MAT performance measure, such as that already developed by the DfE. However, the commissioner should have discretion to develop a bespoke outcome element in the funding agreement in exceptional circumstances – for example, if the school the trust is taking over has both severe funding and performance problems.

Recommendation 5

The independent commissioning body should develop, agree and manage the Secretary of State's contracts with academy sponsors. Sponsor bids and the management of sponsor contracts ('funding agreements') should be jointly assessed on evidence of financial propriety and educational standards in the chain. Every funding agreement should include an expectation of the chain's educational performance, in addition to financial performance. This element of the sponsor agreement could relate to the DfE's MAT performance tables. However, there should be scope for the commissioner to develop bespoke funding agreements to encourage sponsors to take on schools that have both poor finances and pupil outcomes.

Recommendation 6

Ofsted and the independent commissioning body should consult with academy chain leaders to identify the characteristics of an 'inadequate' academy chain. In the long-term, these characteristics should be based on pupil outcomes, such as the aggregate MAT performance measures developed by the DfE. Until performance measures are sufficient to judge all academy chains, a framework for recognising poor practice should be used to inform a judgement.

3.2.4 One funder, one regulator

The vision of having one independent commissioning body, separate from the funding of academies, is not without precedent. In Sweden, the independent Swedish Schools Inspectorate (SSI) carries out all accountability functions for municipality schools and free schools, including financial compliance, school inspection and assessing the suitability of new free school sponsors.[112] Funding for schools is separately allocated through the

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112 Skolinspektionen, *The Swedish Schools Inspectorate*, 2015.

municipality.[113] In some US States, such as Georgia, Massachusetts and California, the same body that gives a charter school permission to open also inspects the school, judges financial compliance and monitors educational performance.[114]

Outside the public sector, such as in the electricity and water markets, one regulatory body is responsible for holding companies to account for both price and service quality (Ofgem and Ofwat respectively) – although the Competition and Markets Authority is responsible for assessing fair competition. These independent regulators have the power to implement price caps and industry-wide practices, such as encouraging consumers to swap providers. However, funding for these public goods is paid for separately by private consumers.

Similarly, there is precedent for evaluating outcomes in the commissioning processes in other public sector areas. In welfare-to-work services, such as the Work Programme, contracts are designed in a way that specifically refers to the outcomes the provider is supposed to achieve.[115] Outcomes-based commissioning contracts have been awarded by a number of Clinical Commissioning Groups in the NHS.[116]

These examples from other countries, different public sector services and the private sector help establish the case for making academy commissioning independent and outcomes-focussed, as described above. The following sections outline the approach the commissioning body should take to ensuring there is open competition between academy sponsors under this new model.

3.3   Open competition

The two proposals above to fund all academies through chains[117] and strengthen the commissioning process require public trust in how academies are given to, and taken away from, chains. As highlighted in Section 3.2.3, the academy sector has limited understanding of how RSCs make decisions. Earlier this year, witnesses to the Education Select Committee expressed concerns regarding unpublished "decision-making frameworks" and a "paucity of useful information" publicising the democratic element of RSCs – their headteacher boards.[118] Since that inquiry, the current NSC has been outspoken in his commitment to increasing the transparency of the office.[119] RSCs have already published vision statements[120] and the NSC has committed to publishing performance data for each of the eight RSCs.[121]

While the absence of decision-making detail remains, there are broader policy changes that could help open up the commissioning process to more schools and sponsors. More openly and regularly publishing lists of schools and sponsors could help improve initial school-sponsor matching. Requiring expressions of interests for taking over failing maintained schools and academies could help improve the quality of the new sponsor and reduce unnecessary bureaucracy involved in negotiating with them. Lastly, actively encouraging chain-led school swaps could help deliver better education to pupils before formal intervention is required. The details of these problems and solutions are outlined below.

113 Anders Björklund et al., *Education, Equality and Efficiency – An Analysis of Swedish School Reforms during the 1990s* (Institute for Labour Market Policy Evaluation, 2004); Skolinspektionen, 'Our Activities', Webpage, (2016).
114 California Charter School Education, 'School Development Timeline', Webpage, *California Charter Schools Association*, (2016); Department for Education, 'Advisory Commission on Charter Schools – Commissions and Committees', Webpage, (2016); Massachusetts Department of Elementary and Secondary Education, 'Opening Procedures Handbook: A Guide for Boards of Trustees and Leaders of New Charter Schools', 2016.
115 Hitchcock, Alexander, Pickles, Charlotte, and Riggs, Alasdair, *The Work and Health Programme: Levelling the Playing Field* (Reform, 2016).
116 The Health Foundation, *Need to Nurture: Outcomes-Based Commissioning in the NHS*, 2015.
117 Not all academies will be in chains, in which case the funding system is unchanged.
118 Department for Education, 'The Role of Regional Schools Commissioners', 42.
119 Freddie Whittaker, 'Publish Performance Data for Schools Commissioners, Says Sir David Carter', *Schools Week*, 2016.
120 Department for Education, 'Regional Schools Commissioners: Regional Vision Statements', Webpage, (2016).
121 Whittaker, 'Publish Performance Data for Schools Commissioners, Says Sir David Carter'.

3.3.1 Improve initial matching

Section 3.2.2 outlined the responsibilities of the current academy commissioning bodies – the RSCs and EFA. One critical aspect of the commissioning role is the initial matching of schools to sponsors. There are two sides to school-sponsor matching: approving funding agreements for maintained schools converting to academies, and rebrokering trusts when intervention is required due to underperformance. In Section 3.2.3 it was argued that there should be a clear process for identifying a failing academy chain. The sections below consider the process for matching the 'failing' academy with a new sponsor and approving converter academies joining or establishing chains.

There are likely good reasons not to consider every chain when making commissioning decisions. Nevertheless, closing off schools from potential sponsors could mean the school misses out on a good match. In an interview for this paper, one chief executive described feeling the chain had been overlooked in the rebrokerage of a local school that would have matched the chain well. Part of the problem was a lack of awareness that the rebrokerage was taking place, as there is no list of maintained schools looking for sponsors or 'inadequate' schools or academies requiring sponsors.

However, the DfE does publish a list of approved academy sponsors. Yet though the DfE's website says "we regularly update the list as we approve new sponsors", the list has not been updated since January 2016.[122] This may limit the ability of maintained schools to find sponsors, particularly well-established medium-sized trusts that may not be known nationally. This may, in turn, hinder the development of larger chain structures and the matching of new academies to experienced trusts.

A real-time online sponsor forum could help solve this problem. As soon as the independent commissioning body approves a new academy sponsor, the sponsor's information could be automatically uploaded onto an online platform. Similarly, as soon as a school is deemed 'inadequate' and is eligible for rebrokerage, the school's information could be uploaded to the platform. Maintained schools considering academy conversion and looking for a sponsor could voluntarily upload their information onto the sponsor forum. The platform would be publicly available, as a private list could encourage external speculation about the schools putting themselves forward for a sponsor match. This would create unnecessary worry for parents, teachers and leaders in the school, who are invested in its future.

The online sponsor forum would enable any sponsor to express an interest to the relevant RSC to take over an 'inadequate' school. The expression of interest would be a short description of how the sponsor could improve pupil outcomes for that particular school, submitted online through the sponsor forum website. Equally, a maintained school or groups of schools voluntarily wishing to convert to academy status may use the forum to email a potential sponsor, and vice versa. With agreement from the school, the sponsor should be able to express their interest in running the school to the RSC.

In this system, the commissioning body would retain its right to refuse school-sponsor matching, particularly in cases of intervention. To justify its decisions, the National Schools Commissioner should continue to develop plans for a readiness check for academy chains. The purpose of this is to help establish that an academy trust looking to expand can do so successfully. Once the check is fully operational, it could be used on the Sponsor Forum to identify sponsors that are and are not ready for growth – similar to a licensing system.

It is hoped that making the commissioning process open and competitive in this way will widen the pool of sponsors considered, ensure the bidder has thought deeply about their ability to run the school, and that the commissioner has good reason to approve or

Survey view

"Allow system brokers to make proposals to schools to join MATs rather than relying on 'mates' MATs' or cold calling by acquisitive CEOs."

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122 Department for Education, *Academy Sponsor Contact List*, 2016. https://www.gov.uk/government/publications/academy-sponsor-contact-list, website accessed last on 8 September 2016.

dismiss the bid. However, it is important that the bureaucracy associated with expressing an interest in running a school is not arduous, to avoid unnecessary spending on developing bids.

Recommendation 7

The DfE should facilitate a real-time online sponsor forum with information on approved sponsors and schools requiring or desiring a sponsor. Once a school or academy is deemed 'inadequate', its information should automatically be uploaded to the sponsor forum. Any other maintained school looking for a sponsor may upload their information voluntarily. Academy sponsors should be uploaded on the forum as soon as they are approved. The forum would allow sponsors to contact schools and vice versa.

Recommendation 8

The online sponsor forum should facilitate expressions of interest from sponsors to take over a school. The expressions of interest, similar to short bids, should be submitted online and set out how the sponsor should improve standards in the school, including supporting evidence. These expressions should be assessed by the independent commissioning body on the basis of the needs of the pupils in the school and the capacity of the sponsor. The capacity of the sponsor should be determined by its current performance and a readiness check.

3.3.2 Allow chain-led commissioning

Sections 3.2.1 and 3.2.2 outline the intervention strategy and open bidding process for taking over 'inadequate' schools and academies, and maintained schools wishing to convert. However, it may be in several academy chains' mutual self-interest to swap some schools before statutory intervention is required by the school commissioning body. For example, an academy chain may recognise they are struggling to meet specific requirements of the school, and feel comparatively ill-placed to turn the school around. In these circumstances, it is conceivable that another academy chain could be more effective at supporting the school and its pupils.

While it is already possible for academy trusts to seek DfE approval to terminate the articles of association trusts have with individual academies and establish new ones, there have been no such requests thus far.[123] However, in interviews for this paper, several chief executives expressed a desire to more easily swap their schools. Chief executives explained their current reluctance as anxiety that a school swap would reflect negatively on their performance. They also commented that their limited contact with other sponsors meant the pool for sponsor swapping was limited.

It may not be feasible for the commissioning body to actively facilitate school swapping. Information on the academies that chains would like to swap would be highly sensitive, due to the potentially destabilising effect on the pupils, teachers and leaders in the school. It would not be easy for any government-run online system to keep this information private. Indeed, the DfE recently lost a judicial review after refusing to release information on academy sponsor payments due to "commercial sensitivity".[124] Similarly, government-facilitated swap meetings whereby sponsors look for other sponsors to swap academies with would be open to speculation.

Nevertheless, the commissioning body would make voluntary swapping of academies more permissible than it currently is. One way would be to more regularly publish the names of academies that have changed sponsor, particularly when formal intervention processes have not begun. The effect would be to encourage conscientious chain

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123 This is to the knowledge of Dr Tim Coulson, Regional Schools Commissioner for East of England and North-East London.
124 John Dickens, 'DfE Reveals £3m Spend on Academy Takeover Fees', *Schools Week*, 30 January 2016.

leadership and continual improvement in all academies. Were proactive school swaps more permissible, academy chain rebrokerage might play an important role in a self-improving school system, rather than be considered as a signal of complete failure.

To avoid chains continually passing on challenging schools, a school should not be eligible for swapping if it has been taken over or swapped within three years. This is roughly equivalent to the Ofsted grace period (30 months) for schools in 'special measures', proposed in the education white paper. There should be no prerequisite eligibility criteria for the academy chain wishing to swap. By the nature of eligible schools defined here, the academy chain will be at least three years' old.

It is hoped that encouraging proactive swapping will lead to better sponsor-school matching, thus improving pupil outcomes and preventing the need for intervention. It could lead to the more strategic geographical development of academy chains, and reduce dependence on the commissioning body for overall system improvement.

This chain-led system of commissioning academies is, however, inconsistent with the recent education white paper's proposal to give parents the right to petition their RSC to change the academy sponsor of the child's school.[125] As with the current headteacher petitioning powers on pooling GAG, these systems limit the power of the chain and its trustees to lead an education system in the interest of pupil outcomes. Nevertheless, a clearer way to engage parents in the running of academy chains is needed – and this is outlined in Section 3.4.2.

> **Recommendation 9**
>
> Academy chains should continue to be able to seek approval from RSCs to voluntarily release some or all of their schools. The schools in question must not be deemed 'inadequate' or 'coasting', and the chain should be required to find a sponsor willing to take the school(s) on. The school swap should not require permission from the headteacher or local governing body of the school in question. There should be a three-year protection on a school before it can be swapped again.

> **Recommendation 10**
>
> The Government should abandon its proposal to introduce parental petitions in favour of requiring all chains to have a clear method for engaging with their pupils' parents.

3.4 Inclusive chain growth

As Chapter 2 highlights, there are a number of reasons why an academy chain may not wish to take on a school. The most common of these is the geographical location of the school, shortly followed by differences in the ethos of the school, the leadership of the school, and the fact that the school in question was carrying a current deficit (see Figure 13).[126]

Comments from a research roundtable that *Reform* held also suggest that chains can be reluctant to take on schools deemed to 'require improvement' as it may not be quick enough to show progress. In contrast, it may be possible to make some 'easy gains' in a school that is deemed 'special measures' to pull it into 'requires improvement'.

It is imperative that schools are not left behind as academy chains grow in number and size. While it is too early to assess the impact of converter academies on pupil attainment, it will become increasingly hard for standalone maintained schools to operate without the

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125 Department for Education, *Educational Excellence Everywhere*, 18.
126 The cost of PFI repayments has also been cited on numerous occasions as having scuppered academy chain takeovers. See John Dickens, 'Investigation: Who Will Pick up the Tab for PFI?', *Schools Week*, 4 March 2016. and John Dickens, 'PFI Costs Scupper School Sponsorship Plan', *Schools Week*, 11 July 2016.

support of a LA. It is also important that those schools with poor but not inadequate performance, and those in financial difficulties (such as holding PFI contracts) do not get left behind. This section recommends a premium for schools and academies at risk of being the last to find a high-quality academy sponsor, which would act as an incentive for chains to take on those schools.

3.4.1 Streamline sponsor funding

The DfE has established a number of initiatives to increase academy sponsor 'capacity'. While there is no clear definition of what the DfE means by this term, it is operationally used to refer to increasing the supply of high-quality academy sponsors.

While a large majority (72 per cent) of academy chains surveyed said they had financial reserves,[127] the financial position of a school presents a barrier to taking over a school – as Section 2.3 shows. Despite this, a pot of £300 million is available from the DfE over the course of the Parliament to "support strong and effective multi-academy trusts to grow and improve" in addition to a further £300 million to support schools to convert.[128] This is twice as much as the cost of managing academy conversions between 2010-11 and 2015-16.[129]

There is a plethora of different funding streams to support academy chain growth. Figure 20 sets out recent past funding for the biggest of these streams. Figure 21 shows the full set of sponsor capacity funds that the DfE has run since 2010.

Figure 20: Government funding for MAT growth since 2012 in real terms (2015-16 prices)

	2012-13	2013-14	2014-15	2015-16	**Total £ per grant, 2012-15**	Total awards since 2012*
Sponsor capacity fund	£5,141,383	£14,071,797	£11,814,087	£8,262,593	**£39,289,860**	596
Primary chain development grant	n/k	n/k	n/k	n/k	**£13,216,667****	244
Northern Fund	n/a	n/a	n/a	£9,457,033	**£9,457,033**	65
Total	**£5,141,383**	**£14,203,285**	**£11,909,385**	**£18,085,450**	**£61,963,560**	**905**

Sources: Freedom of Information Disclosure, Department for Education, August 2016, 2016-0034749. Freedom of Information Disclosure, Department for Education, August 2016, 2016-0037762.

Note: Original figures from the DfE have been inflated using the ONS GDP deflator.

* It is not known whether this figure relates to the number of grants given to individual schools or a group of schools within a chain.

** *Reform* estimate based on the total number of awards since 2012. The estimate is the midpoint of the minimum possible spending (£100,000 for 81 chains) and the maximum (£75,000 for 244 schools).

127 The academy sector as a whole is thoughts to have reserves of roughly £2.4 million. See Edward Timpson MP, 'Academies: Answer to Written Question' (Hansard, 17 December 2014), HC219279.
128 Department for Education, 'Next Steps to Spread Educational Excellence Everywhere Announced'.
129 Edward Timpson MP, 'Academies: Answer to Written Question', 2016, HC31449.

Figure 21: Additional funds for academy sponsors

Name of fund	Purpose	Eligibility for fund	Process for applying	Total £
Sponsor capacity fund	Set up or expand an existing MAT	Open to already-approved academy sponsors intending to take on at least one additional academy over the next 12 months	Send an application form to the relevant RSC	£50k - £100k per application
Northern sponsor fund	Enable existing MATs in Northern areas to expand	Open to existing MATs in Lancashire and West Yorkshire and North of England RSC areas	Send an application form to the northern sponsor fund or relevant RSC	£25k for MATs currently with 1 - 2 schools and £50k-£100k to MATs with 3+ schools
Primary chain development grant	Enable primary schools to establish a MAT	Groups of two or more primary academies wishing to join a MAT.	Register interest through the DfE	£75k - £100k per group of primary schools
Free school project development grant	Enable MATs with free schools to expand	Potential free school sponsors and existing MATs	Apply through the New Schools Network	£220k for first primary and £300k for first secondary school £150k for each additional primary and £200k for each additional secondary school
Small school supplement grant (discontinued)	Enable small schools to establish a MAT	Primary schools of 100 pupils or fewer	Register interest through the DfE	£5k for schools with pupils fewer than 100 £2k for schools with between 100 and 210 pupils

Sources: New Schools Network, 'What Funding Is Available to Help Support the Growth of My Chain?', 2016. Browne Jacobson, 'Primary Chain Development Grant – the Return', Webpage, (2016). Department for Education, 'Northern Fund for Academy Sponsors – Detailed Guidance', Webpage, (2016). Department for Education, 'Sponsor Capacity Fund: Detailed Guidance', Webpage, (2016).

The disjointed way in which these growth funds are run is evidence of a lack of coherent strategy for chain development. There is evidence of a similarly ad hoc process for paying sponsors to take over 'inadequate' schools or academies. Freedom of Information requests on the commercial arrangements for sponsors taking over struggling schools suggest there are varying sums of money paid with no apparent rationale.[130]

The current system is confusing to schools wishing to grow, and neglects other important characteristics that may prevent it from being attractive to sponsors. Importantly, *Reform*'s survey shows that geography and financial performance of schools are two barriers to academy chain growth.

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130 John Dickens, 'The £3m School Transfer Market: Which Academies Trust Got What, and for How Much?', *Schools Week*, 6 February 2016.

Simplifying the existing sponsor capacity funds into one Struggling School Premium for taking over schools that otherwise would be left as a standalone maintained school or academy could improve the quality of the incoming sponsor, and reduce unnecessary bureaucracy involved in negotiating price.[131] However, the Government's long-term aim should be to withdraw 'capacity funding' and encourage academy chains to develop reserves that could be used to support their future, sustainable growth.

Criteria for establishing a struggling school premium should be based on the following criteria:

> The performance of the school

> The size and phase of the school

> The location of the school relative to others

> The financial position of the school

While it may not be feasible to establish an overarching formula for the Struggling School Premium based on these factors, the commissioning body should be transparent at the outset about whether a school is eligible for the premium and how much a chain can be awarded for the school. This would limit the scope and need for lengthy private negotiations between the commissioner and the sponsor.

It will be important to ensure value for money from the struggling school premium. As all chains will sign an outcomes-based funding agreement under the new commissioning model proposed in Recommendation 6, it is reasonable to recoup this capital funding from the chain if it fails to deliver its contract. It is important that the money recouped is proportionate and that the overall system encourages chains to take on struggling schools. Recommendation 12 below suggests that the commissioning body consults on the exact percentage.

Another potential barrier for chains wishing to take on more schools is the financial arrangements in the period between sponsor identification and takeover. When a maintained school becomes an academy, the LA will usually absorb any deficits and recoup the money through abatement of GAG funding.[132] However, there is no official policy determining the treatment of deficits for an existing academy. In some cases, and particularly when the outgoing chain has completely collapsed, the incoming chain is expected to take responsibility for the deficit; in others, the outgoing chain maintains responsibility.

Interviews for this paper suggest there is an intense period of negotiation over the financial settlement of academies moving from one sponsor to another. One cause of this negotiation is the ambiguity over who has responsibility for finances in the interim period. The outgoing trust has a perverse incentive to disregard the financial position of the academy before the incoming chain takes over. For example, it would be in the outgoing sponsor's interest to spend more if it is deficit or has a zero balance, and restrict spending if it is in profit.

To prevent such lengthy negotiations and financial impropriety, the commissioning body should set out clear expectations for all trusts who have academies that are moving to another trust. Excepting situations when the academy chain is insolvent, the outgoing chain should be expected to take full responsibility for the finances of the trust before it changes hands. It should both absorb a deficit and keep any reserves.

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131 Department for Education, *Sponsored Academies Funding: Advice for Sponsors*, 2016.
132 Department for Education, *Treatment of Surplus and Deficit Balances When Maintained Schools Become Academies*, 2015.

Recommendation 11

All infrastructure funding for academy chains should be pooled to create a struggling school premium. The school commissioning body should identify schools that are attached to this premium, either due to poor educational performance, their small size, geographical remoteness or poor financial circumstances. The premium should follow the school, and any sponsor winning a bid to take over the school should be paid the premium, and no more.

Recommendation 12

The commissioning body should consult the sector to identify a percentage of the struggling school premium that can be recouped by government if the trust fails to deliver to its sponsor agreement.

Recommendation 13

All academy chains should be expected to invest their own reserves in their infrastructure, in addition to public capital funding through the struggling school premium. If a trust is required or seeks permission to release some or all of its academies, it should absorb any deficits and keep any reserves.

3.4.2 Professionalise the middle tier

Survey view

"Remove decision making from governors that have been responsible for leading schools into difficulty."

As highlighted in Chapter 2, many chief executives struggle to recruit appropriately skilled local governors. Nevertheless, chief executives are broadly happy with their executive team – many of whom will have taken roles previously undertaken by a traditional governing body, such as holding the headteacher to account. However, these are paid full-time positions recruited for on the basis of skills rather than representation.

This demonstrates that it is possible to attract governance skills into academy chains. There are a range of explanatory factors, including remuneration, prestige and progression. To address the persistent poor governance skills and time, the Government must make it possible for governors to be paid. It must also recognise that there are emerging forms of school governance within academy chains, for which it is not absolutely necessary to have a local governing body.

The National Schools Commissioner, Sir David Carter, has commented that he believes the school system will need an additional 1,000 MATs by 2020 to match the increasing conversion of schools to academies.[133] There are currently around 950 MATs, not all of which are academy chains (some are standalone academies wishing to expand).

While this paper has not made a recommendation about the number of academy sponsors needed in the academy system, interviews for this paper indicate concern about the under-supply of high-quality sponsors. Given that the quality of a sponsor is, in part, determined by the quality of leadership and governance in a chain, it is concerning that chief executives reported in these interviews a problem recruiting high-quality directors in their trusts. To develop sponsor capacity, the Government could encourage private sponsorship of its Academy Ambassadors programme, which finds senior figures from the world of business and the professions to support academy chains. It could also consider establishing a Teaching Trust from high-quality trusts, based on current MAT performance tables, to develop system leaders.

Given the concerns about developing sponsor capacity, it would be wasteful to ignore the current skills in both maintained and academy schools. As more schools convert to

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133 Freddie Whittaker, '1,000 New Multi-Academy Trusts Needed by 2020, Says National Schools Commissioners', *Schools Week*, 2 November 2016.

academies, the excellent services offered by local authorities must continue to survive if they are in demand from academy chains. While the Government intends to allow experienced LA staff to set up or join an existing academy chain, it must also be possible for the LA to continue operating as a business, generating income from academies through services such as HR, payroll and school improvement.

As LAs continue to take a diminishing role in managing schools, and the Education Services Grant allocated to LAs for their schools reduces, it is possible that some LA services will struggle to survive. It must therefore remain possible for LAs to offer their services to academies and academy chains outside of their LA area. For example, it should be possible for an LA to run a national payroll service.

Recommendation 14

The Department for Education should amend the *Governors' Handbook* to allow maintained schools and academies to pay local governors.

Recommendation 15

Ofsted should review its framework on inspecting governance in academies. It should focus inspection on identifying strong internal accountability at every level within a trust. While it should be made explicit that parent governors are not required, Ofsted should continue to expect a clear mechanism for engaging parents in every individual academy.

Recommendation 16

The Government should continue to seek private funding for its Academy Ambassadors programme. It should consider encouraging the development of Teaching Trusts to attract and develop aspiring middle and senior leaders of academy chains.

Recommendation 17

There should continue to be no restrictions on a LA's ability to sell services to an academy chain, both within and outside their LA region.

3.5 Conclusion

This report has outlined a new set of policies to ensure the academy programme improves education for all. It has recommended a rebalancing of power between academies and chains, which puts the responsibility and power firmly in the chain's hands. Alongside this, it has put forward a more rigorous, transparent and independent approach to holding chains to account through the commissioning process, and better incentives for good chains to expand to the areas that need them most. These proposals are important whether or not more, or all, schools become academies.

The report has also presented findings from the first survey of academy chains. This provides a new, rich evidence base on which to assess chain performance. It is currently not known which strategies improve pupil attainment within chains, and evidence suggests variability in the effectiveness of both chains and academies. *Reform*'s survey results provide new information that could aid practitioners, commissioners and policymakers in identifying successful academy chains. More research is needed to do this.

As the new Government considers its proprieties for school reform, *Reform* recommends a rejuvenated set of policies on academies to improve education for all.

Annex A: The survey sample

The data collection
Reform conducted an online survey of academy chains between May and August 2016. The survey questions were hosted by Google Forms and were made publicly available. Following a Freedom of Information request for email addresses, a link to the survey was emailed to all accountable officers in academy trusts for which the DfE had information. Personal emails encouraging survey take-up were sent by *Reform* to some of the national trusts.

Reform received a total of 66 usable survey responses from executive leaders of chains with two or more academies. This represents a sample of approximately 9 per cent of all academy chains with two or more academies, and 15 per cent with three or more. Fifty-three responses were from chief executives or chief executive officers of a trust, 9 responses were from an executive headteacher or principal, and the remaining 4 were either executive directors or chairs of the trust. No distinction has been made in the report between these respondents, as all – with the exception of the chair – are part of the executive team, and thus entrusted to run the chain by the trustees.

Questions were largely presented as multiple choice, with a randomised order for answers. Not every question was required. A few free text responses were requested, some of which have been anonymously quoted in this report.

The sample
The chains that responded to the survey were broadly comparable to the total population of academy chains with two or more academies. As Figure 22 and Figure 23 show, the mix of primary and secondary academies, and the proportion of pupils on free school meals (FSM) and pupils with English as an additional language (EAL), are very similar in both *Reform*'s survey sample and all academy chains with two or more academies.

Figure 22: Proportion of primary and secondary academies

Figure 23: Proportion of pupils eligible for free school meals and with English as a second language
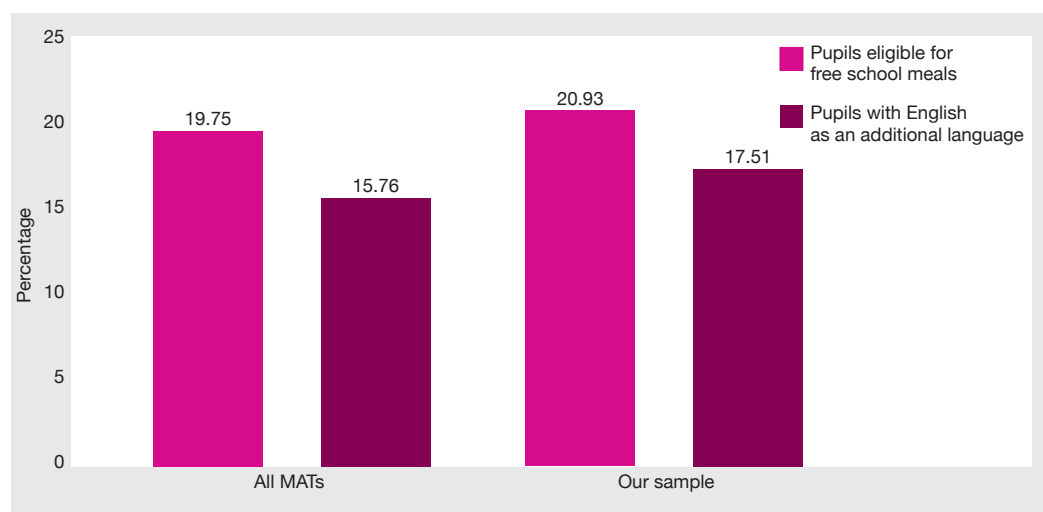
The survey was, however, skewed towards chains with more academies, more pupils, and more geographical dispersion between academies in the chain. The survey had 22 per cent more sponsored academies than the average for all academy chains (The skews in the sample are not significant enough to warrant disregarding the findings. However, it is important to analyse whether some of the survey responses vary across these factors to avoid oversimplifying the results. Where practicable and relevant, the authors have considered the impact of the size and geographical distribution of academy chains on the responses they gave.

Figure 24). As sponsor academies typically converted owing to poor performance, this skew indicates that our sample disproportionately includes schools with a history of low performance.

The geographical dispersion of academies within the survey sample – measured as the mean distance each academy is from the centre point of the trust – is also greater, at 10, as opposed to 17, kilometres (see Figure 26). Most significantly, the sample contained on average nearly twice as many academies as the national mean for academy chains (9 compared with 5). This translates also into pupil populations also of around twice the national mean (4,169 compared with 2,068) – see Figure 27 and Figure 28. The average period the first school in each MAT in our sample has been open is 25 per cent longer than the national mean, at five rather than four years (see Figure 25).

The skews in the sample are not significant enough to warrant disregarding the findings. However, it is important to analyse whether some of the survey responses vary across these factors to avoid oversimplifying the results. Where practicable and relevant, the authors have considered the impact of the size and geographical distribution of academy chains on the responses they gave.

Figure 24: Proportion of sponsor and converter academies
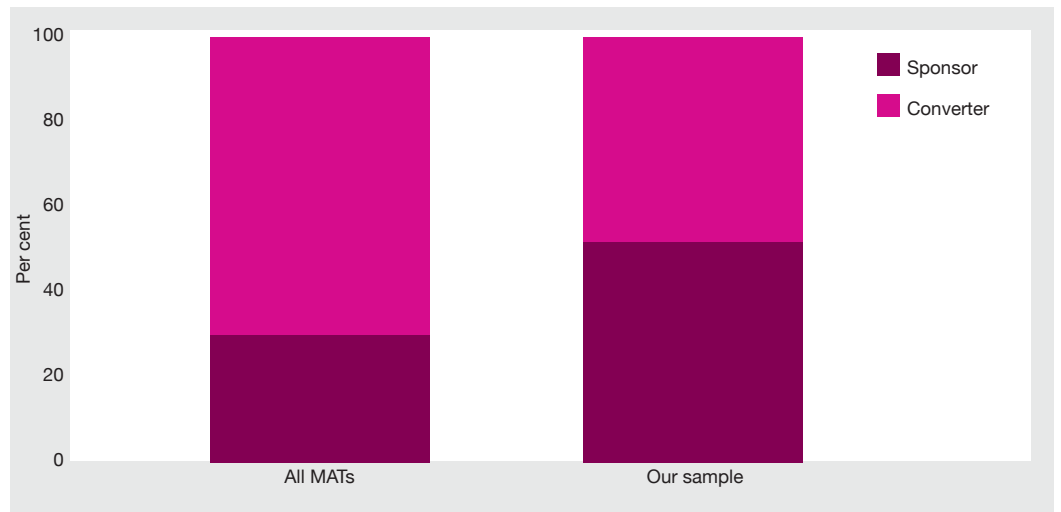
Figure 25: Age distribution based on year of first academy opening
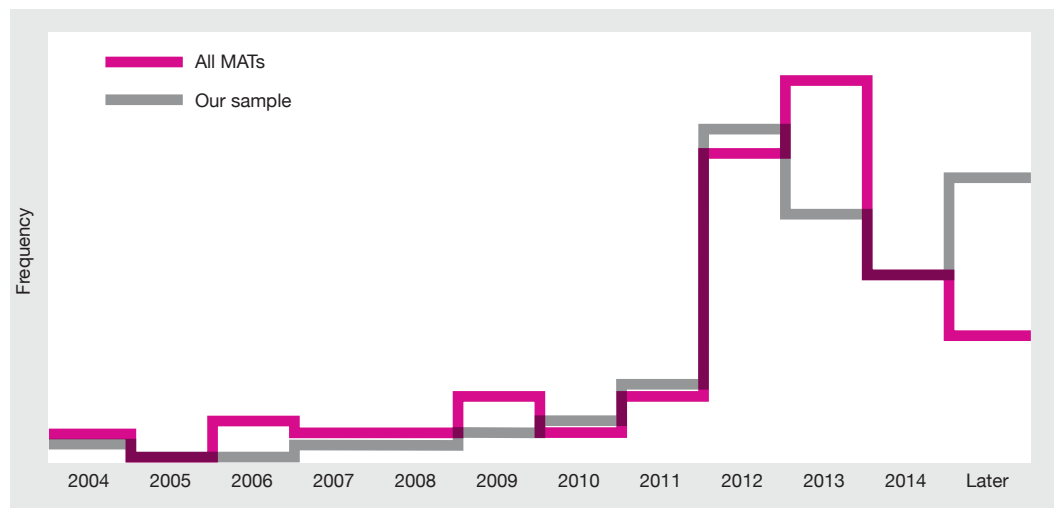
Figure 26: Geographical disperion distribution
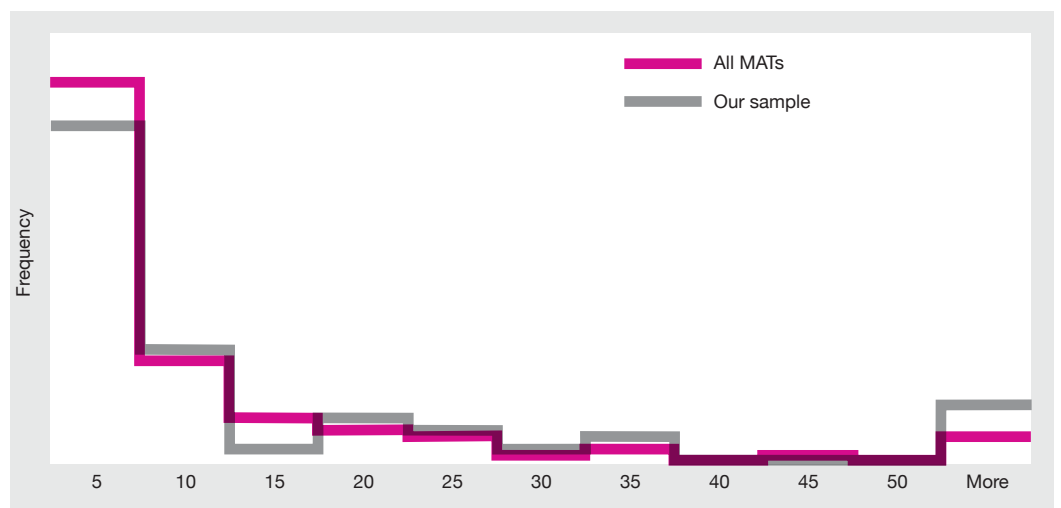
Note: Dispersion was assessed by calculating the average distance between each academy in the chain and the centre-point between all academies in the chain.

Figure 27: Size distribution (number of pupils)
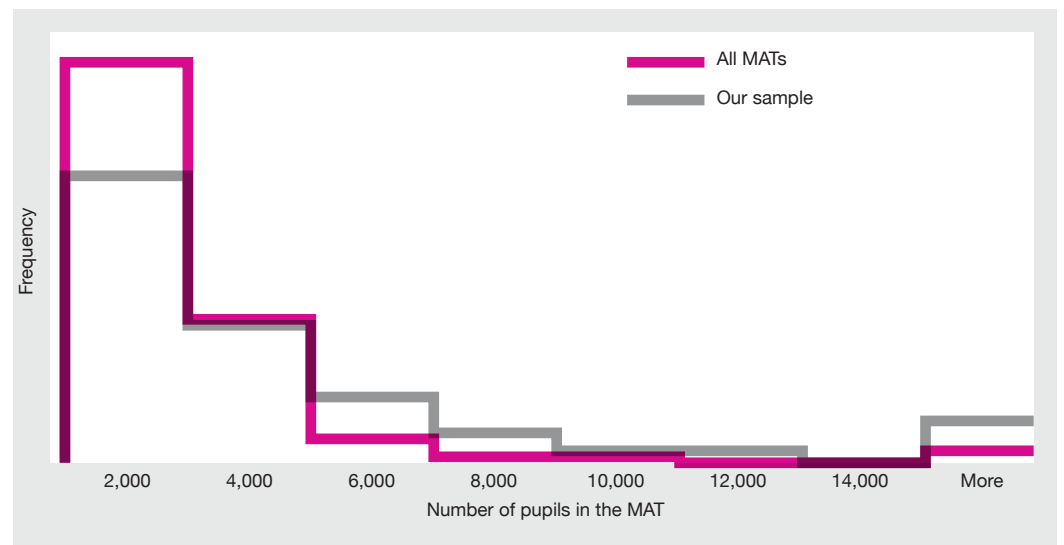
Figure 28: Size distribution (number of academies)
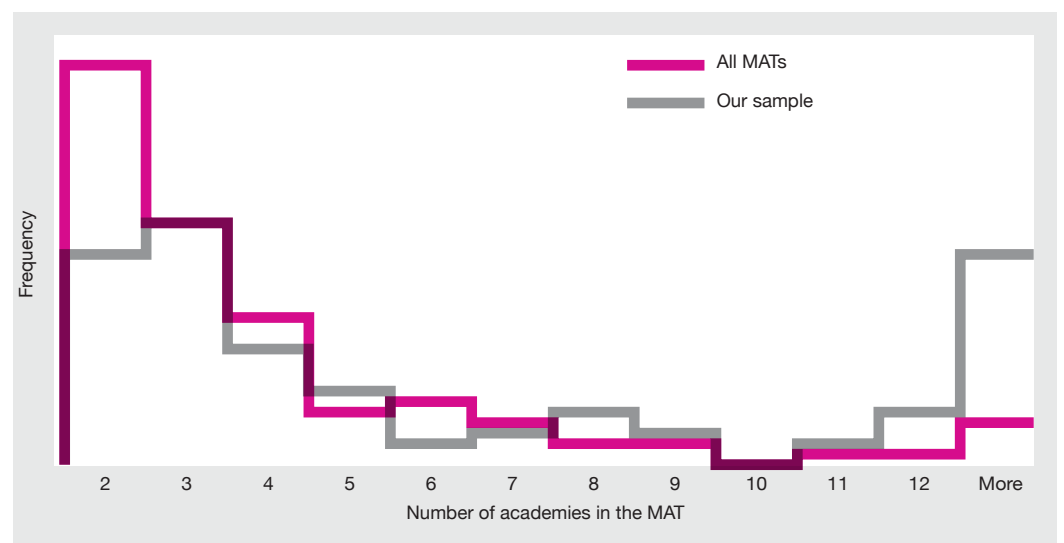
Annex B: The survey results

The section below presents the results from *Reform*'s survey of 66 chief executives of academy chains. All responses from Question 10 onwards have been presented. Questions 1 to 9 asked for basic information such as the name, size and mix of schools in the trust. It should be noted that not all questions were compulsory to answer, and thus there are not always 66 responses.

Figure 29: Level of centralisation

Q10. Who carries out the following functions for individual schools in the MAT? (multiple choice)
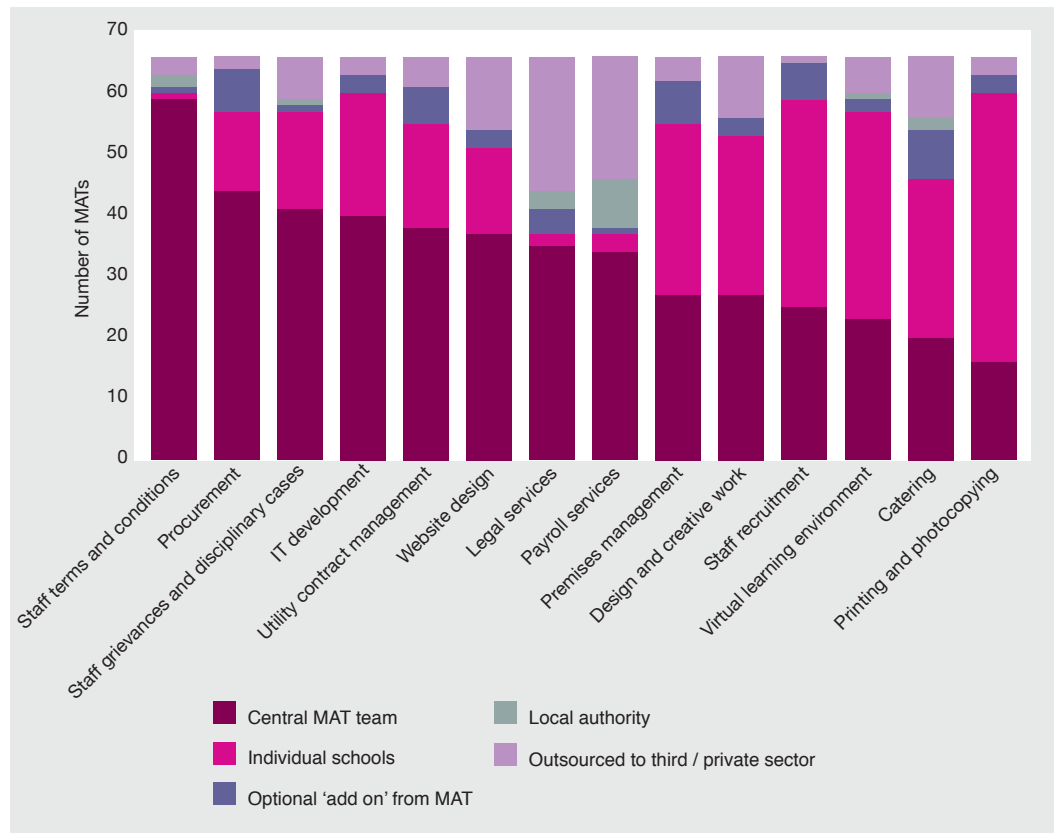
Figure 30: Top-slice

Q11. (a)-(b) Consider your primary/secondary schools. On average, what percentage of revenue does the central MAT team hold back or top-slice from the General Annual Grant of these schools? (numerical free text)
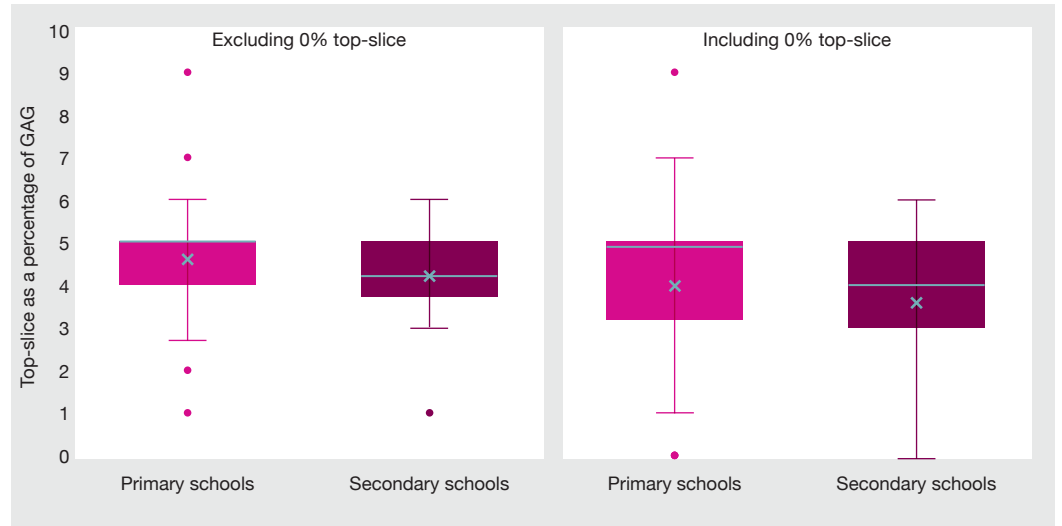
Figure 31: Variation of the top-slice

Q11. (c) Does the amount you hold back vary across your schools (excluding differences between primary and secondary schools)? (multiple choice)
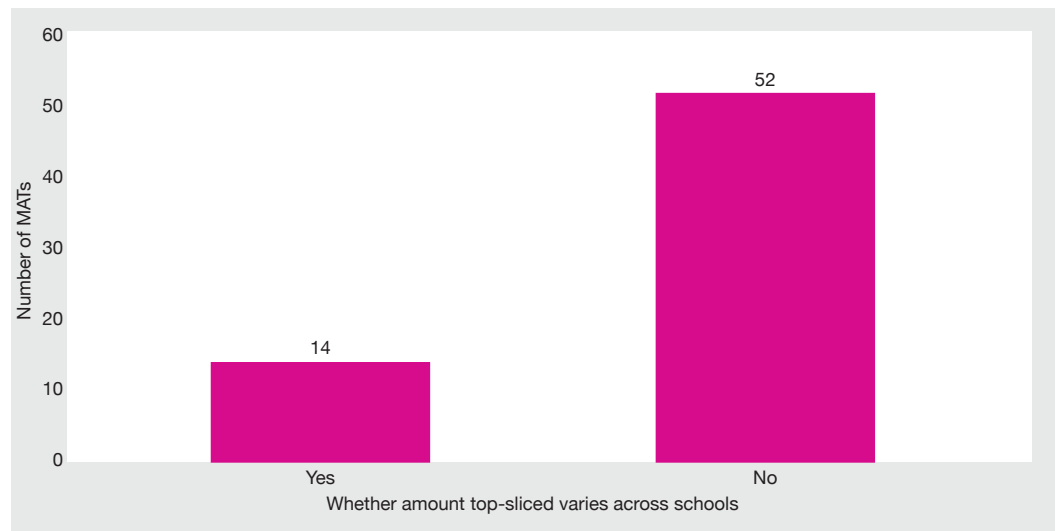
Figure 32: Reasons for variance

Q11. (d) If yes, for what reasons? (free text response)
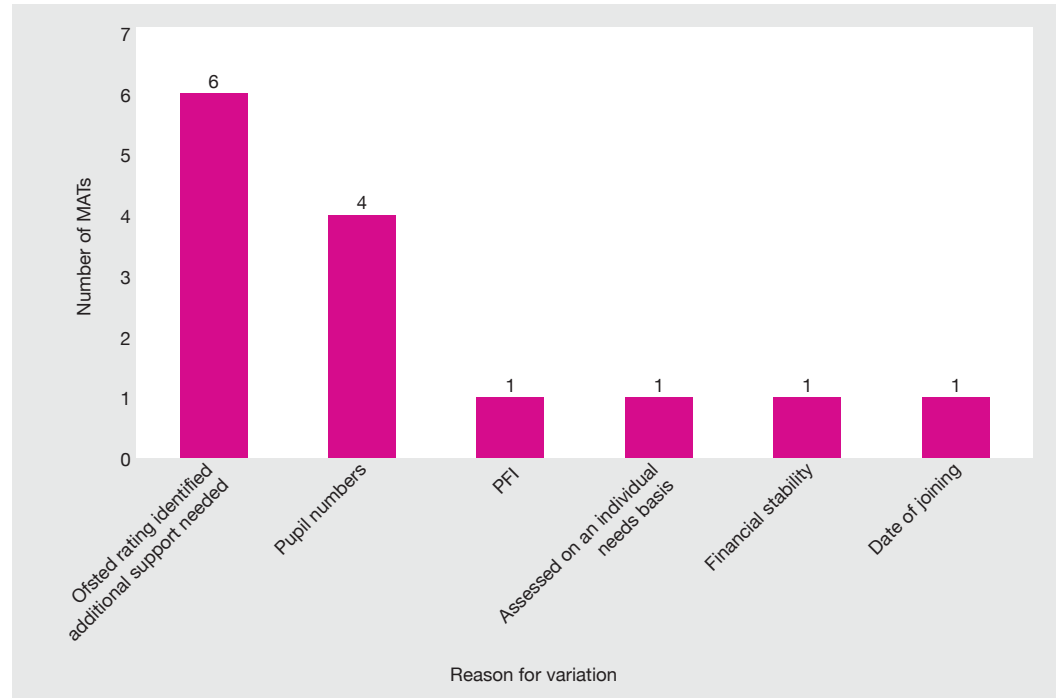
Note: Some MATs held back more and others less from schools that were struggling. The MAT that cited PFI as a reason for variance held back less from this school. The MAT that cited date of joining as a reason had a smaller fee for schools that joined the MAT first.

Figure 33: Future plans for top-slice

Q11. (e) What are your plans for the amount you hold back/top-slice in the near future (next two years)? (multiple choice)
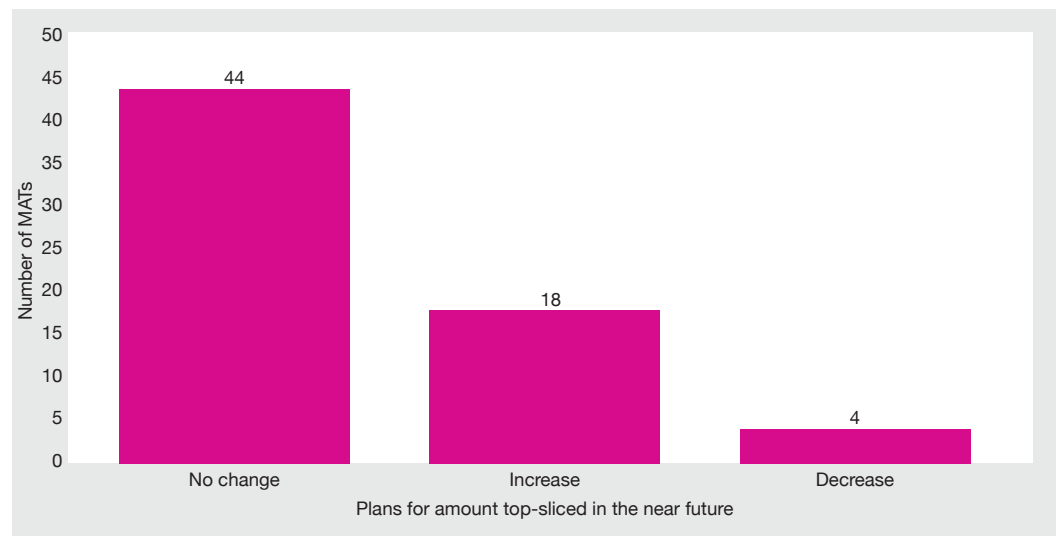
Figure 34: Pooling the GAG

Q12. (a) Has your MAT ever pooled funding from the General Annual Grant to redistribute school funding across the MAT? (multiple choice)
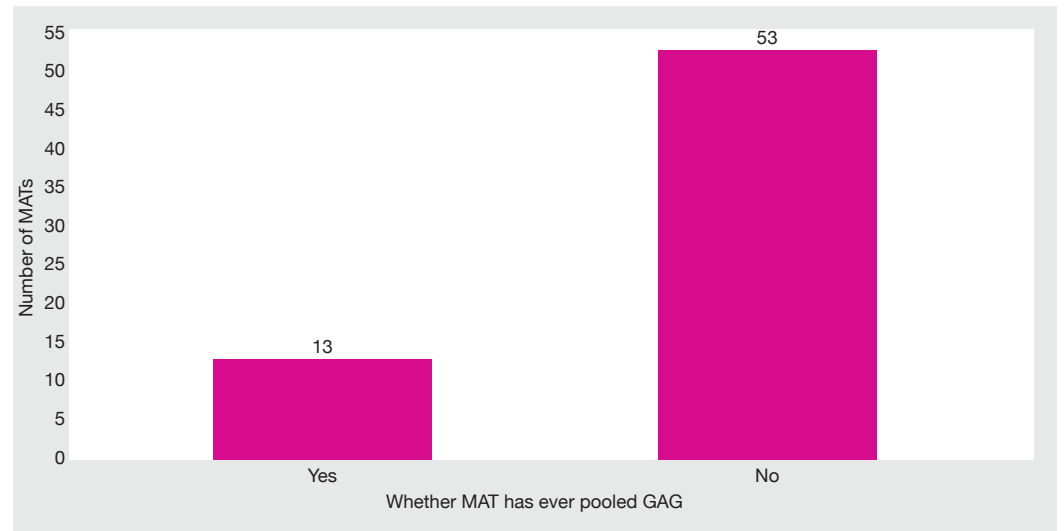
Figure 35: Demand to pool GAG

Q12. (b) If no, would you like to? (multiple choice)
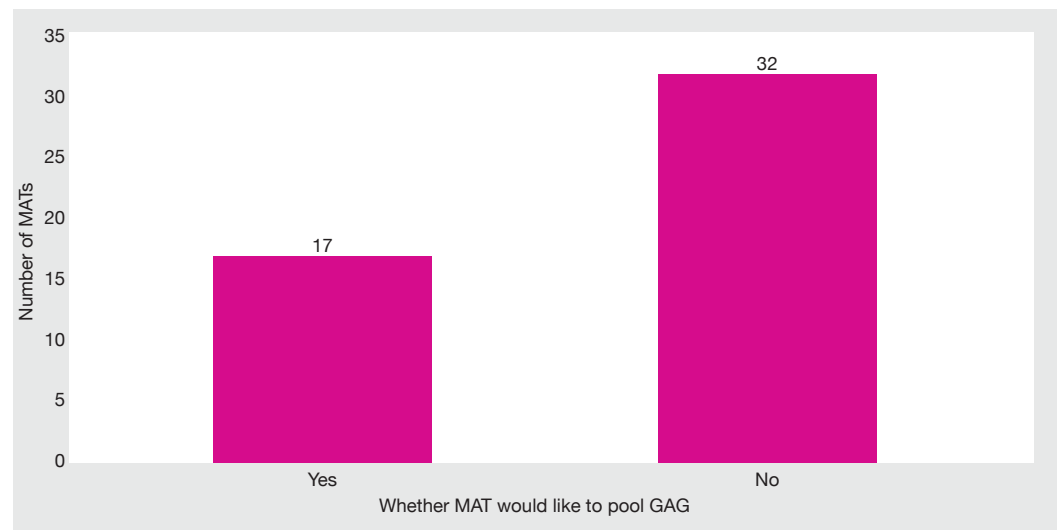
Figure 36: Barriers to pooling the GAG

Q12. (c) If applicable, what has been the biggest barrier to pooling GAG funding? (combination of multiple choice and free text)
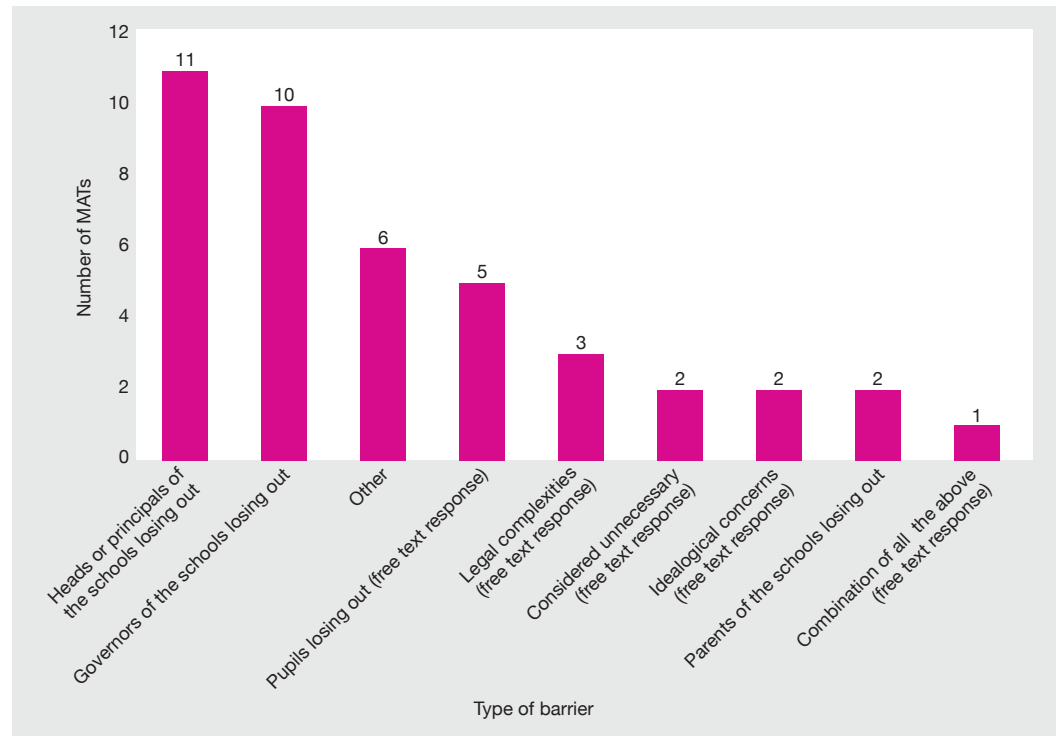
Note: 'Other' consists of opposition to change, the size of the MAT and the finance team not yet being sufficiently developed.

Figure 37: Income generation

Q13. Consider the way the MAT generates income. What functions have been used by the central MAT team as an area of income generation (separate from individual school income generation)? (multiple choice and free text)
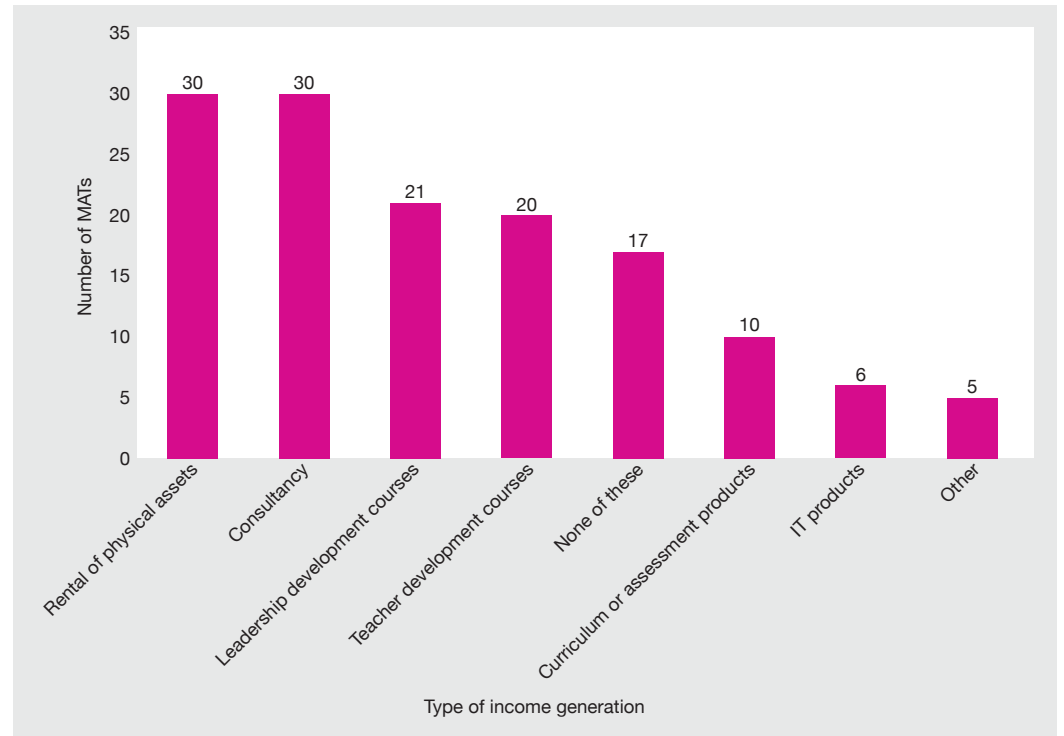
Note: 'Other' includes lettings, selling their brand overseas, school to school support services and national school support, IT services and therapy services.

Figure 38: Financial health

Q14. What is the status of your current budget for the year ending in August 2016? Please indicate whether you are in deficit or have cash reserves, e.g. "Deficit of £100,000" (free text)
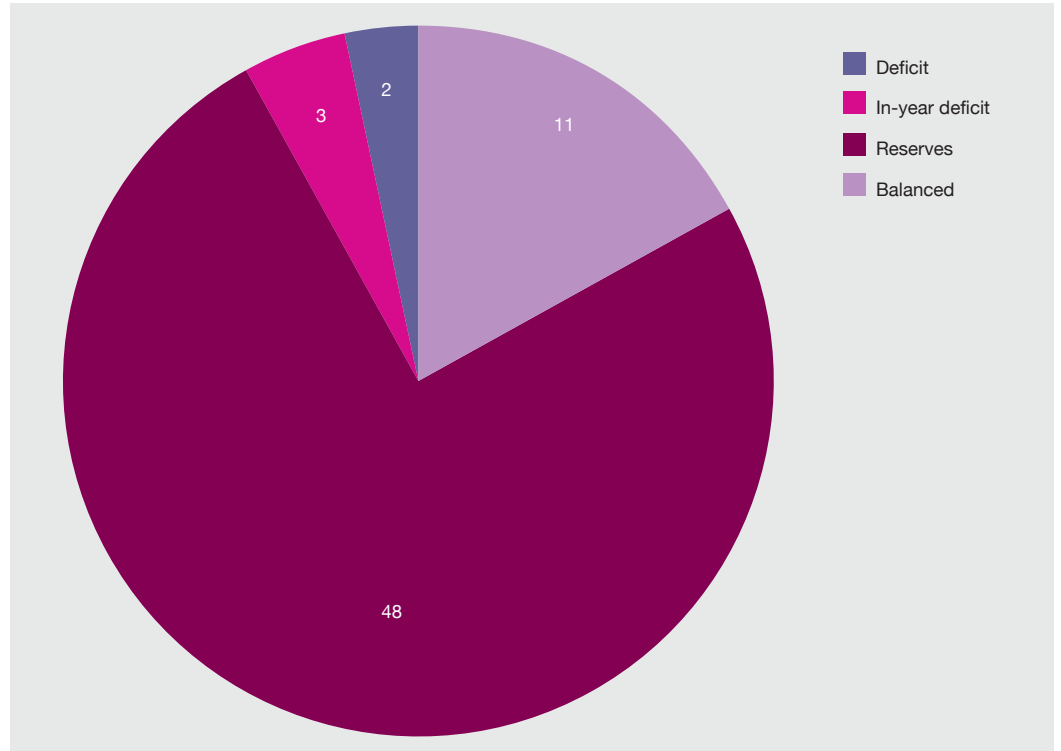
Figure 39: Number of academies needed for economies of scale

Q15. (a) Consider the number of schools in your MAT. In your view, what number of schools would your MAT need to be to begin achieving economies of scale, i.e. reduce the unit cost of the things you buy? (free text)
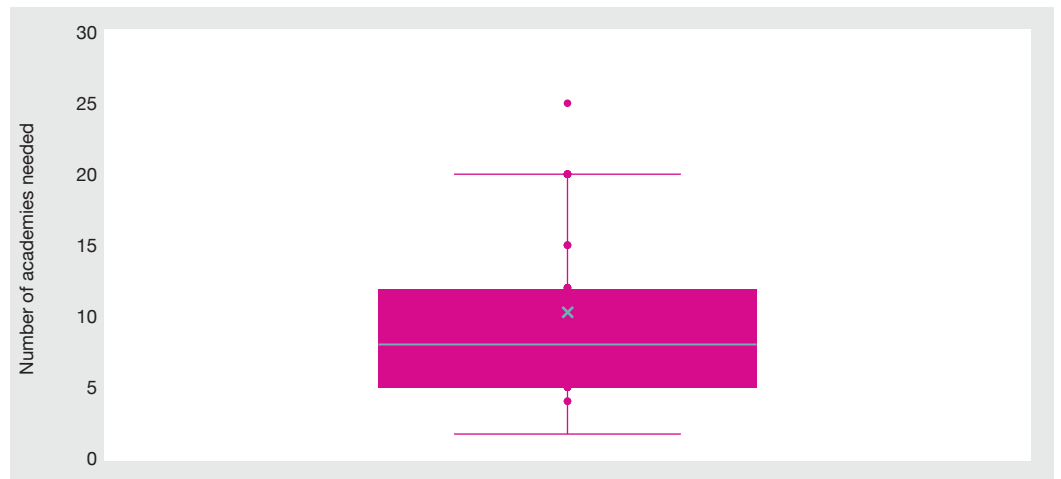
Figure 40: Number of pupils needed for economies of scale

Q15. (b) Consider the number of pupils in your MAT. In your view, what number of pupils would your MAT need to have to begin achieving economies of scale, i.e. reduce the unit cost of the things you buy? (free text)
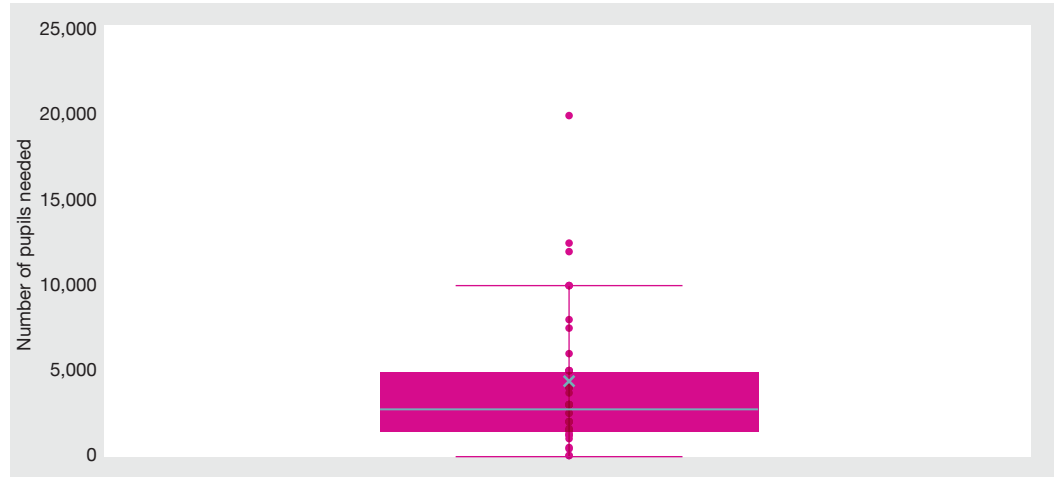
Figure 41: Short-term growth plans

Q16. (a) Consider your short-term plans. In the short term (the next 2 years), is your MAT aiming to run the same, more or fewer academies? (multiple choice)
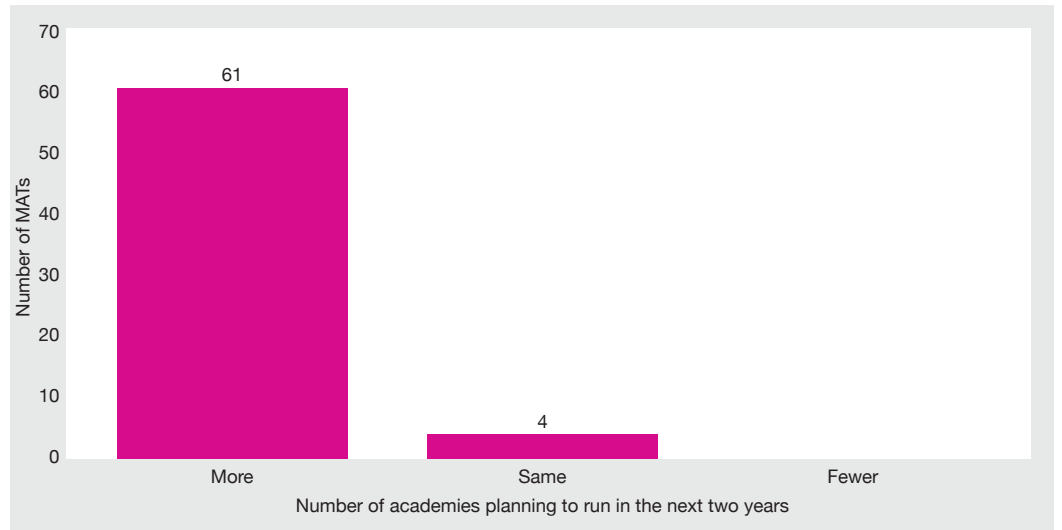
Figure 42: Short-term growth plans compared to current size

Q16. (b) How many schools do you envisage running in 2 years' time, by the end of the academic year 2018-2019? (free text)
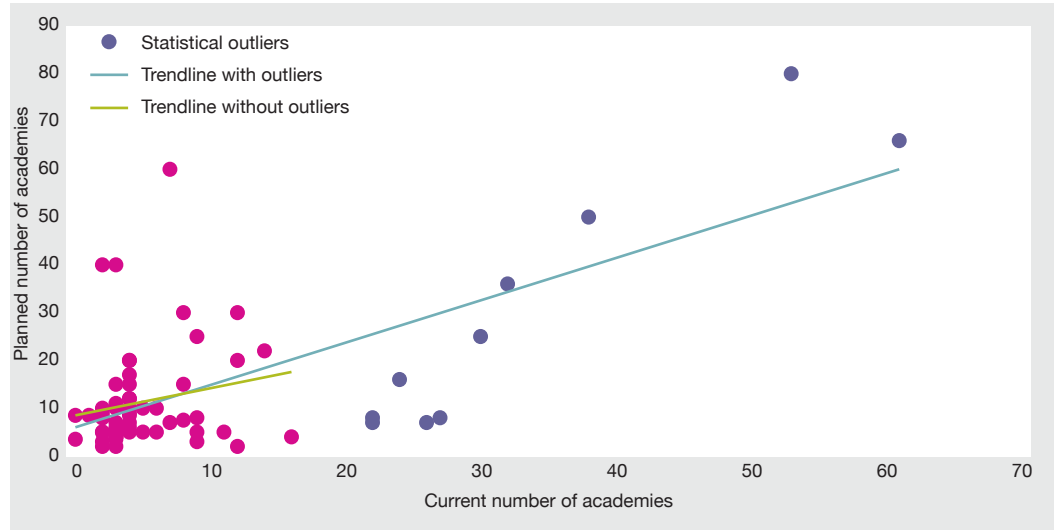
Note: Where a range of values is given, the median has been taken.

Figure 43: Short-term takeover strategy

Q16. (c) If your MAT is aiming to run more academies within the next two years, what type of schools is it aiming to take on? Tick all that apply.
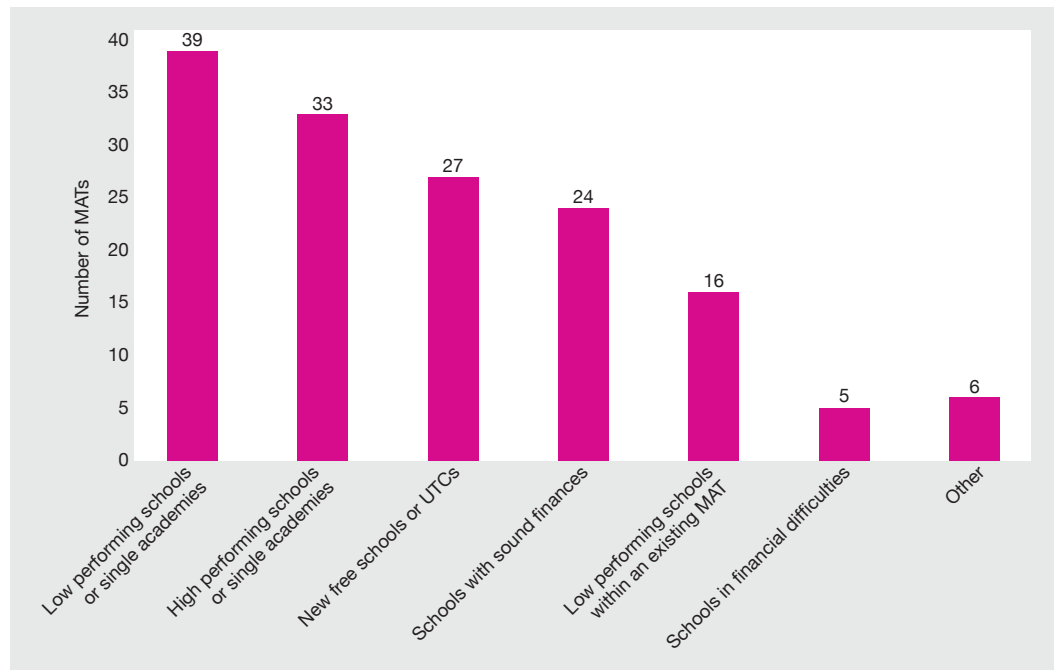
Note: 'Other' includes church schools, post-16 provision, schools in the local area and special and alternative provision.

Figure 44: Long-term comparative growth plans

Q17. (a) Consider your longer term plans. In the long-term (the next 5 years), is your MAT aiming to run the same, more or fewer academies?
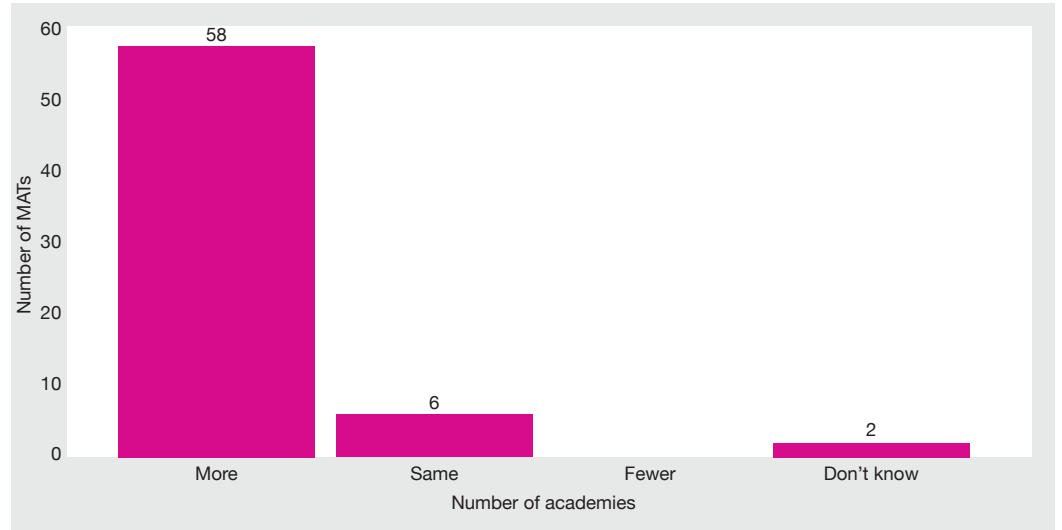
Figure 45: Long-term growth plans

Q17. (b) How many schools do you envisage running in five years' time, by the end of the academic year 2021-22? (free text)
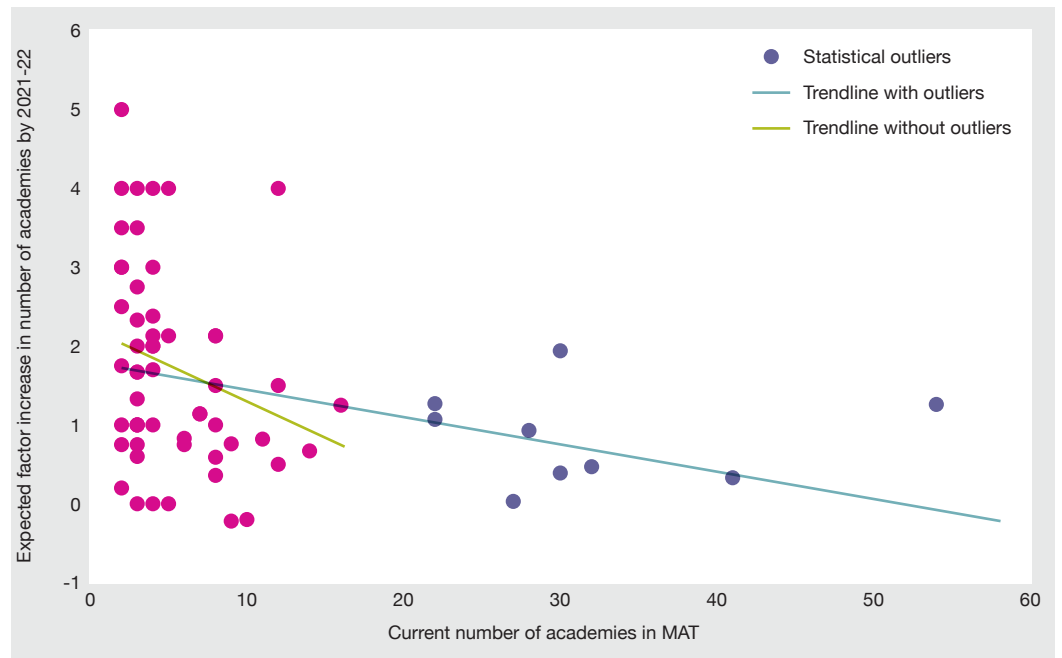
Figure 46: Turning down new schools

Q18. (a) Have you ever declined to take on a new school when formally asked by someone external to the MAT, such as a Regional Schools Commissioner?
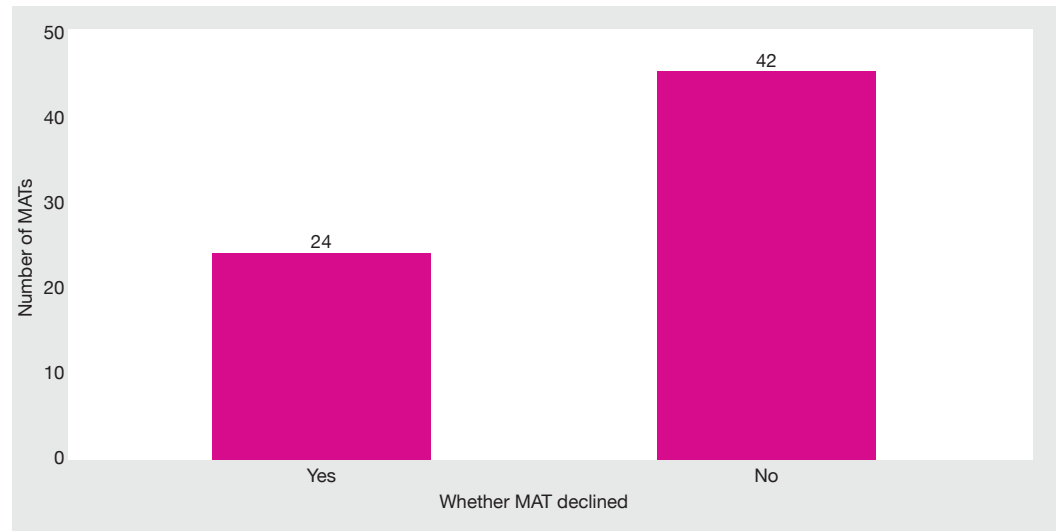
Figure 47: Reasons MATs for turning down new schools

Q18. (b) If yes, what were the reasons? Tick all that apply. (multiple choice)
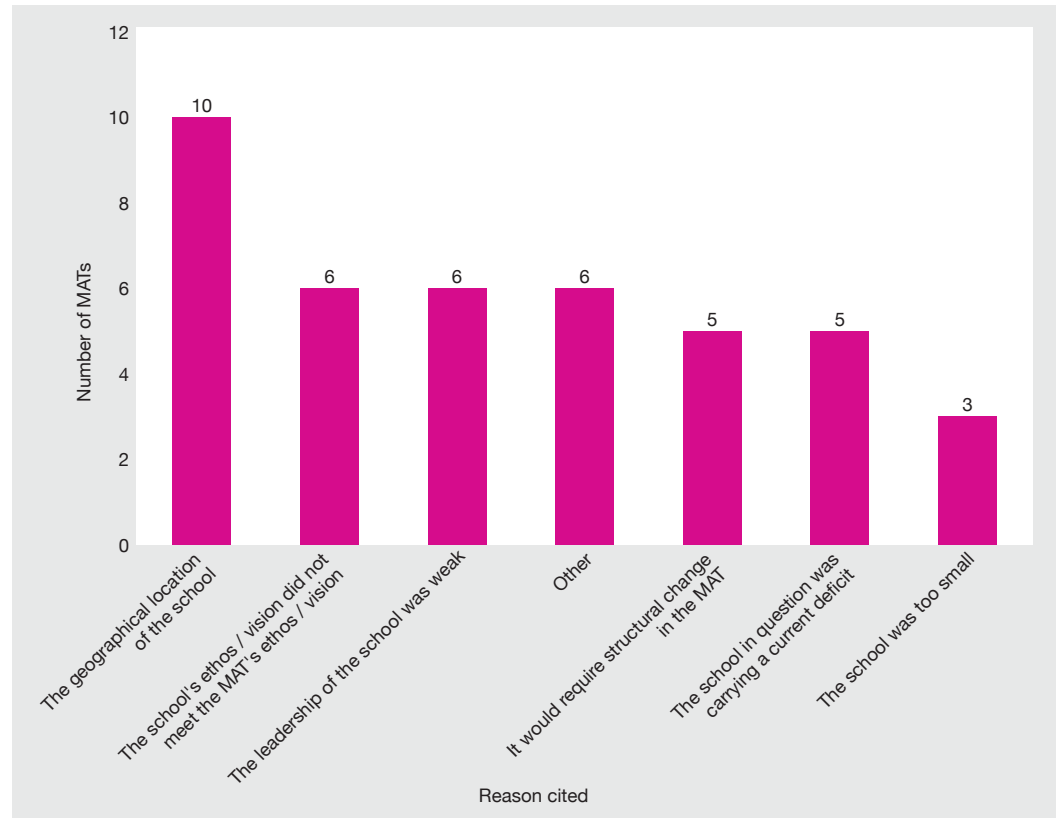
Note: 'Other' includes the MAT lacking expertise of that school type, the performance of the school was too low, not wanting another secondary and LA resistance.

Figure 48: How often new schools are turned down

Q18. (c) If yes, how often do you decline to take on additional schools when asked by the following? (multiple choice)
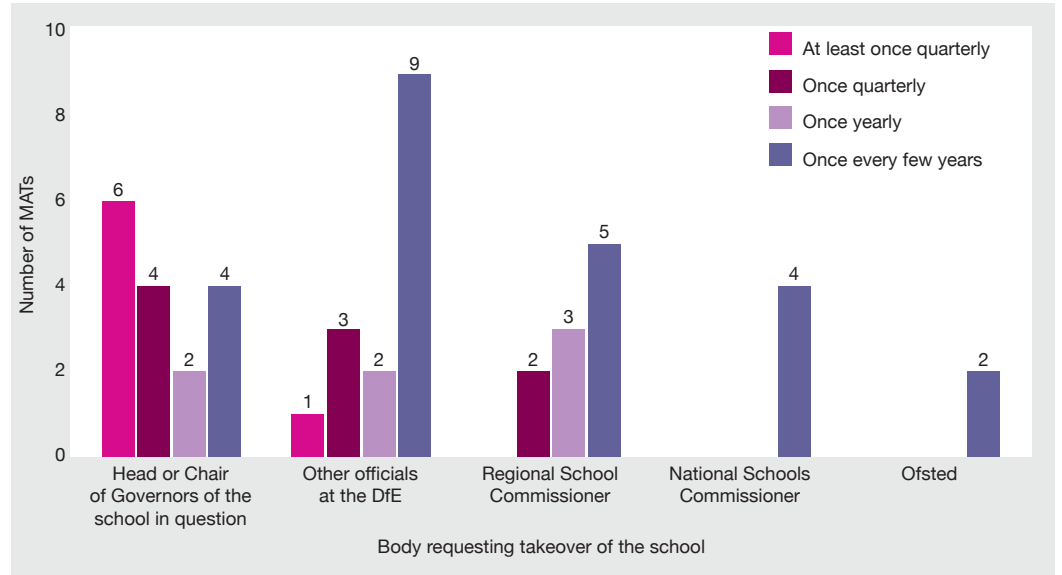
Figure 49: Immediate and short-term priorities

Q18. (d) Consider your immediate, short-term priorities. How important do you consider the following? (multiple choice)
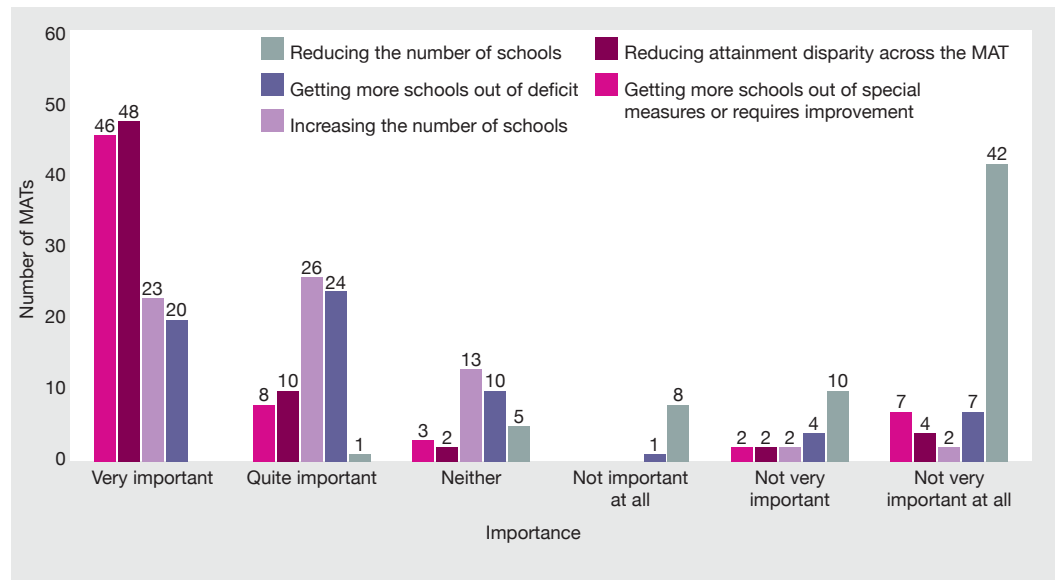
Figure 50: Skills valued at different levels of governance in the MAT

Q19. (a)-(c) Consider your MAT Board of Trustees/Executive Board/school governing bodies. Please tick by the three skills or attributes you consider most important for the effective functioning of that team. Please only tick three. (multiple choice)

Figure 51: Satisfaction with governance skillset

Q19. (d) How satisfied are you with the current skills mix of your Trustees, Executive Board and school governors? Please explain your answer. (free text response)
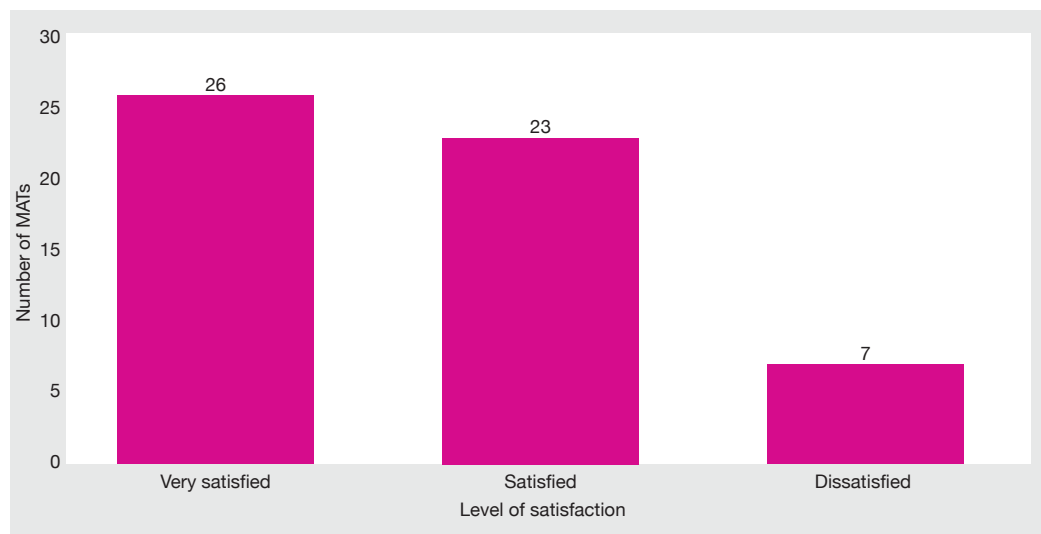
Note: Unknown mainly refers to where the respondent did not answer this question.

Figure 52: Approaches to governing bodies on conversion

Q20. When taking over a school or academy what approach do you usually take to their governing body? (multiple choice and free text)
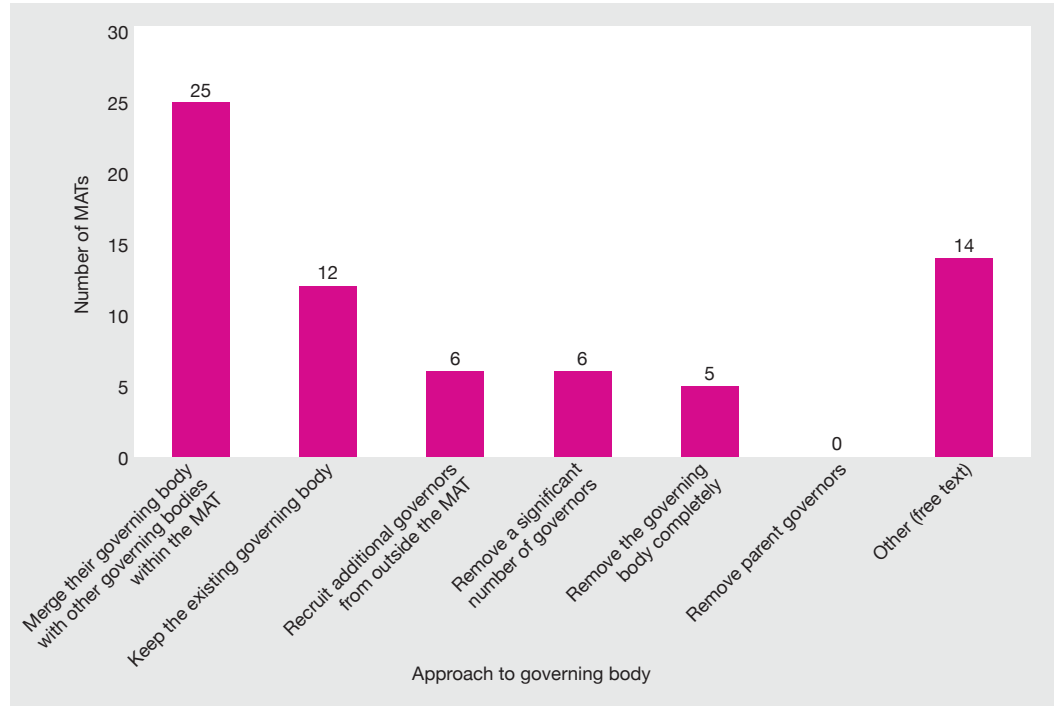
Note: The responses for 'other' include varying approaches depending on the context of the school, the governing body and Ofsted judgements and a mixture of the given approaches and skills audits.

Figure 53: Means of recruiting for different roles

Q21. What is the primary means by which you recruit for the following roles? (multiple choice)
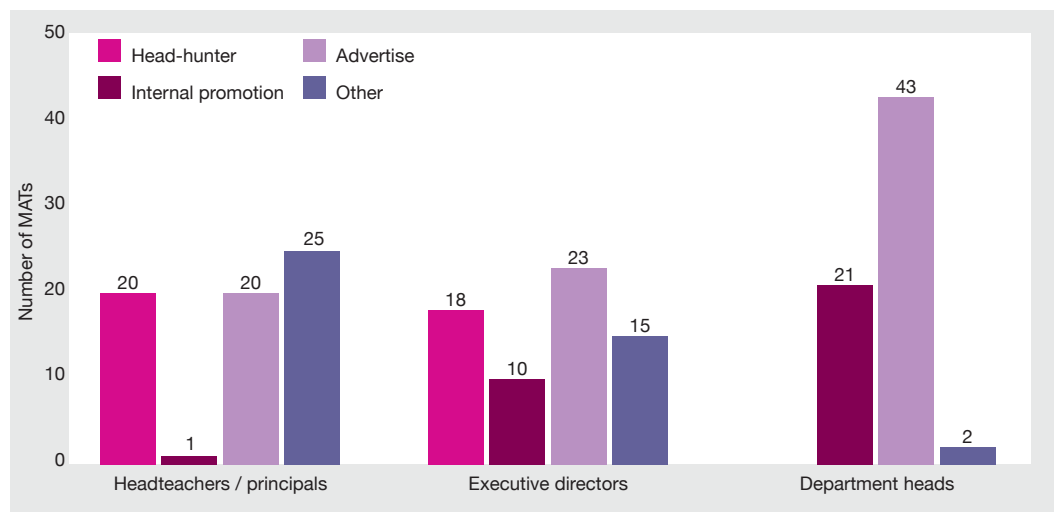
Figure 54: Succession plans

Q22. Please tick by the roles for which you already have a succession plan. (multiple choice)
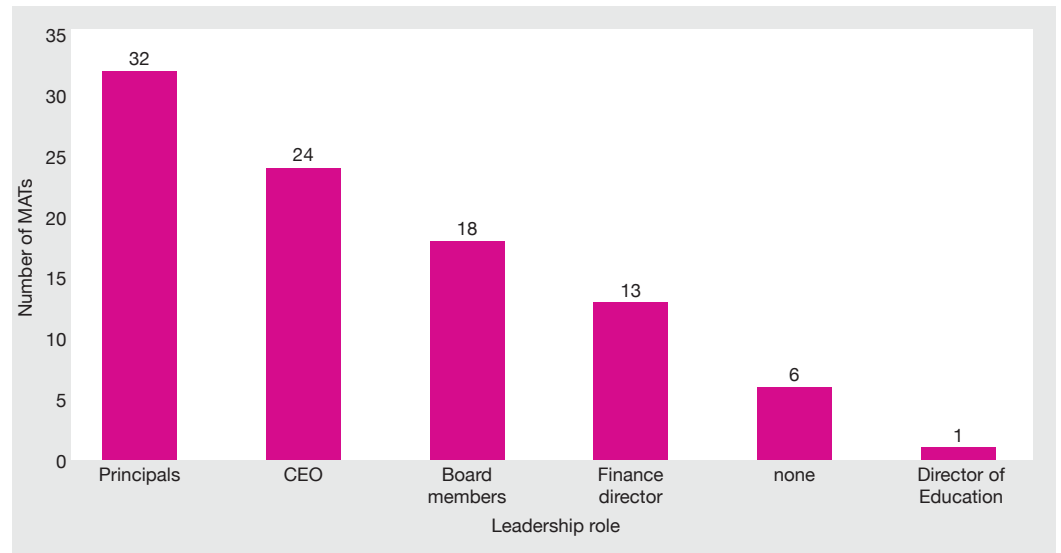
Figure 55: Staff movement within the MAT

Q23. How often do you offer the following forms of staff movement between schools in your MAT? (multiple choice)
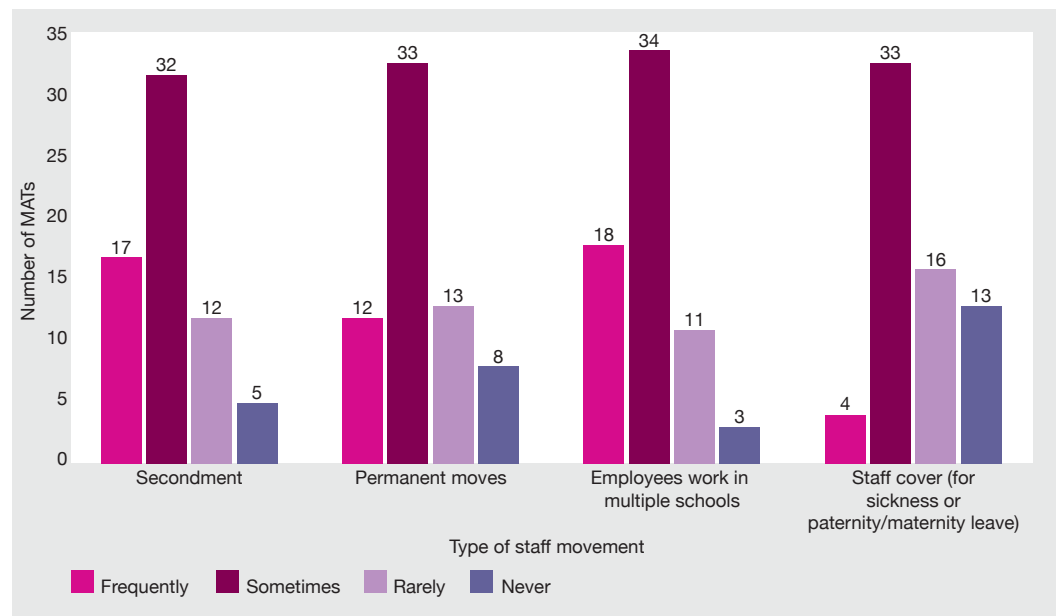
Figure 56: Formal staff mobility clauses

Q24. (a) Do you have a 'mobility clause' in any of your staff contracts? A mobility clause can require staff to relocate according to the needs of their employer, within certain limits. (multiple choice)
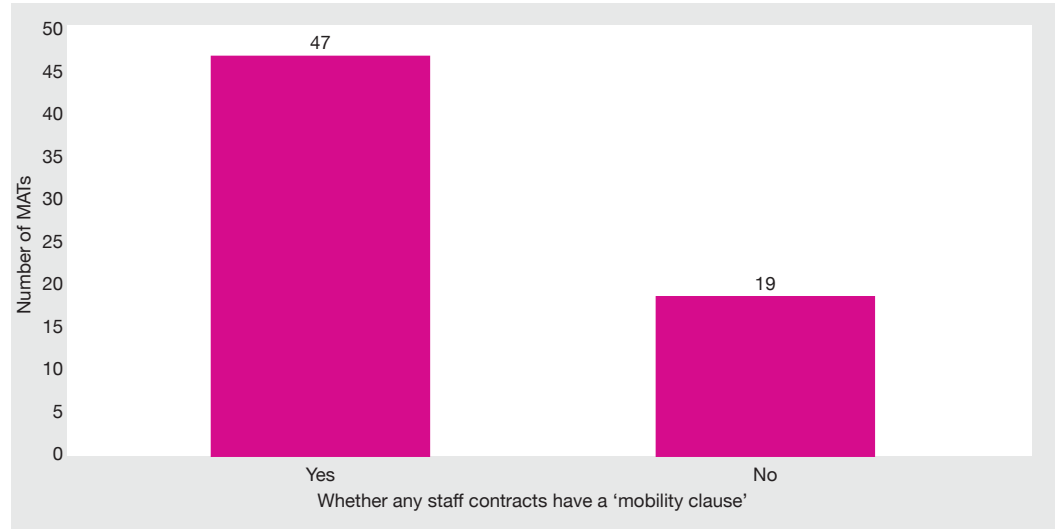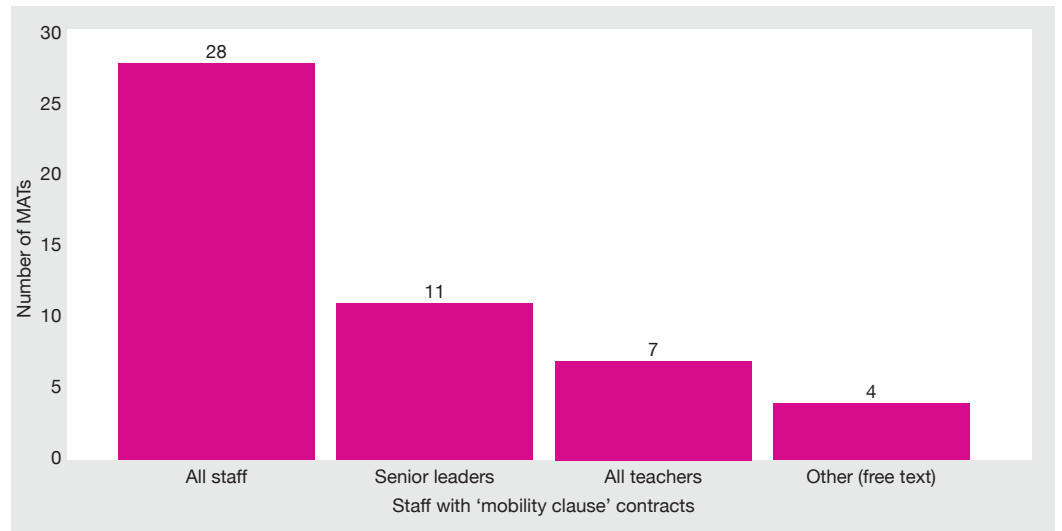

Figure 57: Staff contracts with mobility clauses

Q24. (b) If yes, to which staff does this apply? (multiple choice and free text)

Note: 'Other' includes business managers, new employees and some therapists and teachers.

Figure 58: Staff movement

Q25. (a) Roughly how many members of staff have you moved, either permanently or on secondment, to another school in your MAT over the last year? If not known, write "not known". (free text)
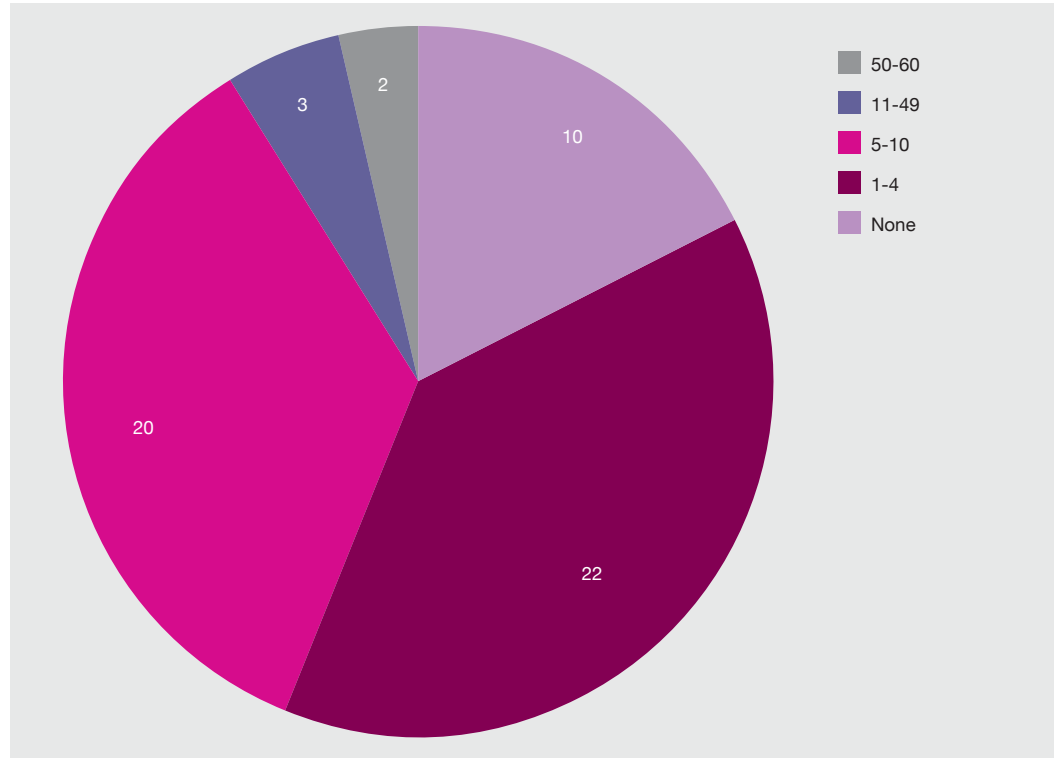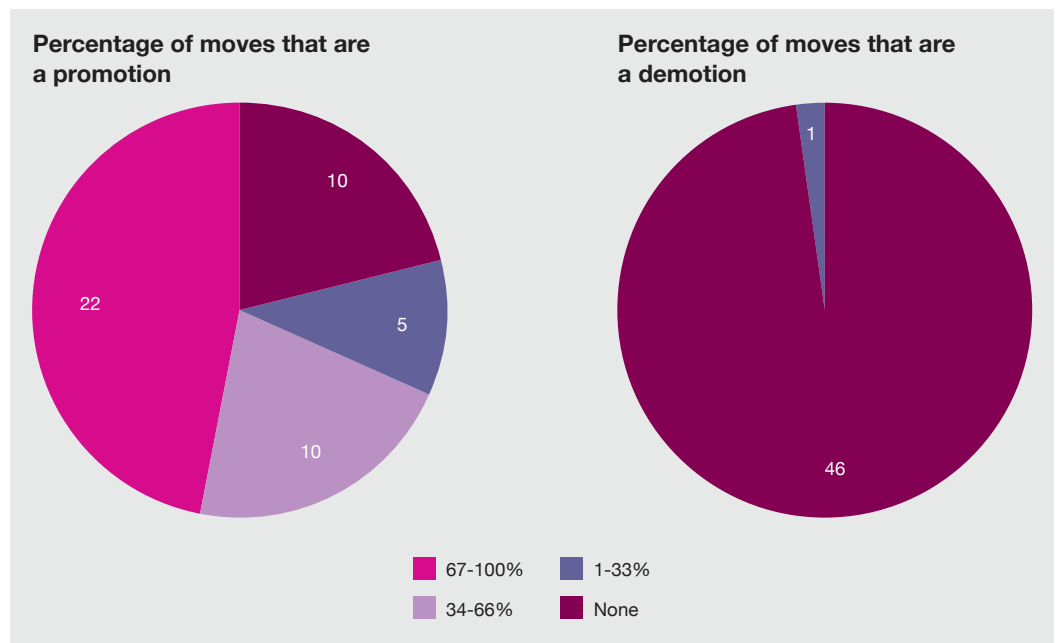

Figure 59: Staff movement for promotion

Q25. (b)-(c) Of these, how many would you consider the move a promotion/demotion?

Note: Not all answered as not all had used staff movement between schools in the MAT.

Figure 60: Aspects of school performance monitored

Q26. Which aspects of school performance are monitored by the Trustees or Executive Team, and how often? (multiple choice)

Legend:
- Weekly
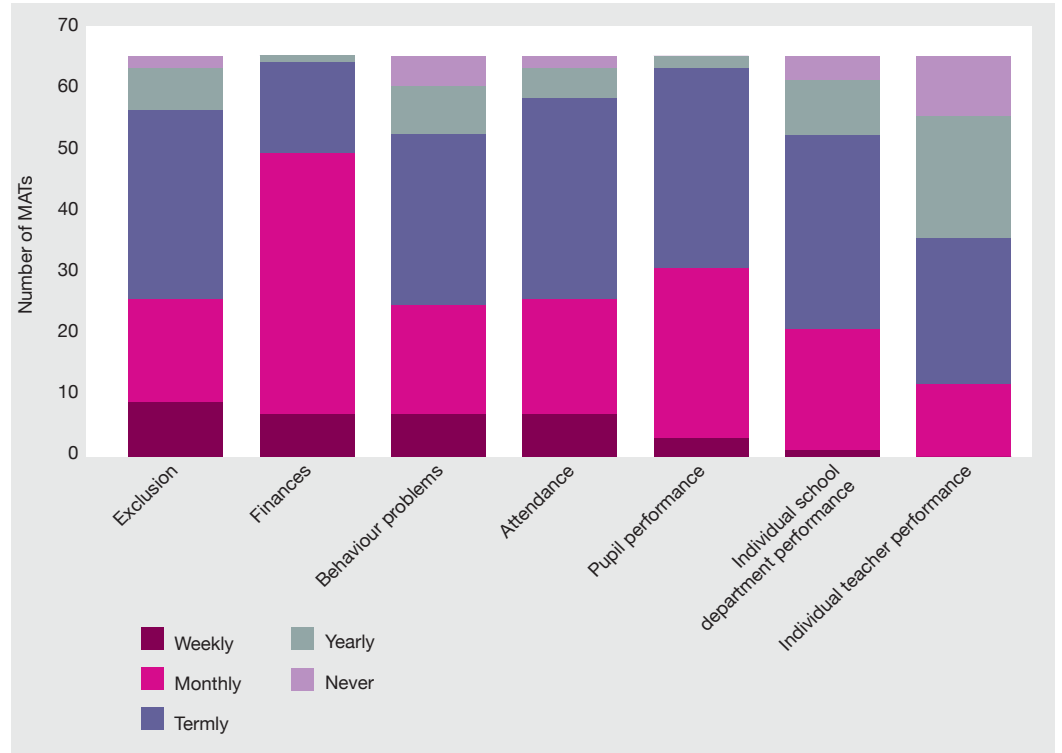- Monthly
- Termly
- Yearly
- Never

Figure 61: Means of monitoring individual school performance

Q27. How is the performance of individual schools monitored by the MAT? (multiple choice)

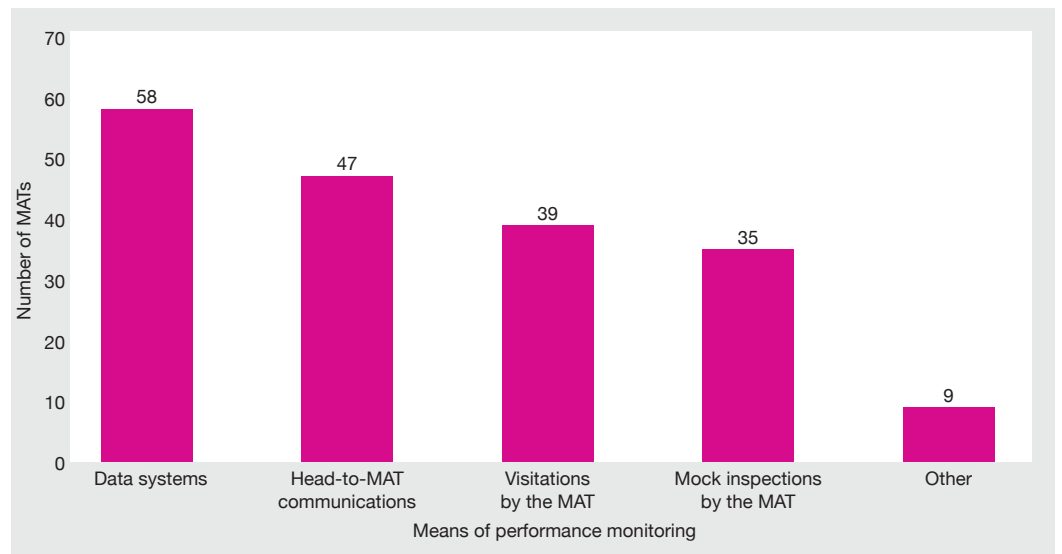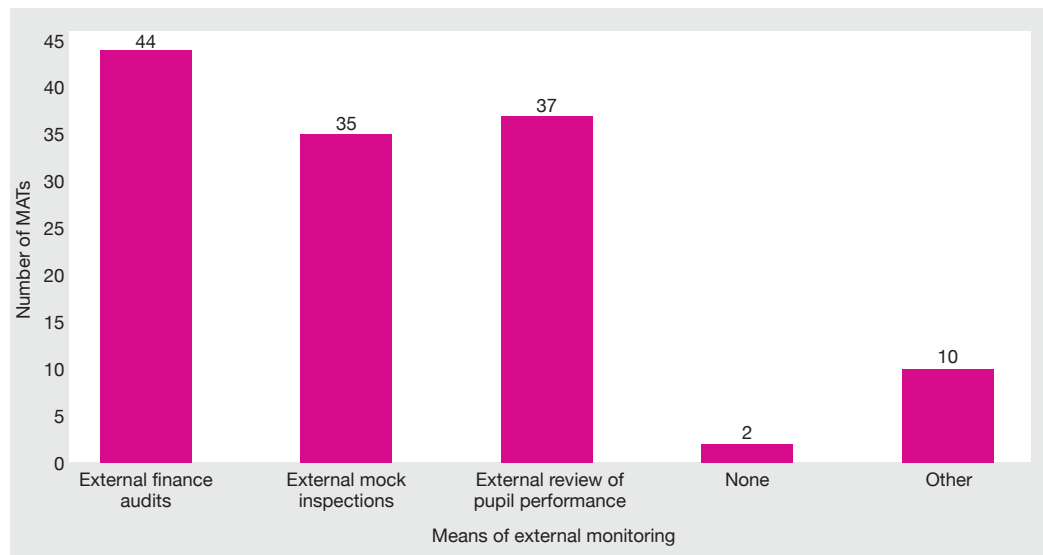| Means of performance monitoring	Number of MATs
Data systems	58
Head-to-MAT communications	47
Visitations by the MAT	39
Mock inspections by the MAT	35
Other	9

Figure 62: Forms of external monitoring used by the MAT

Q28. What forms of external monitoring has your MAT used for individual schools within the MAT (excluding formal accountability mechanisms)?

Note: The responses for other include peer review and coaching, internal moderation, Pupil Premium review, audits and financial reviews and external quality assurance

Figure 63: Communication with commissioners

Q29. How often does the leadership of the MAT communicate with your Regional School Commissioner (either by phone, email or writing)? Please answer even if more than one RSC applies, or the National Schools Commissioner applies. (multiple choice)
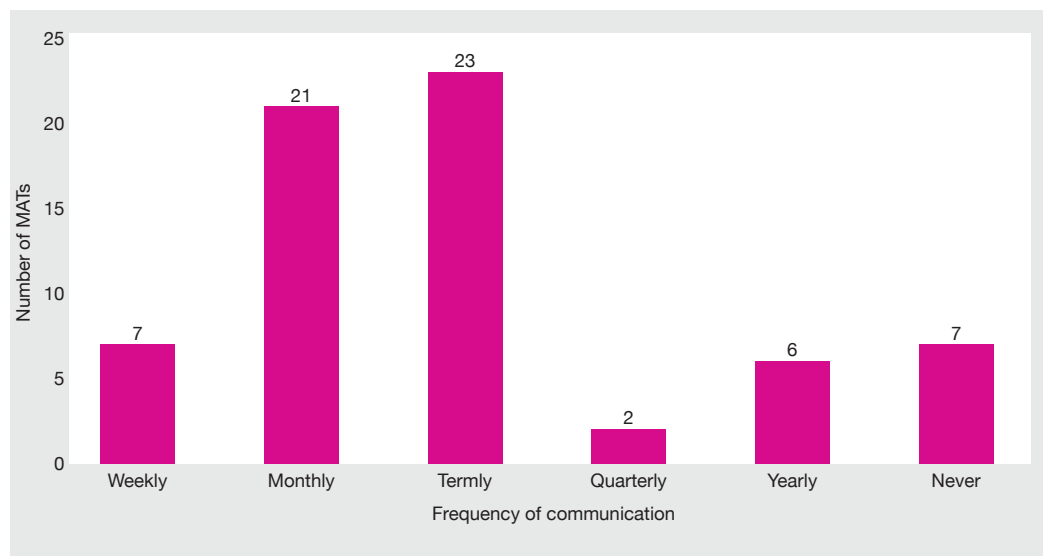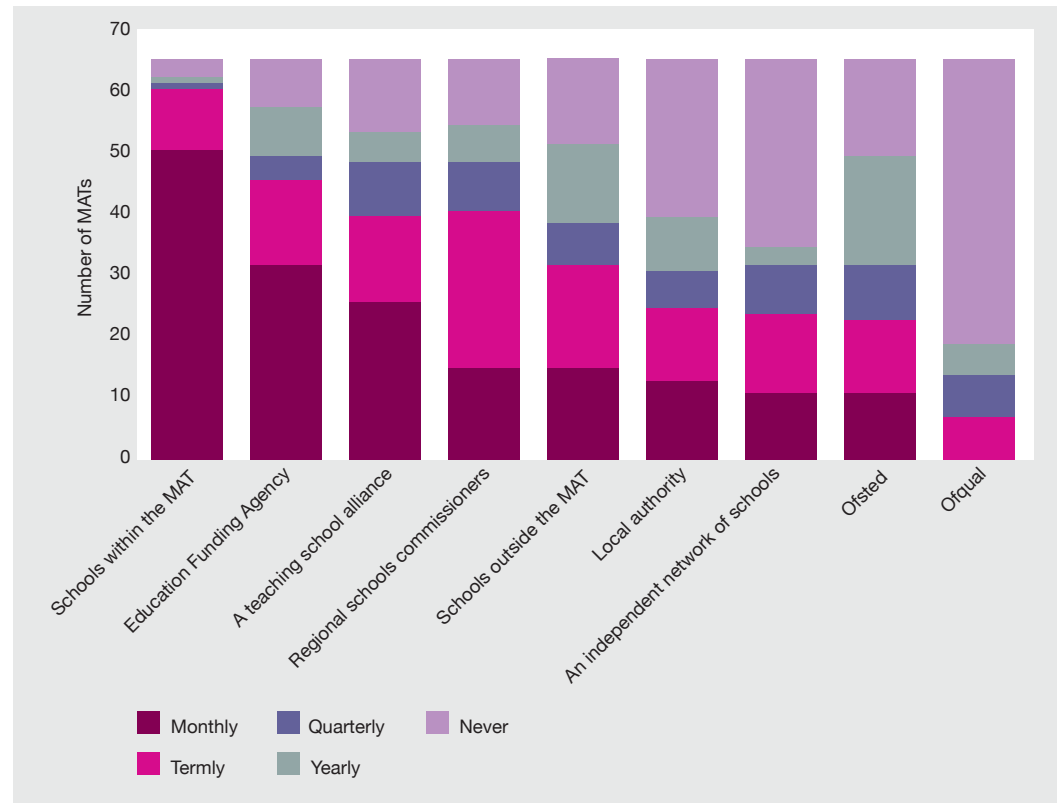
Figure 64: External advice

Q30. How often do you receive advice from the following? The advice could be about school improvement, finances or any specific issue.

Annex C: List of interviewees

The research for this paper was informed by seven unstructured interviews, lasting approximately one hour each. The content of the discussions was confidential. The full list of interviewees is as follows:

> Ian Comfort, Chief Executive, Academies Enterprise Trust

> Dr Tim Coulson, Regional Schools Commissioner for East if England and North-East London, Department for Education

> Samantha Beecham, Director of Operations, E-ACT

> Dame Maureen Brennan, Executive Headteacher, Matrix Academy Trust

> Gary Peile, Chief Executive, The Active Learning Trust

> Debbie Godfrey-Phaure, Chief Executive Officer, Avonbourne International Business and Enterprise Trust

> David Moran, Chief Executive, E-ACT

> Professor Toby Salt, Chief Executive, Ormiston Academies Trust

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