

Report of the Director of Children and Families

Report to the Leeds Schools Forum

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Subject: The Schools Bill

Report Author: Liz Jackson

Contact telephone number: 0113 3789199

Summary of main issues

1. In March 2022 the Secretary of State for Education presented a white paper to Parliament; *Opportunities for all; Strong schools with great teachers for your child*. This was followed in May 2022 by the presentation of the new Schools Bill. This report seeks to highlight key provisions within the Schools Bill that may be of significance to Schools Forum.

Recommendations

2. Schools Forum is asked to note the information provided regarding the current draft of the new Schools Bill.

1. Academy trusts

- 1.1 The new Schools Bill reflects the government's aim that by 2030 all schools will be part of a multi academy trust (MAT) or be in the process of joining one. It focuses on the regulatory framework around MATs, setting out new expected standards and strengthening powers to intervene in "failing" MATs. Key provisions are:
 - Legally enforceable academy trust standards
 - Standards set for governance structures and procedures
 - Power for local authorities to apply for an academy order
 - Protections for grammar and faith schools
 - New system of central intervention in trusts and academies judged to be failing
 - New failure to comply sanctions
- 1.2 Schools Forum will particularly note the new power for local authorities to apply for an academy order. Under existing legislation, academy orders can only be issued to schools where the governing body has applied to convert, or where a school is underperforming and is eligible for intervention.
- 1.3 The proposed new legislation would enable a local authority to make an application to the Secretary of State to make an academy order in respect of any maintained schools in its area. The Secretary of State would then have a discretionary power to make such an order in respect of the schools

named in the application. In practice, such decisions will be devolved to Regional Directors (formerly Regional Schools Commissioners).

- 1.4 Prior to making a request for an academy order, local authorities will be required to engage extensively with local partners to ensure that their plans for maintained schools to join strong trusts meet local needs and as required by the legislation, both:
 1. Consult the governing bodies and foundations (where applicable) of any schools included in the local authority's plan; and
 2. Obtain the consent of the trustees of a foundation or voluntary schools and 4 persons by whom foundation governors are appointed prior to making an application. (This mirrors the consent requirements under the current process which allows governing bodies of schools to apply for their own school to become an academy.
- 1.5 It will be up to the Local Authority to decide if it will make use of this new power. It is not yet clear whether conversions that occur through this route will be deemed voluntary or "forced" or consequently what the regulations will be regarding the transfer of surplus or deficit balances in those instances. The government expects to begin inviting local authorities to apply from September 2023.

2. National Funding Formula

- 2.1 The Schools Bill will place a duty on the Secretary of State to determine funding for all mainstream schools (both academies and maintained schools) in England through a single, directly applied national funding formula.
- 2.2 A "soft" national funding formula (NFF) was introduced in 2018-19. This NFF is made up of 14 'factors' that relate to pupil or school-led characteristics. Each factor has a 'factor value' which determines how much funding a particular characteristic attracts. Factors and their associated factor values are subject to change each year to respond to changing priorities and circumstances.
- 2.3 The current NFF is described as "soft" because, although a formula calculates a notional allocation for every school in England which the government aggregates for all the schools in each local authority to create a total allocation for that local authority, the local authority then sets its own local formulae to distribute the total allocation between all the schools in the area. Schools (both maintained schools and academies) receive their budget allocation based on their local authority's formulae. This means that while the NFF currently determines how much money a local authority receives, it is the local authorities' own formulae that determine how much each school finally receives. With the proposed "direct" NFF funding would be distributed solely on the basis of pupil numbers and each schools' characteristics.
- 2.4 The new measure does allow for local authorities to continue to allocate some aspects of schools' funding where the government judges that is necessary because local authorities have the most detailed knowledge about the needs of their local schools; for example, where the local authority has a Private Finance Initiative (PFI) contract for that school, or where the local authority asks a school to provide additional school places to meet its sufficiency duty.
- 2.5 The exact implications of the direct NFF will be determined once more detail is made available. However, key information for Schools Forum to note:
 - Local authorities will be able to continue with de-delegation
 - Local authorities will be able to apply to the Secretary of State to reallocate funding from the NFF allocations to local education budgets in order to meet local funding pressures (most likely relating to high needs), in place of the current "block transfer" mechanism

- Local authorities will continue to receive a “locally-determined education budget” that provides any supplementary funding to schools where the Secretary of State determines that local authorities are best placed to determine funding in line with their other duties and to fund spending on high needs, early years and central school services.

2.6 This measure will mean that Schools Forum:

- will retain responsibilities around local education spending, with both supplementary school allocations and other locally-determined education expenditure (early years, high needs, central school services)
- will no longer advise on setting local formula for core schools funding
- will continue to have a role in giving their views on a local authority’s proposal to make an application to transfer funding from mainstream schools to fund high needs

2.7 At this stage there is no “end date” for full implementation. There have been various rounds of consultation on the implementation of the NFF, most recently in 2021(‘Fair school funding for all: completing our reforms to the National Funding Formula’). A second stage consultation (‘Implementing the Direct NFF’) is due to be published before Summer 2022.

2.8 The government intends to adopt a gradual approach to transition; therefore, for funding year 2023/24, all local authorities will be required to use each of the NFF factors, and no others, in their local formulae, and move each local authority local formula factor values (at least) 10% closer to the NFF values. The full details and requirements for local authorities will be provided alongside the July 2022 NFF announcement in the schools funding operational guide.

2.9 The strategic approach adopted by the authority and Schools Forum has been for Leeds to stay as close to the NFF as possible in recent years. This means there should be little impact on Leeds schools as a result of the above requirement in 2023/24. An update will be provided to the next Schools Forum once more details have been received over the summer.

3. Other Provisions

3.1 The Schools Bill introduces other provisions in relation to school attendance, safeguarding, independent education institutions and teacher misconduct. These are outside the scope of this note, but all information can be found within these DfE policy statements: [Schools Bill: policy statements - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/policies/schools-bill-policy-statements).

4. Recommendations

4.1 Schools Forum is asked to note the key provisions within the current draft of the Schools Bill (May 2022), the potential impact on Leeds schools and the associated change in remit of Schools Forum.