

Stronger Partnerships Simpler Structures

Why simplifying the legal framework for schools in England is the best starting point for necessary reforms to promote collaboration, improve outcomes and fairness whilst making better use of resources.

A paper for anyone who might be interested.

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Executive summary

The English school system is complex, fragmented and opaque and there is a widely shared view that improvement is required. But the government appears to have dropped plans for further structural change and the opposition seems to believe that there is no political mileage in challenging the status quo. However, the Labour Party does have serious aspirations for improving the education system including promoting partnerships as a vehicle for addressing the fragmentation that exacerbates the “class ceilings” identified by Kier Starmer in his July 2023 speech. I argue that, whilst the spontaneous emergence of voluntary partnerships is powerful evidence of current structural flaws, they cannot alone offer the best long-term solution. Appropriate ‘de-fragmentation’ via legislative reform would yield multiple, quick and effective policy advantages.

The benefits of change

At a time of resource crisis complexity is wastefully expensive and there are other hidden costs that reduce effectiveness across the system. Unfairness in funding, unequal institutional autonomy and inconsistent regulation between different types of school is corrosive. There are inequalities in access, quality and resources for parents and children. Different, confusing and complex governance structures lead to a lack of transparency and uneven routes to accountability in different parts of the system. There are inequitable admissions arrangements and inefficient mechanisms for managing the supply of school places. A minority of schools, and those who sponsor them, benefit from these inequalities enjoying favourable funding and levels of control that enable them to manipulate their intake to give the appearance of being better than they are. Lobbyists representing this minority are amongst those arguing against change.

However, the vast majority of stakeholders will embrace ideas for beneficial change. Almost all the education policies that Labour has outlined would be advanced in one way or another by implementing structural reform. Many pledges would be realised automatically via the integration of all schools within a common structure. As well as being quicker and simpler than separate policies designed to work around the status quo, structural equality avoids the perception, and reality, of unequal treatment, as well as the anomalies and unlooked-for consequences that are a major risk in a fragmented environment. Most of all it would save money and therefore meet Labour’s self-imposed fiscal responsibility test.

For these reasons there is a strong case for making structural reform an early priority. There is nothing to gain from delay – except for those unfairly benefiting from the status quo.

Specific policy effects

Resources. Complexity is wastefully expensive. Authoritative studies have found that oversight functions for academies cost significantly more than for other schools. Although individual conclusions may be contestable, the wastefulness of duplication is undeniable, and the perception and reality of unfairness is an obstacle to collaboration. Multiple funding routes create anomalies as well as bureaucratic inefficiency. Streamlining capital and revenue funding systems towards transparent, consistent, coherent and efficient mechanisms would place all schools on a level playing field; and, with reduced ‘system overheads’, more of the available resource would reach the front line.

Meeting the needs of Vulnerable pupils is a high cost and difficult area of policy. This is a vast subject, but there is one important truism. Maximising the proportion of needs that can be met in mainstream settings is more economical in resources and delivers social benefits for both the individual, and the education of the other children within their local community. Success relies greatly on the willingness of institutions to participate. The ‘level playing field’ created by a coherent and consistent structural settlement could be a major factor in establishing the necessary buy-in from every school.

Teachers. The crisis in teacher recruitment and retention has more to it than remuneration. Creating a better inspection regime will help, but the fragmentation and anomalous working conditions (including different legal employers) across the fractured school system simultaneously adds to the grievances of the profession and makes them more difficult to address. Creating a single consistent relationship between government, schools and employees could facilitate progress in recruiting and developing a workforce that is onboard with other reforms.

Curriculum. As with other areas, the national curriculum applies differently because of the structural differences between schools. Three of Sir Keir's five 'barriers' were curriculum related, and all would be easier to address within a coherent and consistent system.

School Organisation and Admissions. The connection between how school places are created, offered and allocated, and the overall equity and effectiveness of the system is self-evident. From 2010, in line with his 'marketisation' strategy, Michael Gove dismantled much of the beneficial innovations of the 1997-2010 Labour administrations. This legacy of fragmentation, unreformed, will continue to hamper any attempt to re-establish equity. Necessary further systemic reforms to recover lost ground and go forward will be easier and more effective within a coherent unified structure.

Early years provision. Whilst much of this provision is private or voluntary, the public primary school estate and human resources still make the most significant contribution. A unified and coherent approach to school structures will facilitate any necessary encouragement/requirements for that sector to support expanded early years provision.

Inspection. In a unified and collaborative system meeting whole community needs, academy trusts need not be singled out for separately targeted inspections as their role would fit into the framework that applies to all schools.

How to plan for change

A reform strategy should be planned:

- to create a structure that:
 - is coherent, settled, and stable.
 - is equitable, efficient, and effective.
 - promotes cooperation and collaboration.
 - avoids perverse incentives e.g., unfair admissions & covert exclusions.
 - has a unified funding system that fairly and efficiently channels the maximum resource to the front line.
 - facilitates an effective but constructive accountability system.
- adopting an implementation strategy that:
 - minimizes the need for untried new legislation by consolidating the system around proven structures.
 - maximises stakeholder support by stipulating that no schools need to be closed or change 'branding'; and, providing a continuing role for all current participants - including academy trusts/trustees.
 - can be achieved quickly on taking office to secure savings, and 'no-cost' improvements, whilst resources for other projects are constrained.

The root of the problem

Both the 'Grant-Maintained' experiment in the 1990s and 'Academisation' since 2010 were defined against a critique of an allegedly stultifying and over-regulated status quo. Whether this is, or was ever, true is debatable; but, leaving that aside, the approach is fundamentally

flawed. The policy response has been to leave the pre-existing regulation in place whilst allowing/forcing selected institutions to 'opt out' of it. But the proper way to deal with an over-complex regulatory framework is via simplification; not to invent elaborate mechanisms which appear to allow some institutions to circumvent it. Furthermore, the alleged 'opting out' is really a process of 'opting in' to central control via a contract with the Secretary of State. Academy funding agreements selectively re-impose much of the regulation by other means but with less transparency and reduced local accountability. Again, the antidote to excessive micro-management by government (whether local or national) is real devolution of power through the system. But the opposite has been brought about by the changes since 2010, which have both sucked-up power from schools into MATs and left recent Secretaries of State with even greater powers of direct intervention than their predecessors. Those powers are used to 're-broker' unsatisfactory academy schools - a process that is 'done-to' rather than 'done-with' local communities. It is this approach, above all, that has led to the present atmosphere of permanent revolution and an omnishambles urgently in need of repair.

Options for a common structure

Turning all schools into academies on the current model has been presented as the preferred solution; but this would create a legal anomaly. Although education regulations legally "apply" only to the maintained sector, they would still have to be retained because academies were originally conceptualised as an adjunct to a larger public sector which they are broadly required to mimic. Thus, a body of redundant education regulation that no longer applied directly to any real institution would have to be continually updated as a template for academy contractual compliance. Trying to resolve this difficulty was one of the reasons the 2022 Bill ran into difficulties.

Because of that technical difficulty, and the recent failed attempt to move to 'full academisation', the public education service would be better rationalised as being delivered by accountable 'public bodies.' In the present climate of widespread public dissatisfaction with privatised utilities that should hardly be a controversial statement. However, although 'full academisation' as an idea seems to have run out of political steam, I am not suggesting that academy schools themselves, or the trusts that control them, need to be swept away or replaced wholesale by some new model. This is both because that could create as many problems as it solves and because individuals and institutions within that sector have made contributions that should be retained. That leaves a strategy of 'rationalisation'; bringing all institutions within a common framework, ironing out anomalies, inconsistencies, and wasteful duplication; whilst supporting and developing the best of what exists.

A technical readjustment so that all schools enjoy the same formal legal status, with the minority that are currently 'private' institutions becoming 'public bodies' could be enacted without undue cost or difficulty. Or indeed, since the majority were never 'privatised' anyway, without the need for a debate about "re-nationalisation." In fact, as funding agreements are held by the national Secretary of State it would more properly be characterised as "re-localisation." Our diverse and fragmented system should be brought together within a framework which consolidates the best features of different current models. Certain structural features occur in both academies and some maintained schools. If these are deemed beneficial, they should apply to all schools via a common unified structure.

Doing this through legislation would necessarily 'de-privatise' the academy sector; but, from the point of view of parents, academy schools themselves would remain broadly the same; as would the roles of the people running them. The relationship between academy trusts and central government would change from a series of individual contracts to a set of regulations that apply to them all. It is likely that this stability would be welcomed by academy trusts who currently express frustration at ministerial tinkering via the Academy Trusts Handbook. At the same time the current diversity within the maintained sector could be reduced so that all those schools would fit within the same framework. Some key system

aspects would need to be streamlined (such as revenue and capital funding streams) but with no, or minimal, change to those that are not problematic (e.g., land tenure). Importantly the position of different stakeholders - churches, academy trusts and local authorities - should be adjusted to maximise, and universalise, the benefit of their contributions. A rigorous review of current structures (both regulated and equivalent contract-defined requirements) applying to the various categories of institution would be needed to inform choices about a future unified system.

What a simpler structure could look like

A new settlement would not be identical for any existing category of institution, but the degree of change would be imperceptibly for some and small for most. In some cases, there would be an increase in relative autonomy, additional support and resources. Inevitably there would be some reduction in 'academy freedoms' which would impact most on those academy trusts which use them to secure institutional advantages relative to the rest of the system - although it is notable that many do not. Those with such vested interests would be likely to resist change; but it would be worth taking them on to secure the essential fairness and wider benefits in an improved structure.

The series of individual contracts between central government and academy schools would be replaced with a set of regulations that apply to them all. This has already been done once before. In 1998 the School Standards and Framework Act converted the former Grant Maintained schools (which had been directly funded via a contract with central government) into Foundation Schools – a new category within the maintained sector. Although each academy funding agreement is separate, DfE uses a template contract and, in practice, the requirements are broadly similar. More recent funding agreements have required compliance with the provisions of the Academy Trusts Handbook – thereby allowing the Secretary of State to alter detailed requirements for the whole sector at will, without the need to renegotiate multiple contracts. The law and regulations that define the maintained sector allow for different kinds of school and governance arrangements within the overall framework. These 'maintained sector templates' share a lot of the characteristics of the various configurations of Single- and multi-academy trusts. Except that there is no equivalent to the 'academies handbook' so the Secretary of State does not have the same 'power to tinker.'

In the maintained sector, Voluntary Aided (VA) School status was created in the mid-20th century as part of reforms to support post-war renewal, defining structures and injecting public money to create a universal system accessible to all. It acknowledged the fact that previously most free, or affordable, education was provided by charitable and voluntary (mainly church-based) agencies; and that, rather than being taken over or abolished, their schools needed to be incorporated. In return for public money, they joined the new system, giving up a degree of independence but retaining some privileges and responsibilities.

Building a coherent system in 2025 would similarly need to re-integrate a complex quasi-independent collection of schools into the whole. Although not exact, the parallels are close; and, if anything, the task of integration would be easier than it was in 1944. There need be no change in land tenure; and any increased restrictions on the use and disposal of real estate that might follow from bringing the academy sector back within a legally regulated framework is justified by the fact that those assets were mostly provided by the public in the first place. The academy sector (except where trusts have access to additional resources for 'extras') is wholly funded by the taxpayer. A unified finance system would change the mechanism, but not the source, of funding; and whilst the marginal benefits available to secretive private institutions may be to the financial disadvantage of some trusts (or those who control them) this was never supposed to be the case; and indeed, is not on the agenda for the vast majority of those involved who have entirely altruistic motives.

Potentially the most complex question is the translation of academy trusts into bodies with a continuing relationship with, what would become, 'public body' academies. Their current

structures are defined under both charity and company law and are not necessary exactly similar to each other. The same is true within the maintained sector, in that the 'foundations' associated with both Foundation Schools and VA Schools are often not technically identical, and don't have an exactly similar range of functions as Academy Trusts or each other. But these relationships are not set in stone in either case, and indeed have changed in the past. For the most part, following sensible rationalisation, there would be little change, or migration to a relatively more 'autonomous' status. The biggest potential change would be for Community schools which have no external body involved in their governance other than the LA. However, this need be neither practically nor politically difficult to achieve. There is much to be said for such a 'review, rationalise and reform' exercise across the board. If it was considered that (all or some of) the extra powers currently exercised by academy trusts are beneficial, it would be possible to provide for that. However, the important point is that any such change would be transparent and apply across the board.

A new framework should achieve greater clarity and consistency over the role of all entities involved in school governance. There would be three tiers of statutory bodies: Central government; a 'middle tier' - currently Local Authorities; and a governing body for each individual school. Foundations/trusts (or whatever new term might be adopted to identify them), being charities (rather than creatures of statute as outlined above) would avoid the anomalous position of being non-statutory bodies attempting to deliver statutory functions and be freed to perform their key support role according to a clearly defined range of functions. As now, these could include services such as school improvement work, the appointment of governors, holding land and buildings in trust for the public good and channelling voluntary support to the front line.

Defining the exact characteristics of that framework, and its on-going management, would remain a function of Parliament and the Secretary of State. However, once coherence was achieved, effecting any sort of change, or implementing new policy would be made considerably simpler.

Securing support

The Roman Catholic and Anglican Churches are very important players in education both locally and nationally. VA status was invented mainly for them and met their needs in the 20th century. Although many former church schools have converted to academy status this has largely been arranged in such a way that the parent churches retain an acceptable level of control over their schools. They are therefore unlikely to have any problem with keeping, or reverting to, a structure equivalent to that of the church VA or academy schools – provided the position of the parent church is no less favourable than now.

Local Authorities would be likely to accept this apparent 'loss of control' in exchange for the advantages the overall reform would bring. Since Local Management of Schools devolved power to Heads and Governors in the 1980s, LAs have neither had, nor wished to exercise, day to day control over what happens in schools. Nevertheless, they have been constantly held out as responsible for the shortcomings in the system that any new initiative was intended to address. Under a new dispensation they would be freed from that stigma, whilst taking their proper place in a new structure, where the powers and responsibilities they need to retain could be exercised within exactly the same policy and regulatory framework in respect of all schools in their area.

Similarly, MATs will fit into the new structure with their current role and legal status largely unchanged. The vast majority would continue to operate exactly as they do now. Resistance may be expected from the small, privileged, minority who currently take advantage of systemic inequalities; with vocal support from commentators who support them. But they should not be allowed to drown out the wider community benefits that will flow to the majority.

Conclusion

It is inevitable that the process of transition would require some legislative activity and practical planning to achieve implementation. Reducing the existing complexities to achieve greater simplicity would involve repeal of redundant measures and consolidation or amendment to some of what is to be retained. However, importantly, the much greater complexity of inventing something completely new and transitioning from what exists now, would be avoided. This paper does not attempt to go into the full detail. Whilst none need be individually problematic, the list of complexities to be removed or tidied-up will be quite long. In any event that detailed work is a proper task for DfE officials and parliamentary counsel once a government has decided to act and, importantly, consulted extensively on its plans. However, the top-line political decision to simplify the currently over-complex and dysfunctional structural landscape need not be difficult or controversial.

I believe such reform will appeal to all those who are active and willing participants in area education partnerships. It is fair to say that the spontaneous emergence of these initiatives across the country was, in part, a response to the negative effects of fragmentation. The vast majority of those who get involved in education do so because they want to support young people, both as individuals and in their communities. It is a tribute to their vision and commitment that busy professionals give their time, and stretched institutions contribute resources, to overcome structural obstacles to partnership working. Much more could be achieved if those obstacles were removed, and the system reengineered to promote collaboration.

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Introduction & Background

The Starting point

1. This paper arose from a series of conversations with different individuals and agencies. Many, but by no means all, happened through my role as Chair of the Association of Education Committees Trust (AECT) which has supported a number of projects intended to explore options and stimulate debate on educational reform. As someone with a lifetime of experience and thought about these matters I have decided to put my own ideas on paper. Whilst many people and organisations have contributed to my thinking; what follows is entirely my own responsibility and should not be construed as reflecting the views of the AECT or any of the bodies it has supported financially.
2. The actual starting point relates to the spontaneous emergence of Area Education Partnerships as a response to the structural fragmentation of the education system and particularly the school landscape. This has been the focus of a project undertaken by the Centre for Education and Youth (CfEY) which drew on earlier work by the Area Education Partnerships Association. A Co-Chair of that body, Dame Christine Gilbert, is also Chair of one such partnership, Camden Learning (CL), and has been acting as a consultant to another AECT supported project Local Ed 2025. Dame Christine drew my attention to work that CL has been doing with its Local Authority on the theme of Building Back Stronger, Camden's education strategy to 2030. This included a report from ISOS partnership¹ summarising the conclusions of working groups which met between September 2022 and April 2023 to consider developing structural partnerships to support schools responding to current system pressures and the implications of increased academisation in the future.
3. A common strand of these reports, and doubtless much thinking by others, identifies the legal and structural complexity of the administrative landscape. By and large they take the existing legal and policy framework as given and look for ways forward that overcome the difficulties thereby created. Despite their formal diversity, local partnerships are invariably an expression of the desire for collaboration within structures that are otherwise focussed on competition. An alternative approach is to ask: "would it not make more sense to consider changing the underlying structures?"
4. The Camden working groups went some way towards this by looking at the possibility of more "structural partnerships". However, this was still framed in terms of partnerships adapting to the status quo, or assuming policy development in the same direction of travel. My thesis is more radical, but the solution is simpler. Policy driven changes to the education system created the need for partnerships, but they also present obstacles to further progress. There is strong evidence that the legal and administrative structures developed over the last decade or so have not arrived at their intended conclusion and any political will to 'get them done' has evaporated. The time is therefore ripe to revisit the national framework and look to reinvent it in a more collaborative-friendly form.

The Problem of Fragmentation

5. It is widely understood amongst educationists (and set out in some detail in the ISOS report for Camden Learning) that the structure of the English school system is complex, fragmented and opaque. Most parents are only dimly aware of this because (unless they 'go private') all schools are provided free by the state. This lack of public perception can tempt politicians to the view that there is no political mileage in structural reform ("too difficult to explain and implement") and it is reasonable to work within the status quo.
6. This would be a mistake. Firstly, and perhaps crucially, at a time of resource crisis complexity is wastefully expensive. One (but by no means the only) problem is the legal split between the "academy" and "maintained" sectors which necessitates separate funding streams, parallel management and accountability systems, as well as making it technically more difficult to collaborate across the divide. It is apparent that the academy system carries higher intrinsic overhead costs overall. An authoritative study (see Bubb Associates et al³) found that oversight functions for academies cost 44% more than for other schools. The issue was picked up by the Public Accounts Committee in 2018⁴; and further explored in a lengthy report by the independent investigative journalist Warwick Mansell earlier this year⁵. These are serious and careful pieces of work, although the conclusions remain contestable. Data is hard to come by and the fact that different parts of the system are intertwined makes apportionment of central expenditure complex. Nevertheless, the wastefulness of duplication is undeniable and the perception (even if not the reality) of unfairness is an obstacle to partnership. Access to capital funds (as highlighted by the 2023 RAAC debacle) is constrained for all; but multiple routes for funding create anomalies as well as bureaucratic inefficiency. Streamlining capital and revenue funding towards transparent, consistent, coherent and efficient mechanisms would place all schools seeking to collaborate (via formal partnerships or otherwise) on a level playing field; and, with reduced 'system overheads', more of the available resource would reach the front line.
7. Beyond resource inefficiencies, there are other hidden costs that lead to reduced effectiveness across the system. Unfairness (perceived and/or real) in funding, levels of autonomy and regulation between different types of school is corrosive. There are inequalities in access, quality and resources for parents and children. Different, confusing and complex governance structures lead to a lack of transparency and uneven routes to accountability in different parts of the system. There are inequitable admissions arrangements and inefficient mechanisms for securing sufficient (but not too many) school places where they are needed.

Ideological Roots

8. Beneath the surface of all this complexity there is an ideological divide. Half the system reflects the 'post-war settlement' enshrined in the Education Act 1944 – a planned system with legally defined structures. The other half, following successive changes since the 1980s, is the result of introducing various market mechanisms on the assumption that consumer choice and institutional competition are drivers for improvement. An article by Ron Glatter, Emeritus Professor of Education at the

Open University, in the journal *School Leadership and Management* usefully summarises these changes and references other academic analyses of their implications⁶. These differences of ideological underpinning are not expressed explicitly at school level and tend not to be reflected in overtly politicised attitudes or behaviour amongst educational professionals. Unsurprisingly they are largely invisible to the general public. Nevertheless, there is a socio-political cost in operating a schizophrenic system that can't decide whether it is a regulated quasi-market based on choice and competition; or a collaborative social enterprise driven by a professional public service ethos.

9. The current 'mixed economy' was seen as 'transitional' by those who accelerated existing trends after 2010 via reforms which redirected, but did not replace, the settlement overseen by David Blunkett in 1998⁷. The individual conversion of maintained schools to academies (by various mechanisms) was intended to lead to an 'end state' of a fully 'privatised' school system (technically academies are private institutions grant-funded by the state). Neither how this was expected to work, nor when transition would be complete was explained, or apparently thought through, in 2010. The government recognised that the status quo was unsustainable and set out its plan for the 'end game' in the White Paper "Opportunity for all" in March 2022. However, their chosen approach presented technical difficulties and proved practically and politically difficult to carry through. The Bill to implement the plan was incomplete on publication, lost a number of clauses soon afterwards and was subsequently withdrawn altogether. There is no sign of its return before the next general election.⁸
10. Consequently, any incoming government will be presented with a challenge and an opportunity. It will inherit a fragmented school system that is both unnecessarily expensive and intrinsically problematic. The previous administration's preferred approach to creating 'full academisation' has been shown to be unworkable. An alternative rationalisation could improve the system whilst making more effective use of limited resources. Decisions about which way to go will also involve a choice, whether acknowledged or not, between predicating a common future structure on a 'market' or a 'public service' paradigm. The 'market' approach has already run into difficulties; and the evident popularity of partnerships suggests a groundswell of support for collaboration. However, it is not a simple binary choice and there is much to play for in structural reform. The challenge will be to effect secure improvement in a way that is practically and politically feasible. This paper advocates the 'public service' model and explains one way to go about it.

Structural Reform Need Not Be Problematic

11. The slogan "Standards not structures" was a catchy political soundbite – but made little practical sense.⁹ Central governments have essentially only three policy leavers: spending public money; direct executive action; and, legislating to create frameworks that mandate action by others. Money is short and centralised executive action is constrained by ministerial time and attention. It would be a foolish administration that denied itself use of the third (and arguably most powerful) lever.

12. Although that slogan was coined by Labour, the 1997 – 2010 administrations in fact did a good deal of structural reform in education; much of which was effective (albeit some less so). The Conservative counter-revolution led by Michael Gove from 2010 was informed by a belief that providers (i.e. schools) should be liberated from (mainly local-) government control so that a self-regulating system of autonomous schools could grow in response to market forces. He therefore (with the enthusiastic advice and support of Dominic Cummings) set about dismantling much of the inherited structure, and repurposing the original academies programme to the extent that it was fundamentally changed. However, the chosen mechanism of changing the legal status of schools from ‘public’ to ‘private’ one institution at a time, created permanent instability. This may have been done because wholesale privatisation (arguably the intention from the outset) was judged politically unachievable, and the project therefore had to be approached by stealth. However, it also created problems that ultimately led the policy into the blind alley where it currently resides. Instead of creating a stable and coherent settlement that could potentially endure; it will bequeath an omnishambles urgently in need of repair.
13. Consequently, an incoming administration will find it necessary to do something. Doing nothing, or maintaining the inherited policy direction, would be to pursue a project its inventors could not complete, and which has failed to deliver on its promises. Further it is increasingly out of step with the zeitgeist. In deciding what to do instead, I would suggest options should be judged against the following criteria.
- Aiming for a structure that:
 - is coherent, settled and stable, to replace the damaging ‘permanent revolution’ of the previous decade;
 - is equitable, efficient and effective;
 - promotes cooperation and collaboration between institutions in the service of their local communities and thereby helps improve standards system-wide (rather than encouraging a ‘pass-the-parcel’ approach to expensive, and ‘hard to teach’ young people)
 - avoids perverse incentives through destructive competition between institutions (e.g. disincentivising manipulation of admissions and covert exclusions).
 - can be supported by a clear and transparent unified funding system that is both seen to be fair and efficiently channels the maximum resource to the front line.
 - facilitates an effective but constructive accountability system.
 - Adopting an implementation strategy that:
 - Minimizes the need for untried new legislation by consolidating the system around structures that are well understood and already provided for in existing law.
 - Maximises the opportunities for existing players to ‘remain in the game’ (i.e. whilst some, or even all, schools would inevitably have a changed legal status, none should need to be ‘closed’ or even be required to change names or otherwise alter the way they present to their local community.) In particular, there would need to be a continuing role for all

existing entities that contribute to the system including those currently defined as 'academy trusts.'

- Can be achieved quickly on taking office to secure savings, and 'no-cost' improvements, whilst resources for other projects are constrained.

14. It is worth noting in passing that my list of key outcomes to be delivered by a good structure is similar to the broad aspirations set out in the 2022 White Paper.¹⁰ The difference being that I am not working on the assumption that moving to an entirely 'private provider' model is the way to go; and I have added the proviso that transitional costs and disruption to the day-to-day functioning of individual schools (of the kind that conversion to Academy status tends to cause) should be minimised. I would also argue that my suggested approach will avoid the practical and legal pitfalls which were, at least partly, responsible for derailing the subsequent Bill.

Options and a Recommended Approach

15. In one respect the "Standards not structures" soundbite is helpful because unnecessary, over-elaborate or ill-conceived structural reform can be expensive (in terms of both real and political capital) and counterproductive. And structural change does not necessarily deliver desired outcomes. For example, turning schools into academies was supposed, automatically and of itself, to bring about their improvement. There is, and never has been, any evidence to support that contention.¹¹ Any individual form of school can be good bad or indifferent and its quality depends almost exclusively on other factors. Similarly (to choose an example from a different political stable) Building Schools for the Future was grandiloquently claimed to be a vehicle for school improvement; when all that was required was upgrading the crumbling (literally - as we have recently discovered) school estate. Nevertheless, the overall structure of the system can make systematic improvement more, or less, difficult to achieve. Whilst there can be no guarantee of a specific impact on any individual school; system-wide the difference can be massive.¹²
16. Grand schemes of major structural reform can be attractive to politicians because they allow the announcement of 'major reforms' (in both senses) and hold the promise of creating a personal legacy. However, history teaches that innovative projects risk unlooked for consequences and take time, cash and political capital to implement. Consequently, it is wise to adopt a step-by-step approach and seek consolidation around structures that are well understood and have been shown to work. However, any planned reform needs to know where it is going and what it is intended to achieve. There is a sweet spot to be found between over-extended grand plans and failing to address necessary change.

If not full academisation, what is the alternative?

17. As indicated above 'full academisation' as an idea has run out of political steam even if it has not actually proved to be impossible. However, that is not to say that academy schools themselves need to be swept away or be replaced wholesale by some new model. This is both because that could create as many problems as it solves and because individual schools and MATs within the Academy sector have contributed successes and innovations that should be retained. That leaves a strategy of

'rationalisation'; bringing all institutions within a common framework, ironing out anomalies, inconsistencies and wasteful duplication; whilst supporting and developing the best of what exists. Careful analysis will be necessary to decide which parts of the system fall into which category and which aspects should provide the model for a common system. In undertaking this analysis, a useful starting point is to reflect on the fundamental ethos underpinning the system.

18. There are many examples of how the 'market-based' approach, which has been tried in various ways since the 1980s, has led to failures and unhelpful outcomes. This paper does not attempt to rehearse those anecdotally (they have been exhaustively catalogued elsewhere¹³), but argues that it is possible to understand from first principles why this has happened, and why several decades of reforms pointed in this direction have failed to deliver their promised improvements,
19. Both the 'Grant-Maintained' experiment in the 1990s and 'Academisation' since 2010 have been defined against a critique of an allegedly stultifying and over-regulated existing system. Whether this is, or was ever, true is debatable; but, leaving that aside, there is a fundamental problem. The policy response has always been to leave most of the pre-existing regulation in place whilst allowing/forcing selected institutions to 'opt out' of it. However, this 'opting out' is actually a process of 'opting in' to central control via a contract with the Secretary of State. This contract (currently an academy 'funding agreement') selectively re-imposes much of the regulation by other means but with less transparency and reduced accountability. The legal 'commercial in confidence' status of parts of the funding agreements, not to say their general inaccessibility, makes it difficult for anyone except the Secretary of State to know what set of rules any given school is expected to abide by. It is also a source of irritation for academy trusts who have to respond to changing expectations communicated via continual revisions to the Academy Trust Handbook (see EDSK, forthcoming.)
20. If all schools were to become academies a legal anomaly would need to be resolved. Although education regulations "apply" in a legal sense, only to the maintained sector, they would still have to be retained because academies were originally conceptualised as an adjunct to a larger public sector which they are broadly required to mimic. Thus, a body of redundant education regulation that no longer applied directly to any real institution (because no maintained schools would then exist) would have to be continually updated as a template for academy contractual compliance. Trying to resolve this difficulty was one of the reasons the 2022 Bill ran into difficulties.
21. Beyond this negative reality, there is an important positive constitutional reason for adopting a legal framework where public services are delivered by "public bodies". Parliament confers powers and imposes duties by statute upon public authorities which are themselves creatures of statute. For example, the Education Acts impose duties on maintained school governing bodies (public authorities created by statute). Of course, bodies which are not public authorities: companies, charities, trusts, private schools etc may be regulated, but their form, rights and duties are not fully defined in statute. If such entities are to be used for public service delivery a different

mechanism is necessary. The legislation which authorises the Secretary of State to enter into contractual agreements with private organisations to run Academies means that Parliament as "the legislature" has handed over its regulatory role to "the executive" and surrendered its power of scrutiny. The executive in government then has the power to enter into agreements with such private bodies as it chooses on contractual terms which may remain confidential because they affect the business interests of the other contracting party. The executive remains nominally accountable to Parliament; but this is otiose after Parliament has authorised the government to do largely as it pleases. Parliament's (and other elected bodies') continuing accountability to the electorate is seriously undermined in this process.

22. The proper way to deal with an over-complex regulatory framework is via simplification; not to invent elaborate mechanisms which appear to allow some institutions to circumvent it. Similarly, the antidote to excessive micro-management by government (whether local or national) is real devolution of power through the system. But the opposite has been brought about by the changes since 2010, which have both sucked-up power from schools into MATs and left recent Secretaries of State with even greater powers of direct intervention than their predecessors.
23. For all these reasons the public education service is best delivered by accountable 'public bodies.' In the present climate of widespread public dissatisfaction with privatised utilities that should hardly be a controversial statement. A technical readjustment so that all schools enjoy the same formal legal status, with the minority that are currently 'private institutions' become 'public bodies' could be enacted without undue cost or difficulty. Or indeed, since the majority were never 'privatised' anyway, without the need for a debate about "re-nationalisation." In fact, as funding agreements are held by the national Secretary of State the change could more properly be characterised as "re-localisation."

My Recommended Way Forward

24. Ideally, I would like to see an entirely coherent system of single purpose 'middle tier' statutory bodies sitting between central government and consistently constituted governing bodies responsible for schools which all enjoy a similar legal status. An appropriate distribution of statutory powers and responsibilities between them could lead to a system that supported the first group of bullet points in paragraph 13 above. There is good evidence of the benefits of such an approach from successful overseas systems¹⁴. Unfortunately, it would be difficult to bring that about within the constraints set by my final three 'implementation' criteria.
25. Happily, it is possible to move a long way towards that desirable end point with much less radical change, by consolidating the system around common features shared by a lot of existing schools. Whilst it would be essential (for all the reasons outlined above) to 'de-privatise' the academy sector; that change would be largely imperceptible if the shape of institutional structures and the roles of people involved in their governance and management, remained broadly the same. Pragmatically the best option is therefore to change the relationship between academy schools and central government, from a series of individual contracts to a set of regulations that

apply to them all. This has already been done once before. In 1998 the School Standards and Framework Act converted the former Grant Maintained schools (which had been directly funded via contracts with central government) into Foundation Schools – a new category within the maintained sector.

26. Although each academy funding agreement is separate and there are some variations; DfE uses a template contract and, in practice, the requirements are broadly similar. More recent funding agreements have required compliance with the provisions of the Academy Trust Handbook – thereby allowing the Secretary of State to alter detailed requirements for the whole sector at will, without the need to renegotiate multiple contracts. The law and regulations that define the maintained sector, also allow for variations and different kinds of school and governance arrangements within the overall framework. As the ISOS report for Camden Learning noted¹⁵, creation of a formal Federation (under the Education Act 2002) allows a group of schools to come under the control of a single governing body. The same act also provides for other forms of formal collaboration between schools. The Education and Inspections Act of 2006 created Trust Schools (by the adoption of a ‘foundation’ separate from the governing body) which were themselves very similar to the, much older, “Voluntary Aided” (VA) status. These ‘maintained sector templates’ share a lot of the characteristics of the various configurations of Single- and Multi-Academy Trusts. Except that there is no equivalent to the ‘Academy Trust Handbook’ so the Secretary of State does not have the same ‘power to tinker.’ For this reason, it can be argued that some maintained institutions enjoy a greater degree of real ‘autonomy’ than academy schools.
27. VA schools were created in law (although, of course, many actual institutions had already existed for many years) at the time the state became more involved in the provision of education, defining structures and injecting public money to create a universal system accessible to all. It acknowledged the fact that, previously, most free or affordable, education was provided by charitable and voluntary (mainly church-based) agencies; and that, rather than being taken over or abolished, their schools needed to be integrated into the new system. In return for public money, they joined the new system, giving up a degree of independence but retaining some privileges and responsibilities. Over time, the role of the state (mainly expressed via the proportion of capital finance provided) increased, but some key differences from wholly state-owned institutions remained. The (charitable) ‘foundations’ continued to own the land and buildings, and in recognition of their historic role retained the right to appoint a majority of the governing body, which in turn employed and managed the staff and was the ‘admissions authority’ for the school.
28. If it is deemed desirable to build a coherent system in 2025, there will be a similar need to re-integrate a complex quasi-independent collection of schools into the whole. There are similarities – in that academy trusts (often but not always) own the land and buildings, agree school-level governance and determine admissions policies. However, there are also important differences. In most cases where the academy trust does own the land and buildings outright, they were previously in public ownership and ‘gifted’ to the trust when the academy was established. All powers are vested in the academy trust which means (except for ‘single academy

trusts' where the governing body is also the trust) the shape and role of governing bodies (where they exist) at the individual school level is decided by the MAT. They do not conform to a standard template and tend to have less 'autonomy' than their equivalents in the 'maintained sector'.

29. These differences tend to make the task of integration easier than it was in the twentieth century. There need be no change in land tenure; and any increased restrictions on the use and disposal of real estate that might follow from bringing the academy sector back within a legally regulated framework is justified by the fact that those assets were provided by the public in the first place. The academy sector (except where trusts have access to additional resources for 'extras') is wholly funded by the taxpayer. A unified finance system would change the mechanism, but not the source, of funding; and whilst the marginal benefits available to secretive private institutions may be to the financial disadvantage of some academies (or those who control them) this was never supposed to be the case; and indeed, is not on the agenda for the vast majority of those involved who have entirely altruistic motives.
30. Perhaps the most potentially complex question is the translation of MATs into bodies with a continuing relationship with, what would become, 'public body' academies. One existing approach would be to convert them to fit the definition for 'foundations' in relation to VA schools. Both are required to be charities and their main functions would remain the same. However, under current arrangements VA Foundations have less power than MATs over what happens in individual schools. They would have to have separate governing bodies (albeit with the umbrella body retaining power to nominate a majority of governors) with the same structures and powers as all other schools. But these relationships are not set in stone and indeed have changed in the past. There would be an opportunity to review the various existing maintained sector structures at the same time. There is much to be said for such a 'review, rationalise and reform' exercise. If it was considered that (all or some of) the extra powers currently exercised by MATs are beneficial it would be possible to change the framework to accommodate that. However, the important point is that any such change would be transparent and apply across the board.
31. As implied above, to create full coherence there would also need to be some adjustment within the existing maintained sector. This currently comprises Voluntary Aided, Voluntary Controlled, Foundation (with or without a 'foundation') and Community Schools. For the most part there would be little change, or migration to a relatively more 'autonomous' status. The biggest potential change would be for Community schools which have no formal relationship with an external body other than the LA (see below). However, this need be neither practically nor politically difficult to achieve.
32. It is worth noting at this point that I have inevitably used the words "foundation" and "trust" in order to refer to bodies with a relationship to different kinds of existing school. But there is some complexity and potential confusion behind these terms. There are historical and technical differences between the use of 'trust' in Trust Schools' and the 'trust' in Single- or Multi-Academy Trusts. Similarly, the 'foundation' that owns a VA school and one associated with a 'Foundation School' are not

necessarily the same kind of legal entity, and 'Foundation Schools' can have different kinds of 'foundation or - in the case of a 'Foundation School without a foundation' - none at all! The School Standards and Framework Act 1998 [s.21(1)(b)] created a legal definition for a "Foundation Body" although no such entities currently exist. All this confusing complexity underlines the desirability of a simplification exercise.

33. Some of these foundations/trusts only exist because of their role vis a vis schools; but many do not. For example, the 'foundation' for VA schools run by the Church of England is the local diocese – which, self-evidently, has many other functions. For these reasons it would not be possible (or even worth trying) to require all such bodies to be identical legal entities. However, they have some broad characteristics in common: they must have some form of charitable or 'not for profit' legal status and have some sort of supportive relationship to one or more schools. Consequently, whilst it would be necessary to allow a range of entities to have such a relationship with public sector schools; it would be both possible and desirable to legislate for the functions of any such body to fall within a defined range (allowing for different historical and current circumstances); and for them to be referred to in respect of those functions via similar terminology.

Why it is both politically and financially feasible.

34. As outlined above the fragmentation of the system goes beyond the public / private body divide and there is considerable complexity on both sides of that fault line. I do not minimise these complexities and recognise that there would be both technical and (small 'p') political work to be done. Going into the full detail and ramifications is beyond the scope of this paper, but some of the main areas that would need to be addressed are as follows.
35. The Roman Catholic and Anglican Churches are very important players in education both locally and nationally. VA status was invented mainly for them and met their needs in the 20th century. Although many former church schools have converted to academy status this has largely been arranged in such a way that the parent churches retain a level of control over their schools. They are therefore unlikely to have any problem with keeping, or reverting to, a structure equivalent to that of the church VA or academy schools – provided the position of the parent church is no less favourable than now.
36. One question (which mainly affects the CofE) is whether an equivalent to Voluntary Controlled (VC) status is retained. This is something of a half-way house between VA and Community schools. A VC school still has church affiliation and influence on the governing body, but staff are employed by the local authority which also acts as the Admissions authority for the school. However, there is also a financial implication in that the foundation for a VA school is required to make a contribution to the capital expenditure requirements of the school whereas this is not the case for VC schools.
37. This is potentially a problem for the churches which have found it progressively more difficult to find the money to meet this obligation and facing an increase for some of their schools could be a deal-breaker. However, if this aspect of the current VA

status were to become the norm this would be a much bigger question, because academies (including some former VA schools) and other maintained schools are not required to find this capital contribution. This issue has also been a factor in earlier versions of 'private state schools.' Both City Technology Colleges (CTCs) and the first incarnation of academies were expected to have substantial initial capital endowments provided by commercial or charitable sponsors when they were first set up. It was always difficult to find willing donors with sufficiently deep pockets, and this is no longer required. It would therefore make sense to drop this aspect of the system across the board. In any event there is much to be said for rationalising the approach to the allocation of public finances for school capital expenditure both to simplify administration and achieve straightforward fairness.

38. The largest section of the maintained sector is the remaining 'community schools' - often referred to as local authority schools. They are characterised by lacking an association with any kind of charitable intermediary body and have the LA as their Admission Authority. Technically the LA is also the employer of their staff but, under local management of schools legislation, Heads and governing bodies exercise most of the LA's employer functions. Consequently, the practical situation in this respect is not greatly different and, relative to some academy governing bodies, community school governors may actually have more power because the employment function sits with the MAT and need not be delegated. Migrating these schools to a new common status would accurately be seen as granting them new freedoms and parity with all other schools.
39. Depending on the actual structure adopted this would necessitate the creation of some sort of 'foundation' or intermediary body to host them. There are various ways that this could be done. Depending on the numbers of schools and geographical size of the area, the local authority could set up one or more 'arm's length' bodies to undertake this function (it will be remembered that the 2022 White paper envisaged LAs being able to set up new MATs¹⁶). Alternatively, or additionally, they could be transferred to suitable pre-existing, or newly converted (e.g. from MAT to New Foundation), foundations. The process could be facilitated by adoption (or adaptation) of the existing legal mechanisms for establishing VA schools, or for foundation schools to 'adopt' a foundation. This would require some planning and organisation but would be significantly simpler, cheaper and less controversial than attempting to turn all remaining community schools into academies. Particularly if, as I am suggesting, this process did not involve any transfer of real estate ownership.
40. From the local authority perspective, they would be likely to accept this apparent 'loss of control' in exchange for the advantages the overall reform would bring. Since Local Management of Schools devolved power to Heads and Governors in the 1980s LAs have neither had, nor wished to exercise, day to day control over what happens in schools. Nevertheless, they have been constantly held out as responsible for shortcomings in the system any new initiative was intended to address. Under a new dispensation they would be freed from that stigma, whilst taking their proper place in a new structure, where the powers and responsibilities they need to retain could be exercised within exactly the same policy and regulatory framework in respect of all schools in their area.

41. Defining the exact characteristics of that framework, and its on-going management, would remain a function of Parliament and the Secretary of State. However, once coherence was achieved, effecting any sort of change or implementing new policy would be made considerably simpler.
42. It would also be possible to achieve greater clarity and consistency over the role of entities in the different tiers of governance. There would be three tiers of statutory bodies: Central government; a 'middle tier' currently Local Authorities; and a governing body for each individual school. Foundations/trusts (or whatever new term might be adopted to identify them), being charities (rather than creatures of statute as outlined above) would avoid the anomalous position of being non-statutory bodies attempting to deliver statutory functions and be freed to perform their key support role according to a clearly defined range of functions. As now, these could include school improvement work, the appointment of governors, holding land and buildings in trust for the public good and channelling voluntary support to the front line.
43. It is inevitable that the process of transition would require some legislative activity and practical planning to achieve implementation. Reducing the existing complexities to achieve greater simplicity would involve repeal of redundant measures and consolidation or amendment to some of what is to be retained. However, importantly, the much greater complexity of inventing something completely new and transitioning from what exists would be avoided. This paper does not attempt to go into detail. Whilst none need be individually problematic the list of complexities to be removed or tidied-up will be quite long. In any event this is a proper task for DfE officials and parliamentary counsel once a government has decided to act and, importantly, consulted extensively on its plans. However, the top-line political decision to simplify the currently over-complex and dysfunctional structural landscape need not be difficult or controversial.
44. One aspect, reconfiguring the academies sector, represents a significant part of the task but has a relatively small 'legislative footprint.' Because the entire sector consists of private institutions under contract with the Secretary of State there is little mention of them in statute beyond the 'enabling measures' that facilitate the executive powers of government. Powers used by ministers to create the sector could, in principle, be used to modify or deconstruct it. Whilst it would be wise not to leave redundant legislation unrepealed indefinitely, executive powers could be used to initiate the process of change ahead of amending legislation. Used intelligently the Secretary of State's power to manage the academies sector directly could also help prepare the way so that the eventual change in institutions' technical and legal status would not make a difference to front line operations and therefore not create disruption. MATs (perhaps by another name) would continue to exist as charitable bodies (which they mostly are anyway) and, whilst their funding and accountability mechanisms would change, their fundamental role would remain broadly the same. Individual academy schools' governing bodies and staff would gain parity with all other schools but would not immediately look any different to parents and pupils.

45. In recent years a considerable amount of time, money and expensive legal process has gone into the transfer of land and property consequential on transition to academy status. Avoiding the time and legalities involved in transferring everything back is one cost-saving aspect of the proposed approach. And, not having to transfer land and buildings to new private entities would be an even greater benefit of a decision not to convert all remaining maintained schools to academies. It would be wise to review existing regulations governing the disposal of land and buildings held for the purposes of a school; but it is unlikely that these would need to be changed much, if at all.
46. In fact, it would be advisable to undertake a review of the fine details of all the different structural regulations (and contract defined requirements) that currently apply to the various categories of institution. The outcome of such a review would beneficially inform new statutory definitions for the structure and characteristics of all 'public schools' (perhaps that would be a suitable way to refer to them? For too long that term has been coopted by a particular category of private institution). Whilst this might look structurally similar to both existing VA/Foundation Schools and Academies, ironing out the small differences would mean that the new settlement would not be exactly the same for any existing category. The high-level structure could be as follows:
- Regulatory, funding and accountability systems flowing from, and through, national agencies, central and local government would be the same for all institutions.
 - The charitable support body (however named) would be available to, but not necessarily required for, all schools. Such a body could be free-standing or part of a larger entity but would be required to meet certain criteria (mainly guaranteed not-for-profit status). The extent of their functions could retain some flexibility within a defined range, including:
 - i. (In some cases) Holding land and buildings in trust for the purposes of the school (whether as owners or tenants).
 - ii. Appointing a proportion of governors (as defined in regulations).
 - iii. Such other supportive activities (including school improvement) they wish to undertake without infringing the powers and duties of statutory bodies.
 - In the case of RC and C of E Church schools the parent body may need to decide whether to retain the existing two-tier MAT + Diocese structure or take all relevant functions back into the Diocese.
 - The structure of the governing body would be required to fall within parameters defined in regulations (i.e. proportions nominated by: the 'support body'; the community/ local authority; elected by and from the parent body; students etc) but would allow flexibility to reflect the size and characteristics of individual institutions (including accommodating existing school federations.) The actual structure in each case to be legally established via the current 'making an instrument of government' mechanism used in maintained schools. The powers of the GB could include:
 - i. General oversight of the management of the school
 - ii. Appointment of the headteacher

- iii. Exercise certain employer functions in respect of school staff.
 - iv. Determine the admissions policy of the school [*N.B. I have not said “be the Admission Authority”. I have argued elsewhere that there needs to be a reconfiguration of how school admissions are organised.¹⁷ Both the 2022 White Paper¹⁸ and recent Labour policy statements¹⁹ have indicated a need for change in this area*]
- The “Headteacher” would be a ‘statutory post’ required for every school largely as now in the maintained sector.
47. As outlined above there are powerful reasons for such a structural rationalisation – and no serious obstacles to its implementation. It would also meet many of the high-level objectives of the 2022 White Paper (albeit via a different mechanism) and could support many of the policies an in-coming government might wish (or already has a stated intention) to pursue. These go beyond the immediate direct benefits and cost saving arising from structural simplification and rationalisation.
48. There is a strong strand of pragmatism and moderation in British political history. Conservative governments have previously legislated for ‘public body’ structures (R.A Butler whose name was associated with the Education Act of 1944, was a Conservative cabinet minister) and Tony Blair’s Labour administrations were not afraid of ‘neo-liberal’ mechanisms when they seemed to offer effective solutions. It should therefore be possible to encourage moderate politicians from either tradition to embrace ideas for beneficial change if there is a good objective case. At the present point in the political cycle the government of the day has apparently given up on taking its ‘total academisation’ project to a logical conclusion; but is not yet ready to embrace new ideas. It therefore makes sense to focus on the current party of opposition and see how such a change might play out in relation to its stated objectives.

Benefits of a unified structure.

49. In his July 6th 2023 speech, Kier Starmer articulated a vision for education identifying five ‘barriers’ that contribute to creating a ‘class ceiling’ holding back progress particularly for the most vulnerable. The analysis is powerful and accurate; but it doesn’t recognise the extent to which the inequitable structures of our fractured system have contributed to these barriers, or how continuation of those structures unreformed will militate against their removal. Much the same applied to the Party’s subsequent National Policy Forum report. Whilst the general aspiration and broad objectives to address the identified barriers are easy to support, little is said about detailed plans and mechanisms to realise them. Almost without exception, they could be massively more effective after appropriate structural reform.
50. Inspection. The tragic death of a primary Head earlier in 2023, and the later devastating coroner’s verdict, has highlighted long standing dissatisfactions with the current inspection regime. Labour has indicated an interest in reform²⁰ and work by third parties is well advanced (see the LocalEd 2025 project) in piloting better alternatives. In a unified and collaborative system to meet whole community needs there would be no need to single out MATs for separately targeted inspections as

their role would fit into the framework that applied to all schools. A further, and largely overlooked, aspect of this question is the extent to which the punitive, tick-box and judgemental aspects of the Ofsted process is a symptom of its location within a 'regulated market.' Before Ofsted, the main function of HMI was to advise the Secretary of State on policy. It was reconfigured as Ofsted to perform an audit function for the new market approach to school improvement. (It is now largely forgotten that the initial proposal was to require governors to commission school inspections from external companies – exactly like a company audit – but the bill was amended in parliament to retain a fully centralised approach via Ofsted.) In line with rules for commercial auditors, Ofsted was focussed on judgment and external reporting; and was disbarred from HMI's previous more relaxed attitude to providing direct support for school improvement. This too should change.

51. Teachers. There is a crisis in teacher recruitment and retention. Labour has already committed to resolving the current pay dispute. However, building a resilient and committed workforce has more to it than mere cash. Creating a better inspection regime will help, but the fragmentation and anomalous working conditions across the fractured school system simultaneously add to the grievances of the profession and make them more difficult to address. Within the maintained sector some teachers are employed by the governors of their (VA / Foundation) school; whilst others are legally employed by the local authority but most of the LA's employment functions are delegated to (Community and VC) school governors. This anomalous 'employer at law' problem has long caused difficulties for LAs, governors and teachers. In the academy sector teachers are employed by Academy Trusts and have an indirect relationship with the national pay and conditions structures. Freedom and flexibility in this respect was initially presented as important, but there is scant evidence of it being much used or delivering system-wide benefits. School staff deserve to have a clear contractual relationship with an employer who has the capacity to fulfil all relevant functions. Creating a single consistent structural relationship between government, schools and employees will help achieve that, and facilitate progress in recruiting and developing a workforce that is onboard with other reforms.
52. Curriculum. As with other areas, the national curriculum applies differently because of the structural differences between schools. Three of Starmer's five 'barriers' were curriculum related²¹ and it follows they would all be easier to address within a coherent and consistent system.
53. School Organisation and Admissions. The connections between how school places are created, offered and allocated, and the overall equity and effectiveness of the system is self-evident. The structure of organisational and regulatory mechanisms is key to this. From 1997 Labour localised school place planning and introduced a strong School Admissions Code. It set up the independent Office of the Schools Adjudicator (OSA) to oversee both. From 2010, in line with his 'marketisation' strategy, Michael Gove weakened the Admissions Code and OSA's role; and took almost all powers of reorganising and creating new school places to himself. The "Free School" market experiment was a costly and unmitigated failure and (except in name) was quietly dropped. Many failed to get off the ground and the only surviving examples are those that could, and would, have been established under the pre-

existing arrangements. However, the legacy of fragmentation lives on and, unreformed, will continue to hamper any attempt to re-establish equity. Necessary systematic reforms to recover lost ground and go forward will be easier and more effective within a coherent unified structure.

54. As alluded to above, I have outlined elsewhere detailed proposals on how the admissions system could be improved – including publishing an alternative version of the Admissions Code.²² I note that granting new powers for Councils over admissions to all schools including academies has been identified within Labour plans²³.
55. Early years provision is an established policy priority.²⁴ The existing primary school estate and human resource is the single biggest potential facilitator of improved provision. A unified and coherent approach to school structures will facilitate any necessary encouragement/requirements for that sector to support expanded early years provision.
56. Meeting the needs of Vulnerable pupils (a term to embrace all those with special or additional needs arising from mental or physical health or social issues) is a high cost and difficult area of policy. It is also one that has been exacerbated by the legacy of Covid lockdowns. This is a vast subject which is being addressed elsewhere (including via the LocalEd2025 project) but there is one important truism. Maximising the proportion of needs that can be met in mainstream settings has two distinct advantages. It is more economical in resources and there are social benefits (including avoiding stigmatisation) for both the individual and the education of the other children if they remain within their local community. Success relies greatly on the willingness of institutions to participate. There are good reasons why the grounds for refusal of a place because the school “cannot meet the needs” of an individual, should remain in place. However, the factors informing that judgment make a large difference to how it is exercised. Key amongst these is the degree to which all mainstream schools in an area are, or are not, pulling their weight in a collective effort to meet overall community needs. The ‘level playing field’ created by a coherent and consistent structural settlement could be a major factor in establishing the necessary buy-in from every school.
57. The high-profile Labour pledge to “remove charitable private schools’ tax-breaks” is not obviously relevant, but it bears on the structure of public education in two ways. Firstly, structural rationalisation would achieve clarity over the distinction between the private and public sector of education. (Why is attendance at one kind of private school – an academy – free, whilst the choice to pay at a different one is taxed?).
58. Secondly it would help address a ‘double bind’ critique of the policy, that either there will be a flight from the private sector - reducing the VAT ‘take’ and increasing demand for state school places – creating a financial hole; or there won’t, and the ‘class ceiling’ aspect will be unaddressed. An article in the Guardian²⁵ reported analysis by the Institute for Fiscal Studies which confirmed a positive tax gain. The same article quoted Prof Francis Green of the Private Policy Education Forum, which also co-authored the study “Engines of privilege: Britain’s private school problem” as saying: *“The removal of charity status from private schools is right. But, without*

further measures, this will do little to lessen the unfairness in our class-segmented school system.” As I argue above, removing the hierarchies implied by differing legal status and reinforced via inequitable admissions arrangements would go a long way towards those “further measures.”

Conclusion and Further Action

59. I have argued above that a simplification and rationalisation of the legal and administrative structure of state schools ought to have bi-partisan support. It would be a more effective route to the aspirations of the 2022 White Paper than the failed ‘full academisation’ project. Almost all the education policies that Labour has indicated it wishes to achieve would be supported in one way or another by implementing this structural reform. Many pledges would be realised automatically via the integration of all schools within a common structure. It would simply not be necessary to implement piecemeal separate arrangements for special cases. As well as being quicker and simpler it avoids the perception, and reality, of unequal treatment, as well as the anomalies and unlooked-for consequences that are a major risk in a fragmented environment. Most of all it would save rather than cost money and therefore meet Labour’s self-imposed fiscal responsibility test.
60. I would also hope that it will appeal to all those who are active and willing participants in area education partnerships. I believe it is fair to say that the spontaneous emergence of these initiatives across the country was, in part, a response to the negative effects of fragmentation. A majority of those who get involved in education do so because they want to support young people, both as individuals and in their communities. It is a tribute to their vision and commitment that busy professionals give their time, and stretched institutions contribute resources, to overcome structural obstacles to partnership working. But, how much more could be achieved if structural obstacles were removed, and the system was reengineered to actively promote collaboration?
61. Thank you for reading to the end and, if you find anything to agree with, please share this proposal with anyone who might be in a position to make a difference.

Alan Parker
January 2024

End Notes.

1. ISOS partnership. Camden Learning 2023
2. Shaw, Huband-Thompson and Hallgarten: (CfEY) 2022
3. Understanding the Middle Tier: Comparative Costs of Academy and LA-maintained School Systems: Dr Sara Bubb, Jonathan Crossley-Holland, Julie Cordiner, Dr Susan Cousin and Professor Peter Earley. July 2019
4. “Unjustifiably high salaries use public money that could be better spent on improving children’s education and supporting frontline teaching staff.” H of C Public accounts Committee 2018
5. Mansell (2023)
6. Glatter 2020 – passim.
7. Glatter 2020 p.4 (Quoting Whitty 2008, p171) “*Labour ...seems to have gone further down the market route, and much further down the privatization route, than the Conservatives ever achieved, as well as increasing central steerage of the system through such initiatives as the National Literacy and Numeracy Strategies.*”
8. ISOS 2023 p.2
9. See Glatter p.6 “*Standards versus structures: a false dichotomy?*”
10. See ISOS 2023 p.2 summary of White Paper objectives.
11. See Glatter p12 “An overall summary of the first two tensions [between *the coherence of a system and its fragmentation; and between the autonomy of individual schools and the wider community and public Interest*] might be that England has moved even further away from system coherence without achieving the benefits of the ISS [*Independent State School*] model expected by its advocates.”
12. See Glatter p.7 (quoting his own earlier work) ““*Underestimating the significance of systemic factors may relate to a perspective on reform which focuses on individual school units or separate groups of schools, rather than taking a ‘whole system’ approach in the interests of promoting coherent support structures and consistency in provision*” (Glatter R. 2012. “Towards Whole System Improvement.” Forum (Chicago, Ill) 54 (3): 411–416) and Glatter p12 “*Findings such as these question the rhetoric claiming that school structure is unimportant in comparison with teaching quality and leadership.*”
13. See further reading list.
14. See Bubb et al.
15. ISOS partnership (2023) p.4
16. Opportunity for all p.48
17. See Brighouse and Waters Chap. 8 pp 345 -348.
18. Opportunity for all p.57
19. Labour NPF Policy Statement p78.
20. Labour NPF Policy Statement p78
21. Starmer 2023: “*confidence*” ... “*an outdated curriculum*” ... “*attitude towards vocational education*”.
22. Parker, A (2017) School Admissions Code: An Alternative version as if the interests of Parents and children were paramount.
23. Labour NPF Policy Statement p78
24. Labour NPF Policy Statement pp 86,87
25. ““*Labour’s calculation that ending private schools’ tax breaks would increase tax revenues by about £1.6bn and estimates that, taking into account additional costs to the state sector of around £100-£300m a year, the policy would lead to a net gain to the public finances of £1.3bn-£1.5bn.*” Sally Weale: The Guardian Tue 11 July 2023

About the author

Alan Parker (MA Ed 1984) worked full time in voluntary and statutory agencies in the field of education between 1977 and 2002. The last ten years of that was at top management level as Education Officer at the AMA, and Director of Education for a London Borough. Since then, he has been a consultant and held various part time roles including: Schools Adjudicator (2004 – 2012); Examination Appeals Reviewer for Ofqual & Qualifications Wales (2013 - 2019); and, Continuing Healthcare Reviews for NHS England (2020 - 2023). Throughout that period and up to the present he has been interested, and actively involved, in critiquing and advocating education policy. He is a qualified executive coach and an active volunteer; having served as Society of Education Officers President in 2002 and as a trustee of several education charities. Including being the current Chair of the Association of Education Committees Trust. That body is currently funding policy development work including the LocalEd2025 project (see below).

Work in Progress

LocalED2025: Educating for the Future: Developing New Locality Models for English Schools. Pilot projects to test new locality models for the English school system led by local authorities, combined authorities and school led partnerships. It followed on from research published in March 2021, sponsored by the Association of Education Committees Trust (AECT) and [BELMAS](#), the British Educational Leadership, Management and Administration Society. The project is due to report in the summer of 2024. See:

<https://localed2025.org.uk/>

The independent thinktank EDSK is about to publish a paper which addresses similar concerns under the title: 20 years of muddling through: Why it is time to set a new course for the state school system in England, by Tom Richmond and Eleanor Regan. Expected January 2024

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