

Free Schools: Contribution to Improving Educational Standards

Debate on 10 January 2019

Summary

This House of Lords Library Briefing has been prepared in advance of the debate due to take place on 10 January 2018 in the House of Lords on the motion moved by Lord Nash (Conservative) “that this House takes note of the contribution made by free schools to improving educational standards”.

This briefing provides background information on the development of the free schools programme, providing statistical information about the number of free schools. In addition, it examines some of the recent comments regarding the role of free schools in relation to improving educational standards.

What is a Free School?

Free schools are state funded schools which are not controlled by local authorities and are instead funded directly by the Department for Education. Free schools have more freedom to operate independently than maintained schools and operate in law as academies. For example, free schools are not required to follow the national curriculum, have more control over setting their own school days and year and can set their own pay and conditions for staff.¹ Mainstream free schools set their own admissions arrangements but, like mainstream maintained schools, are bound to follow the admissions code. Free schools, like all other state-funded schools, are subject to Ofsted inspections to ensure the quality of the education they provide.

As academies, free schools are directly accountable to Secretary of State for Education through a funding agreement. In contrast, maintained schools have varying levels of local authority involvement. Although operating in law as academies, there are differences. Free schools are entirely new state schools, rather than previously maintained schools that have either converted to academy status or become sponsored academies.²

Free schools are run on a non-profit making basis, and are set up following applications from different groups, such as teachers, parents, academy chains, charities, universities and businesses.³ On receiving an application the Department for Education will assess it to consider whether there is a demographic need for new school places. However, the department “may approve free schools where there is no demographic need if, for example, local educational standards are poor or to increase parental choice”.⁴

Background

The 2010 Conservative Party general election manifesto included a pledge for a “schools revolution”, taking as its inspiration the Swedish free schools model and the charter school movement in the US.

The manifesto noted:

Drawing on the experience of the Swedish school reforms and the charter school movement in the United States, we will break down barriers to entry so that any good education provider can set up a new academy school. Our schools revolution will create a new generation of good small schools with smaller class sizes and high standards of discipline. Our school reform programme is a major part of our anti-poverty strategy, which is why our first task will be to establish new academy schools in the most deprived areas of the country. They will be beacons of excellence in areas where school standards are unacceptably low.⁵

The Liberal Democrat's 2010 manifesto committed to replacing academies with "sponsor managed schools", commissioned by and accountable to local authorities, with educational charities and private providers involved.⁶ The subsequent coalition agreement between the Liberal Democrats and Conservatives committed:

[T]o give parents, teachers, charities and local communities the chance to set up new schools, as part of our plans to allow new providers to enter the state school system in response to parental demand.⁷

On 18 June 2010, the then Secretary of State for Education, Michael Gove, invited proposals from groups interested in setting up free schools. In answer to an urgent question in the House of Commons three days later, Mr Gove commented:

As well as showing enthusiasm for greater academy freedoms in existing schools, teachers are enthusiastic about the opportunities, outlined in our coalition agreement, to create more great new schools in areas of disadvantage. More than 700 expressions of interest in opening new free schools have been received by the charitable group the New Schools Network, and the majority of them have come from serving teachers in the state school system who want greater freedom to help the poorest children do better.⁸

Outlining the Government's rationale for introducing free schools, he argued that free schools would lead to higher standards in both free schools and those around them:

All the academic evidence from Sweden shows that more free schools mean higher standards. All schools improve when the number of free schools increases. A second study found that in a given municipality, the higher the proportion of free schools, the more standards rise all round. The evidence not only from Swedish free schools but from American charter schools shows that such schools help to close the gap between the poorest and the wealthiest children. It is that innovation in the cause of social mobility that lay behind the original academies programme.⁹

In its December 2013 report, *Establishing Free Schools*, the National Audit Office (NAO) noted:

The Department's primary aim is to open high-quality Schools and it expects the programme to raise standards across the school system through:

- increasing local choice for parents;
- injecting competition between local schools;
- tackling educational inequality; and
- encouraging innovation.¹⁰

Provisions to create free schools were included in the Academies Act 2010. In addition, section 6A of the Education Act 2011, changed the arrangements for establishing new schools. Known as the free school presumption, where a local authority considers that there is a need for a new school in its area it must (other than in exceptional cases) seek proposals to establish an academy (in the form of a free school).¹¹ Additionally, a free school can be set up by applying directly to the Department for Education during one of its free school application rounds.

The first free schools opened in September 2011 and by September 2017, over 300 hundred had been established.¹²

How many Free Schools?

Information on the number of free schools and academies in existence is available from several different sources. On 10 December 2018, in answer to a written parliamentary question, the Government confirmed that:

There are currently 442 open free schools, 50 open university technical colleges (UTCs) and 27 open studio schools, which will provide over 290,000 places at capacity. Since the start of the free schools programme, 77 free school projects, 4 UTC projects and 5 studio school projects have been cancelled or withdrawn prior to opening. In addition to this, 13 free schools, 7 UTCs and 21 studio schools have closed.¹³

The Government publishes a range of information indicating free schools which have opened and those which are in the process of applying to open. The Get Information About Schools website provides details of all open education establishments and allows users to search by establishment type (academies, free schools, colleges, etc) and the phase of education. As at 18 December 2018 the website suggested that 250 free schools were providing secondary education, with a further 212 providing primary education. Information on the number of successful applications for free schools is also available.

National statistics published in October 2018, on *Schools, Pupils and Their Characteristics: January 2018* used the January 2018 school census to identify the number of children in free schools. The statistics indicate that at January 2018 there were:¹⁴

- 152 primary free schools with 29,810 pupils (15,151 boys and 14,659 girls);
- 171 secondary free schools with 73,637 pupils (39,361 boys and 34,276 girls);
- 29 special free schools with 1,662 pupils (1,342 boys and 320 girls); and
- 39 alternative provision free schools with 1,301 pupils (869 boys and 432 girls).

In its February 2017 report, *Capital Funding for Schools*, the NAO stated that the Department for Education expects to have opened 883 free schools by September 2020.¹⁵ Although, in October 2018, in answer to a written question on the Government's targets for the free schools, Lord Agnew of Oulton, Parliamentary Under Secretary of State for the School System, stated:

There is no target for the number of free schools to be opened during the 2018–19 school year. In September 2018, 53 free schools, 36 of which were through the central route, and one university technical college were opened. A further four central route schools are currently forecast to open in the current school year.¹⁶

On 18 December 2018, the Government confirmed that as at 11 December, 10 free schools (including university technical colleges and studio schools) had closed in 2018, without being replaced by a successor establishment. The figures were 8 and 11 for 2016 and 2017 respectively.¹⁷

On its website the New Schools Network, a registered charity that runs campaigns to win political and public support for free schools,¹⁸ estimates that 442 free schools have opened, creating over 400,000 school places, with a further 261 schools on their way. Regarding schools that are rated outstanding, it has commented:

Free schools are outperforming other state schools and are more likely to be rated as outstanding by Ofsted than all other state schools. All schools that opened in 2011 or 2012 have now been inspected—71% were judged as good or outstanding. Overall, 30% of free schools have been judged as outstanding, compared to 21% of all other schools.¹⁹

Political Party Positions

As noted above, the Conservative Party has a long-standing commitment to free schools, with the policy included in the party's 2010 general election manifesto. More recently, during a House of Commons debate on free schools and academies the Minister of State for Schools Standards, Nick Gibb, said:

The whole essence of the free schools and academies programme is to empower teachers and headteachers and to promote the importance of innovation and evidence. Power is wrestled away from the old authorities. Ideas are weighed and, if they are found wanting, can be discarded. There has been a resurgence—a renaissance—of intellectual thought and debate about pedagogy and the curriculum that used to be vested only within the secret garden of the universities. Now it is debated rigorously by thousands of teachers across the country.

Free schools have challenged the status quo and initiated wider improvement, injecting fresh approaches and drawing in talent and expertise from different groups. There are now 442 open free schools, which will provide more than 250,000 school places when at full capacity. We are working with groups to establish a further 265 free schools [...] the free school programme is thriving.²⁰

The Labour Party does not support the free school programme. At the September 2018 party conference, the Shadow Secretary of State for Education, Angela Rayner, announced:

We'll start by immediately ending the Tories' academy and free schools programmes. They neither improve standards nor empower staff or parents.²¹

Speaking during a House of Commons debate on improving education standards in November 2018, the Shadow Education Minister, Mike Kane, argued:

The Minister [has] cited no evidence that any of their reforms have genuinely improved standards in schools or outcomes for pupils.²²

The Liberal Democrat Party has stated it would “give democratically accountable local authorities clear responsibility for local school places planning and repeal the rule that all new state funded schools must be free schools or academies”.²³

Educational Standards

As highlighted above the role of free schools in improving educational standards is politically contentious. The House of Commons Library has provided the following overview of arguments that occurred during the early stages of the free school debate:

The evidence relating to the educational performance of ‘free schools’ and ‘charter schools’ is mixed. There was much debate on the subject in the run-up to the [2010] general election. Those who are sceptical about the educational and social benefits of free schools point to the overall fall of Sweden in international league tables for pupil performance since the free schools were introduced, and point out that the free schools tend to be attended by children from relatively affluent backgrounds. Furthermore, they note that pupils attending them do not do better in post-school education.

However, others argue that the free schools have performed better than other schools, and that this, in turn, has led schools to improve their organisation and teaching in order to improve results. [...] The Government has compiled a note of evidence supporting the free school model, *The Case for School Freedom: National and International evidence*. This cites evidence in support of the US charter schools and the Swedish free schools, and includes information on ‘debunking myths about school freedoms’, which addresses questions about whether such schools only benefit the well-off, covertly select pupils, hamper the performance of neighbouring schools and neglect the needs of pupils with special needs. Research by the Institute of Education at the University of London suggests that the Swedish free schools have had a positive effect on pupils’ academic achievements. However, research published by Bristol University concludes that while the experience of Sweden is helpful, it is limited in the extent to which it can help predict the impact of school reforms in England.²⁴

The section below outlines some more recent comment about free schools and educational performance.

National Audit Office: Capital Funding for Schools (February 2017)

In February 2017, the National Audit Office published a report examining the contribution that free schools made to addressing the demographic need for school places. In addition, the report looked at the delivery of the free schools programme, although it did not evaluate the role of free schools in relation to educational standards. The report concluded:

In seeking to increase choice, introduce innovation and raise standards free schools often meet a demographic need for new school places, but they are also creating spare capacity, which may have implications for schools’ financial sustainability. By September 2016 the Department had opened 429 new free schools, and plans to open 883 in total by September 2020. The free schools programme aims to give parents more choice and increase competition between schools, and thereby improve the quality of education. Free schools also have a role in meeting local need for new school places. There can be an inherent tension in the extent to which they can meet these aims cost-effectively.

The Department estimates that some of the places in 83% of the mainstream free schools approved since September 2013 address a need for more school places. It also estimates that 57,500 of 113,500 new places in mainstream free schools opening between 2015 and 2021 will create spare capacity in some free schools’ immediate area. Spare capacity can affect pupil

numbers, and therefore funding, in neighbouring schools. The Department's data indicate that spare places in 52 free schools opening in 2015 could have a moderate or high impact on the funding of any of 282 neighbouring schools. The financial sustainability of free schools themselves may also be affected if a significant number of their places are not filled.²⁵

In relation to educational standards, the NAO commented:

The Department assesses financial viability as part of the process of approving free school applications. It has also sought to assess whether creating free schools is having the intended effect of improving educational standards through competition but the sample size is currently too small to draw meaningful conclusions.²⁶

New Schools Network: The Secret of Successful Schools (August 2017)

The August 2017 report from the New Schools Network, argued that by following the “no excuses” model of charter schools in the United States, free schools could address issues such as “the continuing under-performance of disadvantaged pupils in England’s state-funded education system”. It pointed to the ARK academy chain and the Harris Federation as examples of what could be achieved through the “no excuses” approach.

Stating that a more “traditional behaviour management policy” and high academic expectations had a strong relationship with the performance of a school in its “progress 8” measure; the measure the Department for Education uses to examine how a child in secondary school has “progressed” against their SAT results at key stage 2. The paper also examined the role of high academic expectations of its disadvantaged students and school ethos, concluding:

Our tentative conclusion is that England’s most successful schools do, for the most part, sit at the traditional end of the ‘progressive-traditional’ continuum and are following a no excuses/gromp approach. Moreover, the more traditional they are, the more likely they are to be successful, both for their disadvantaged and non-disadvantaged students—and the fact that disadvantaged pupils do particularly well at these schools is something they have in common with American no excuses schools. By the same token, the less successful the schools are, the more likely they are to have progressive elements.

The reason this conclusion is only tentative is because we have only analysed 50 schools—the most successful 25 and least successful 25. We should be cautious about reading too much into these results. As discussed, we intend to publish a larger survey later in the year in which we look at four times as many schools.²⁷

Sutton Trust and National Foundation for Educational Research: Free for All? (May 2018)

Published in May 2018, the report, *Free for All? Analysing Free Schools in England 2018* sought to provide a “snapshot” of the free school programme, some seven years after it was established. The report offers details about the different types of free schools, such as: faith schools; former independents; schools established by parents; and schools opened by multi-academy trusts. In addition, it examines how the key stage 4 attainment of pupils who attend free schools compares to pupils in other schools with similar characteristics, concluding:

It is currently too early to evaluate the key stage 2 results of primary free schools, as schools have not been open for long enough to have pupils who have been educated solely by their free school.

At key stage 4, pupils at free schools perform slightly better than pupils at other types of school, and disadvantaged pupils in free schools perform the equivalent of a quarter of a grade higher in each subject compared to their peers in other school types. However, while initial GCSE results at key stage 4 are promising, they are still currently based on a relatively small number of pupils.²⁸

Amongst the other findings of the report were: a decrease in the proportion of free schools set up by parents; a limited number of schools that were innovative in terms of their curriculum or ethos; a substantial increase in non-Christian faith schools; an increase in the use of free schools as a vehicle for academies to set up new schools; a slight under-representation of disadvantaged pupils amongst free schools for the areas they serve; and a higher proportion of ethnic minority students in free schools compared to other types of school and to their catchment area.²⁹ In a press release accompanying the report, Sir Peter Lampl, founder of the Sutton Trust said:

Free schools were supposed to bring new and innovative providers into the education sector, to drive up standards and improve school choice. But as our research shows, very few are fulfilling that original purpose.³⁰

The report included a number of recommendations, including a call for the Government to review and clarify the mission of free schools.

Education Policy Institute: School Performance in Academy Chains and Local Authorities (June 2018)

In June 2018, the Education Policy Institute (EPI) published a report examining the impact of the academies programme on academic attainment, including the impact of free schools. In relation to free schools, the report notes:

At present, there is insufficient data to reach robust conclusions on the effectiveness—positive or negative—of free schools in terms of Ofsted outcomes and pupil attainment and progress. Such measures present a mixed picture and currently have serious limitations as to the extent to which they can be taken to be a measure of the effectiveness of the programme.³¹

The report echoed the sentiments of the work done in November 2017 by the EPI on [Free Schools in England](#) which stated that that “insufficient data” existed to reach robust conclusions on the effectiveness, good or bad, of free schools. Noting, that at the time of writing free schools represented “just 2 percent of all state-funded schools” the report argued that the “relative sparsity” of free school provision should be remembered when considering their impact on the educational system.³²

In relation to the performance of free schools, the 2017 report commented

Large numbers of free schools are yet to be inspected [...] Attainment and progress in free schools at the end of primary (key stage 2) is relatively poor but these statistics are derived from a small number of schools which are likely to be atypical of the programme as a whole—almost half are former independent schools rather than new provision. The results at the end of key stage 1 are good and derived from a larger number of schools, but come with the caveat that they do not control for level of development on entry to the school or other pupil characteristics

In 2017, the 54 free schools that had pupils at the end of key stage 4 achieved an average progress 8 score of +0.10. Amongst the major school groups this was the joint highest progress 8 score alongside converter academies. This means that, on average, pupils achieve a tenth of a grade

higher in each subject than pupils with similar prior attainment nationally. Progress 8 measures do not control for the different profile of pupil characteristics seen in free schools. Of particular significance is the higher proportion of pupils for whom English was not their first language that is seen in free schools. This is because these pupils, on average, tend to make more progress than pupils with similar prior attainment nationally. It may be this effect that is being observed rather than a free schools effect.³³

London School of Economics and Matrix Chambers: Academies, the School System in England and A Vision for the Future (June 2018)

In June 2018, the LSE and Matrix Chambers published a report examining the development of the academies in the English schools system. The report primarily focused on the role of academies, rather than specifically concentrating on free schools, and argued that many academies enjoyed less freedom than they had done prior to the policy.³⁴ In relation to free schools, the report concluded that:

Local authorities remain under a duty to ensure there are sufficient schools in their areas, but have no direct power to do anything about this given the role played by the RSCs [Regional Schools Commissioners] and the free school presumption.

It recommended “restoring local democratic oversight”:

We propose that the contracts under which academies operate (newly separated out in relation to MATs [Multi-Academy Trusts]) should be with the local authority rather than the Secretary of State (or the eight RSCs). This would restore the linkage with local authorities whilst (assuming this is what is wanted) keeping the relationship primarily contractual rather than statutory. It would be a shift from central government (and indeed RSCs) to local government, but without reducing school freedom.

Existing MAT organisations, where they add real value (in actually supporting the local running of schools, for example) could continue as a service which individual schools could call on, perhaps by buying in services from it, just as maintained schools can choose to buy in support services from the local authority or from external providers. The presumption of a ‘free school’ when a new school is needed should be removed so that local authorities are able to ensure sufficiency of local supply.³⁵

Further Information

- House of Commons Library, [FAQs: Academies and Free Schools](#), 17 November 2017

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- ¹ Gov.uk, '[Types of School: Free Schools](#)', accessed 18 December 2018.
- ² House of Lords, '[Written Question: Academies](#)', 19 December 2018, HL12199.
- ³ Gov.uk, '[Types of School: Free Schools](#)', accessed 18 December 2018.
- ⁴ National Audit Office, '[Capital Funding for Schools](#)', 22 February 2017, HC 1014 of session 2016–17, p 27.
- ⁵ Conservative Party, '[The Conservative Manifesto 2010](#)', April 2010, p 51.
- ⁶ For more detailed background of the development of the free schools programme see House of Commons Library, '[Free Schools](#)', 17 August 2010.
- ⁷ HM Government, '[The Coalition: Our Programme for Government](#)', 20 May 2010, pp 28–9.
- ⁸ [HC Hansard, 21 June 2010, col 25](#).
- ⁹ *ibid*, col 27.
- ¹⁰ National Audit Office, '[Establishing Free Schools](#)', 11 December 2013, HC 881 of session 2013–14, p 5.
- ¹¹ London School of Economics and Matrix Chambers, '[Academies, the School System in England and A Vision for the Future](#)', June 2018, p 11.
- ¹² Sutton Trust and National Foundation for Educational Research, '[Free for All?](#)', May 2018, p 1.
- ¹³ House of Commons, '[Written Question: Educational Institutions: Finance](#)', 14 December 2018, 198853.
- ¹⁴ Department for Education, '[Schools, Pupils and Their Characteristics: January 2018](#)', October 2018, national table: 2b.
- ¹⁵ National Audit Office, '[Capital Funding for Schools](#)', 22 February 2017, HC 1014 of session 2016–17, p 4.
- ¹⁶ House of Lords, '[Written Question: Free Schools](#)', 19 October 2018, HL10596.
- ¹⁷ House of Commons, '[Written Question: Schools: Closures](#)', 18 December 2018, 200626.
- ¹⁸ New Schools Network, '[About Us](#)', Accessed 18 December 2018. The Department for Education has confirmed the “New Schools Network (NSN) receives a grant from the department, which it uses to support the free schools programme and to provide the academy ambassadors service, which finds senior business figures to join academy trust boards as non-executive directors” (House of Commons, '[Written Question: Education—Finance](#)', 21 February 2018, 127717).
- ¹⁹ New Schools Network, '[Free Schools: The Basics—Facts and Figures](#)', accessed 20 December 2018.
- ²⁰ [HC Hansard, 5 December 2018, col 359WH](#).
- ²¹ Labour Party, '[Angela Rayner Speaking at the Labour Party Conference Today](#)', 24 September 2018.
- ²² [HC Hansard, 29 November 2018, col 450](#).
- ²³ Liberal Democrats, '[Education: Driving Up School Standards](#)', accessed 20 December 2018.
- ²⁴ House of Commons Library, '[Academies Bill](#)', 14 July 2010, pp 12–13.
- ²⁵ National Audit Office, '[Capital Funding for Schools](#)', 22 February 2017, HC 1014 of session 2016–17, p 9.
- ²⁶ *ibid*.
- ²⁷ New Schools Network, '[The Secret of Successful Schools](#)', August 2017, p 18.
- ²⁸ Sutton Trust and National Foundation for Educational Research, '[Free for All?](#)', May 2018, p 3.
- ²⁹ *ibid*, pp 2–3.
- ³⁰ Sutton Trust, '[Press Release: Free Schools Fail to Fulfil Original Purpose](#)', 31 May 2018.
- ³¹ Education Policy Institute, '[School Performance in Academy Chains and Local Authorities—2017](#)', June 2018, p 16.
- ³² Education Policy Institute, '[Free Schools in England](#)', November 2017, p 8.
- ³³ *ibid*, pp 10–11.
- ³⁴ LSE and Matrix Chambers, '[Academies, the School System in England and a Vision for the Future](#)', June 2018, p 4.
- ³⁵ *ibid*.

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