



Secondary schools (academies and maintained schools) in England: Issues of governance and autonomy

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Abstract

Since 2010 there has been a massive expansion of academies – schools outside local authority control – funded directly by central government. In this working paper we focus on the governance of different types of secondary schools in England: those maintained by local authorities, those that are single academy trusts (SATs) and those that are part of multi-academy trusts (MATs). The research comprised an analysis of legislative provision and policy documents, and a documentary analysis of the governance arrangements of a sample of 23 secondary schools of different types. Our findings reveal that the system of state funded secondary schools in England is fragmented in terms of overall governance, admissions arrangements, the curriculum, and responsibility for use of resources, with schools of different types operating to different rules. The findings provide support for greater clarity and transparency regarding the governance of schools (including school governing bodies akin to those in maintained schools) and add support to the notion of a “common rule book” for all state funded schools. We present a number of implications for policy.

1 Introduction

Over the past decade, there has been a transformation of publicly funded secondary schools in England. In 2010, most secondary schools were maintained by local authorities. Since then, there has been a massive expansion of academies – schools which are outside local authority control and funded directly by central government. As a result, there has been a concomitant reduction in the number of schools maintained by local authorities (LAs), particularly at the secondary level. The governance arrangements of schools are fundamentally important for the functioning of the school system, yet the rules governing schools maintained by local authorities and academies differ (and differ between academies). This working paper focuses on these arrangements in the secondary school system in England.

The year 2010 can be seen as a critical juncture in the development of the academies programme. The 2010 Academies Act legislated for by the Conservative-Liberal Democrat Coalition government followed legislation going back to the 1980s. In short, the 1988 Education Reform Act enacted under the Conservative government allowed for independent city technology colleges (CTCs) to be established. In 2000, David Blunkett, the Labour Secretary of State announced city academies, which were closely modelled on CTCs in terms of their legal structure (West and Bailey, 2013). All aspects of school governance were prescribed by a contract (as with CTCs), with academies being “freed” from a number of statutory provisions applying to maintained schools in areas such as admissions, special educational needs (SEN) and the curriculum (Department for Education and Employment (DfEE), 2000; Wolfe, 2013; West and Wolfe, 2019).

Academies, at least initially, generally replaced schools that were deemed to be failing by the national inspection agency Ofsted and were known as “sponsored academies”. By the 2010 general election there were 203 sponsored academies out of a total of 3,333 secondary schools (6 per cent) (West and Bailey, 2013). Subsequently, the 2010 Academies Act allowed schools maintained by local authorities to apply to convert to

academy status (and become “converter academies”). The increase in academies has been noteworthy: by January 2021, over three-quarters (78%) of secondary schools were academies (or free schools)¹ (DfE, 2021a).

Academies are not “maintained” by local authorities: in law, they are independent schools, run – in practice – by not-for-profit private trusts (exempt charities). The trusts register as companies with Companies House and are subject to company law. They are controlled and funded directly by central government by means of a contract, colloquially known as a funding agreement (“Academy arrangements” within the meaning of the Academies Act), between a trust (i.e., a legal entity) and the Secretary of State for Education. The trust can run a single stand-alone academy under contract (a Single Academy Trust [SAT]), or many academies (a Multi-Academy Trust [MAT]) under a single contract (often taking the form of a single “master agreement” along with a “supplemental agreement” in relation to each school run by the MAT). The DfE’s policy goal is for all schools to be ‘part of strong academy trusts’ (DfE, 2021b, p. 4).

The academies policy has evolved over time under governments of different political complexions. As a result, what was a national system of maintained schools (consisting of schools with their own legal identity, run by school-based governing bodies, and overseen by democratically elected local authorities), has been transformed into a fragmented system comprising a part-locally administered system of maintained schools and a part-centrally controlled system of academies.

This working paper is concerned with the governance of maintained schools and academies and related to this, school autonomy, public process, and equality of opportunity. We examine the overall governance arrangements of secondary schools of different types and then we look in more detail at arrangements regarding admissions, the national curriculum, and the allocation of the pupil premium grant. We seek to answer the following research questions:

- How does school governance – in theory and in practice – vary between maintained schools and academy trusts (MATs and SATs) of different types?
- What is the extent of delegation regarding school admissions, the curriculum, and the pupil premium in multi-academy trusts?

Cross cutting these two questions is a third, more descriptive, question:

- To what extent does guidance match practice regarding information publicly provided?

The research comprised an analysis of documents which involved providing a “thick description” of legislative provision and policy documents (Ryle, 1949) and empirical research.

The second section provides an overview of the policy context and legislative provision regarding the governance of maintained schools and academy trusts, along with relevant research. The third section describes the methods for our empirical work. The fourth

¹ At the same time, 37 per cent of primary schools were academies.

section provides our findings: we outline relevant guidance along with our findings from our documentary analysis, which focuses on four different themes: overall governance arrangements, admissions, the curriculum, and the use of the pupil premium grant. The final section discusses the findings and presents implications for policy.

2 Policy context and previous research

2.1 Governance

Governance is construed in many ways. Traditional forms of governance include hierarchies, whilst more recent forms of governance involve networks of different actors, partnerships, public-private ventures, and the voluntary sector in service delivery (Peters and Pierre, 1998). For the purposes of this working paper, we focus specifically on the control of academies and schools – in short, who is responsible for the running of the institutions, how schools and academy trusts *should* fulfil their obligations in light of legislative provision, regulation, and contractual arrangements, and what happens in practice. As such, the notions of governance include both hierarchies of control and control via networks of different actors.

The school governing body is fundamental to maintained schools: maintained school governing bodies are freestanding legal entities – set up following the 1986 Education Act (No 2) – which directly run schools, enabling them to make and act on key decisions such as finance and appointments (with oversight by, but not control from, the maintaining local authority). The membership of the governing body of a maintained school is laid down by statute, and there are obligations regarding, for example, the publication of minutes and decisions reached (West and Wolfe, 2018; 2019).

Academies do not have governing bodies in the same way.² With a stand-alone academy (or Single Academy Trust [SAT]) the individual or individuals who set up the trust will be the “members” (in company law) of the company. In some instances, they will run the academy directly (appointing themselves as directors of the company and perhaps calling themselves the “governing body” [though the term has no legal meaning in that context]). They will then appoint their successor members (with limited if any public process or involvement and, indeed, DfE involvement). In others, those members, as well as appointing their own successors, then choose to appoint a separate group of directors and style them as a “governing body”. For academies with no religious character, the DfE’s current “model” articles of association (see below) give academy trusts ‘almost complete flexibility to design the constitution of their board of trustees as they see fit in order to ensure it has the necessary skills and capacity to carry out its functions effectively’ (DfE, 2020b, p. 36).

In the case of a Multi Academy Trust (MAT), the governing trust board may decide to set up one or more local governing bodies (LGBs) to oversee an academy or group of academies run by the academy trust. Unless the trust board has at least two parent academy trustees, then DfE policy is that each LGB in an academy trust must include at least two parent local governors (DfE, 2020c). Furthermore, no more than one third of the board can be employees of the academy trust, and fewer than 20 per cent of the board

² Annex A presents common governance structures (DfE, 2020c).

can be associated with a local authority (LA), namely ‘employees, members or officers of an LA (including teachers and headteachers of LA maintained schools)’ (DfE 2020b, p. 57). However, these loose requirements as to the composition of the LGB have little real meaning given that the trust board decides which, if any, governance functions it will delegate to LGBs. Therefore, any intended impression of “stakeholder” governing bodies (akin to those in maintained schools) within MAT academies is only skin deep. In some trusts, LGBs come to be known as “academy committees”, “local academy committees” or “academy governing committees”. So, while the LGB may outwardly appear to be like the governing body of a maintained school, its legal status is different, and its legal role and decision-making ability likely to be significantly less.

That is particularly so with faith MATs. There are specific arrangements regarding Church of England and Catholic schools and academisation, with the government publicly committed to ‘securing the religious character of every church school and to preserving diocesan families of schools...’ (DfE and Church of England Education Office [CEEEO], 2016, p. 4). It is noteworthy that the Church of England is the biggest sponsor of academies in England with approximately 900 academies (Religious Education Council of England and Wales, 2017).

The Memorandum of understanding between the National Society (the Church of England Education Office) and the Department for Education then also notes that the:

expectation is that, in the vast majority of cases, church schools that wish to convert will do so as part of a MAT with governance arrangements that reflect, at member and director level, no dilution of the level of church governance and involvement as it was immediately prior to conversion (DfE and CEEEO, 2016, p. 6).

The situation with Catholic schools is different. The Memorandum of Understanding between the Catholic Church and the DfE and Catholic Education Service (CES) notes: ‘It is only the Diocesan Bishop who can determine whether a school is Catholic and the requirements necessary to secure its religious character and ethos, in relation to which control of governance is essential’. Moreover, ‘for a school to continue to be a Catholic school the Catholic Church must retain control of governance, in accordance with canon law’ (DfE and CES, 2016, pp. 5, 9). The significance of canon law is fundamental:

Canon law provides that each Diocesan Bishop has strategic responsibility to commission sufficient places in Catholic schools to meet the needs of baptised Catholic children resident in his area. A Catholic school is one which is recognised as such by the Diocesan Bishop. Essentially the definition of a Catholic school in canon law requires that it is controlled by the Catholic Church. That control is normally established where the diocese or a religious order owns the school and appoints the governing body, or at least a majority of it (DfE and CES, 2016, p. 14).

The DfE has also published a model scheme of delegation for Catholic schools and articles of association for Catholic and Church of England schools that convert to academy status (DfE, 2019). Those arrangements include a requirement for each academy within the MAT to have a governing body composed as would be the arrangements in a voluntary

aided (faith, maintained) school.³ But, as above, what really matters is that it is still up to the MAT trustees (who may be entirely church appointees) to decide what powers should be exercised by the local governing body, and so any comparison with the position in a voluntary aided school is often only skin deep. Accordingly, the move from being a voluntary aided school to being a faith school in a church-run MAT is likely to involve a very significant shift of power towards the church (out of the hands of teachers, parents, and the local community).

Previous research, based on policy documents and other documentary sources has highlighted the differences between the governance of maintained schools and academies of different types and the lack of legal identity of schools that are part of MATs (West and Wolfe, 2019; 2021). It has also compared decision making, with decisions regarding maintained schools being taken by local authorities with local democratic oversight by local councillors, and decisions regarding academies by Regional Schools Commissioners appointed by and acting on behalf of the Secretary of State for Education. In the case of academies, there is no democratic oversight or requirement for open process, for example regarding opening and closing academies, or arranging for them to be transferred – “re-brokered” – from one MAT to another in the event of, for instance, a MAT disinvesting from a school. Research has noted that academies run by MATs have less decision-making power and freedom than stand-alone academies and maintained schools, with the MAT having ultimate control over a range of issues including overall strategy and finance (West and Wolfe, 2019). Nevertheless, a survey by the National Governance Association (Henson and Tate, 2021) found that 88 per cent of MAT trustees said their trust had some form of local tier of governance: 76 per cent had one committee for every school within their trust and 12 per cent had other models covering more than one school.

In the present study we seek to extend these findings by focusing in more detail on a sample of schools of different types – maintained schools, schools that are single academy trusts and schools that are part of multi-academy trusts – to understand the nature of the similarities and differences between different school types. Our focus is on school governance overall and on three specific areas of governance: school admissions, the curriculum and one specific funding stream, the pupil premium grant.

2.2 School admissions

For maintained schools: admissions to maintained community schools and voluntary controlled schools are the responsibility of the local authority, which is the admission authority. Voluntary aided schools are their own admission authority, and their governing body is responsible for admissions to the school. Academy trusts are also responsible for their own admissions (DfE, 2021c).

Government policy regarding admissions to academies – and their predecessors, CTCs – has varied over time. Selection on the basis of aptitude in technology was a key feature with CTCs. Academies created under the Labour government were nominally all-ability

³ Voluntary aided and voluntary controlled schools are maintained by the local authority (see Long, 2022).

schools with admissions policies agreed with the Education Department.⁴ The Department expected them to be broadly consistent with the School Admissions Code introduced following the 1998 School Standards and Framework Act. Academies were also permitted to select up to 10 per cent of pupils based on aptitude for the specialism (DfEE, 2000). As regards adherence to guidance on admissions, the extant School Admissions Code (DfE, 2021c) states that: ‘Academies are required by their funding agreements to comply with the Code and the law relating to admissions, although the Secretary of State has the power to vary this requirement where there is demonstrable need’ (p. 4).

Research has found that some academy trusts adopt the same oversubscription criteria for admissions as community schools, but there are many examples of non-religious academies – together with faith schools of all types – that have complex admissions criteria (West and Hind, 2016). According to the Office of the Schools Adjudicator (OSA):

Admission arrangements for too many schools that are their own admission authority are unnecessarily complex. The arrangements appear to be more likely to enable the school to choose which children to admit rather than simply having oversubscription criteria...that are reasonable, clear, objective and procedurally fair (OSA, 2014, pp. 7-8).

As is the case with other schools responsible for their own admissions – voluntary aided and foundation schools – decision-making in academies takes place behind closed doors, unless the academy trust asks the local authority to take on this role or otherwise be involved. Cirin (2017) in a survey of academy trusts found that 15 per cent of MATs had changed admissions criteria for most or all schools in the MAT and 26 per cent of SATs reported having changed their admissions criteria.

2.3 Curriculum

In England, for maintained schools, what is termed the “basic” school curriculum includes the “national curriculum” as well as religious education and sex education (DfE, 2022). The national curriculum was introduced following the 1988 Education Reform Act with the aim of ensuring that children at primary and secondary schools ‘learn the same things’ (DfE, 2022). In short, it provides for equality of opportunity in terms of access to a common curriculum. It covers the subjects that must be taught, and the standards children should reach in each subject. Maintained schools – but not academies – are required to follow the national curriculum and programmes of study for “core” and “foundation” subjects (DfE, 2014).

At the secondary level, compulsory national curriculum subjects between 11 and 14 (key stage 3) are: English, mathematics, science, history, geography, modern foreign languages, design and technology, art and design, music, physical education, citizenship, and computing. Schools must provide religious education (RE)⁵ and sex and relationship

⁴ Department for Education and Employment (DfEE) (1995-2001)/Department for Education and Skills (DfES) 2001-2007/Department for Children, Schools and Families (DCSF) 2007-2010/ Department for Education (DfE) 2010 -.

⁵ Local councils are responsible for deciding the RE syllabus; faith schools and academies can set their own.

education. During key stage 4 (14 to 16 years of age) most pupils work towards national qualifications – usually GCSEs. The compulsory national curriculum subjects are the core and foundation subjects. Core subjects are English, mathematics, science; foundation subjects are computing, physical education, citizenship. Schools must also offer at least one subject from the arts, design and technology, humanities, and modern foreign languages. In addition, they must provide RE and sex and relationship education (SRE) (DfE, 2022). Whilst maintained schools have a statutory obligation to teach the national curriculum, academies do not. Instead, they must merely teach a “broad and balanced curriculum” including English, mathematics, and science. Academies must also teach religious education and SRE.⁶

A related issue is that of curriculum specialisation. For the former CTCs, technology was a focus, whilst sponsored academies under the Labour government had a special emphasis in a specific area of the curriculum (e.g., science and technology, languages, the arts, or sport). However, following the 2011 Education Act, the requirement for the curriculum to have an emphasis on a particular subject area was removed.

Stand-alone academy trusts have autonomy over the curriculum within the parameters of their funding agreement. One survey of academies found that 55 per cent had changed their curriculum (Cirin, 2014) and a further survey found that changes to the school curriculum had taken place in 58 per cent of SATs compared with 28 per cent of MATs (Cirin, 2017). However, schools (whether the headteacher/principal or any LGB) *within* a MAT do not necessarily have such autonomy. Research has revealed that most MATs prescribe the curriculum for schools in the MAT to some extent but may permit a degree of flexibility in terms of how individual academies teach and deliver the curriculum (Cirin, 2017). Ofsted (2019) reports that some MATs have MAT-wide policies for curriculum development, but few MATs have standardised the curriculum: ‘Our findings show that MATs differ significantly in how they work with their schools (some, for example, substantively centralise curriculum development, while others leave this to individual schools)’ (Ofsted, 2019, p. 27).

2.4 Pupil premium grant

A new funding stream, the “pupil premium”, was introduced by the Conservative-Liberal Democrat Coalition government in 2011. This is an example of a positively discriminating voucher (Le Grand 1989) in that it targets funds on disadvantaged children, notably (but not exclusively) those from low-income families who are or have been eligible for free school meals (an indicator of poverty). The funding is designed to improve the attainment of disadvantaged pupils. Funding is allocated by the DfE to schools based on the number of eligible children. Schools in turn fund provision of different types: academic support (the most common), pastoral support, and extracurricular provision (e.g., Carpenter, et al., 2013; Barrett, 2018; Yaghi, 2021). Funding for maintained schools is allocated to schools by local authorities, and to academies by the Education and Skills Funding Agency

⁶ Government policy has shifted over time: in 2007, all newly signed academy funding agreements required adherence to the national curriculum for the core subjects (House of Commons Children, Schools and Families Committee, 2009). However, the 2010 Academies Act removed this requirement.

(ESFA). Previous research has found that MATs may give schools autonomy as regards the precise use of funding (Yaghi, 2021).

3 Methods

The empirical research comprised an exploratory, predominantly qualitative study of 23 secondary schools: seven were maintained schools, five were stand-alone academies and eleven were part of MATs. Our sampling method was purposive, and we used a maximum variation approach to ensure the sample reflected a wide diversity of schools in terms of different dimensions of interest. These dimensions included the school's religious character (Christian, Church of England, Catholic, Jewish, Muslim), geographical region, urban/rural location, local authority area, and for multi-academy trust academies, their size (large and small trusts).⁷

Table 1 gives key characteristics of each school. The six large MAT academies belonged to different types of MATs including some with a long history of sponsoring academies, a Church of England MAT, and a Catholic MAT; on average, each large MAT ran approximately 40 schools. The five small MAT academies belonged to MATs which ran between four to eight schools (on average six schools). The stand-alone academies represented different faith schools and regions where there were high, average, and low proportions of academies. The maintained schools comprised voluntary controlled, voluntary aided and community schools, with one community school belonging to a federation.

Documents were analysed to provide information on the legal context in which schools operated and their formal arrangements and interpretation of policies (Bowen, 2009). The material we analysed consisted of documents relating to school governance (including for academy trusts, their schemes of delegation and articles of association), admissions, the curriculum, and the pupil premium grant. These are public documents accessible online (e.g., via the DfE, individual schools, academy trusts, Companies House) and so are likely to portray a sound rather than distorted depiction of schools' official policies and arrangements (Scott, 1990). The material was analysed thematically to enable us to interpret and synthesise data on schools' different arrangements. The focus was on systematically comparing the information in each category: overall governance, admissions, curriculum, and funding (specifically the pupil premium). It should be noted that the presentation of material differed (e.g., on websites and in schemes of delegation) meaning that direct comparisons were not always possible.

⁷ The schools in the sample can be further classified into eight broad categories: maintained schools, secular and religious; SATs, secular and religious; large MATs, secular and religious; small MATs, secular and religious.

Table 1: Characteristics of schools in the sample

School, age range, mixed/single sex N=23	Type of school	Category	Region	Urban/rural	Religious character
Large MAT Academy A 11-19 Mixed	Academy	MAT (large) Sponsor led	Yorkshire and the Humber	Urban	Christian
Large MAT Academy B 11-18 Mixed	Academy	MAT (large) Converter	East	Urban	No
Large MAT Academy C 11-16 Mixed	Academy	MAT (large) Sponsor led	North-East	Urban	No
Large MAT Academy D 11-19 Mixed	Academy	MAT (large) Sponsor led	East	Urban	Church of England
Large MAT Academy E 11-18 Mixed	Academy	MAT (large) Converter	South-East	Urban	Catholic
Large MAT Academy F 11-19 Mixed	Academy	MAT (large) Sponsor led	West Midlands	Urban	No
Small MAT Academy A 11-18 Mixed	Academy	MAT (small) Sponsor led	East Midlands	Rural	No
Small MAT Academy B 11-19 Mixed	Academy	MAT (small) Converter	London	Urban	No
Small MAT Academy C 11-18 Mixed	Academy	MAT (small) Sponsor led	South-East	Urban	Christian
Small MAT Academy D 11-18 Mixed	Academy	MAT (small) Converter	South-West	Urban	No
Small MAT Academy E 11-18 Mixed	Academy	MAT (small) Sponsor led	Yorkshire and the Humber	Urban	No
SAT Academy A 11-18 Mixed	Academy	SAT Converter	London	Urban	No
SAT Academy B 11-18 Mixed	Academy	SAT Converter	East Midlands	Urban	Catholic
SAT Academy C 11-16 Girls	Academy	SAT Converter	North-West	Urban	Jewish
SAT Academy D 11-16 Mixed	Academy	SAT Free school	South-West	Urban	No
SAT Academy E 13-18 Mixed	Academy	SAT Converter	East	Rural	No
Maintained School A 11-18 Mixed	Maintained	Community	London	Urban	No
Maintained School B 11-18 Mixed	Maintained	Voluntary controlled	West Midlands	Rural	No
Maintained School C 11-19 Girls	Maintained	Voluntary aided	North-West	Urban	Muslim

Maintained School D 11-18 Boys	Maintained	Voluntary aided	North-West	Urban	Catholic
Maintained School E 13-18 Mixed	Maintained	Community (federation)	North-East	Rural	No
Maintained School F 13-18 Mixed	Maintained	Community	South-West	Urban	No
Maintained School G 11-16 Mixed	Maintained	Community	South-East	Urban	No

Source for characteristics of schools/academy trusts: DfE, 2021d.

4 Key findings

In each of the following sections we provide an overview of guidance regarding each of the key themes – governance, admissions, the curriculum, and the pupil premium – and then main findings based on our analysis of documentary material relating to the schools and/or trusts in our sample.

4.1 Governance

Guidance

In maintained schools there is a statutory school governing body. According to The School Governance (Constitution) (England) Regulations 2012, the total membership of the governing body for a maintained school must be no fewer than seven governors and must include:

- at least two Parent Governors – elected where possible, otherwise appointed;
- the headteacher, unless they resign the office of governor;
- only one elected Staff Governor;
- only one LA Governor; nominated by the LA, appointed by the board; and where appropriate,
- Foundation Governors or Partnership Governors (DfE, 2020b, p. 63).

The governance of academies differs markedly from that of maintained schools. As noted above, academy trusts are companies and as such every trust has members. The academy trust must have at least three members; however, the DfE's 'strong preference is that trusts should have at least five members' (DfE, 2020c, p. 11). Schools that are part of MATs may have their own local governing body, but if so, then this is in effect a committee of a MAT board established as such under the trust's articles of association (DfE, 2020c).

All trusts should have reserved places for parents (or other carers) in their governance structure and should hold elections to fill these places. Single academy trusts should have at least two such places on the board. According to DfE guidance (DfE, 2020c): 'The trust board must include at least two parent academy trustees, unless (in an academy trust with multiple academies) there are at least two parents on each LGB' (p. 14).

Overall governance of academy trusts

In our sample of academy trusts (n=16), we found that some, if not all, trustees were appointed by members. Unsurprisingly, in light of the guidance from the DfE, we found that trusts varied markedly in terms of their governance – their members and trustees. Our analysis revealed that significant power is vested with the (generally) small number of members (in our sample the number ranged from three to ten). Those members can appoint their own successors, with no public process or involvement. They in turn have a key role in appointing trustees, directors, and any governing body. Legally, academy trusts are established as private companies, and the profile of the trustees is in line with private as opposed to public interests. Looking specifically at the occupation of trustees

who are in employment, those in our sample of non-religious academy trusts had predominantly corporate roles; there was a notable number of retired trustees.⁸

The overall governance structure in turn relates to the schemes of delegation adopted by academy trusts: these determine at which level of the trust decisions are made. This is particularly important when it comes to MATs given that there are different levels of governance – the trust level and, in most cases, the school level.

School level governance

Given our interest in comparing governance at the school level, we focus in this section on governing bodies in schools of different types. Six out of seven maintained schools and all five SATs had their own governing body (one maintained school was part of a federation with a governing body covering all schools in the federation).

Ten of the eleven MATs in our sample had a local governing body (LGB). However, this does not have the autonomy vested with the governing body of a maintained school as the trust board plays a key role: it can determine who should serve as governors and who should be the chair of the LGB. The precise role of the trust board varied according to the schemes of delegation. Figure 1 presents illustrative examples from our sample of MATs.

Figure 1: Role of trust board in appointing LGB governors and/or chairs in sub-sample of MATs

Large MAT B: Trust board makes or ratifies appointments of individuals who will serve on the academy governing bodies, such as the chair of governors including removing such individuals who fail to fulfil the expectations of the role.

Large MAT D: The trustees may appoint up to ten persons to serve on the LGB with a minimum of 6. The chairman of each LGB shall be appointed by the trustees having due regard to, but not being bound by, the views of the LGB.

Large MAT E: The chair is elected by the governors but the appointment following election is subject to the approval of the chief executive officer, on behalf of the trust board.

Small MAT D: Chairs of LGCs will be appointed by the directors of the trust.

Thus, the trustees in these cases appoint or ratify the appointment of governors serving on LGBs; they can also appoint the chair, with or without considering the views of the LGB. The LGB is thus in effect an agent of the board of trustees, and not an independent body as in the case of a maintained school governing body. The functions of governing bodies and LGBs vary too. If we consider the appointment of the headteacher, in a maintained school, the governing body appoints the headteacher (perhaps with input from, but not control by, the local authority). In academy trusts there is variation between SATs and MATs. Thus, in SATs, the trust board appoints what is sometimes termed an Executive Leader, who will be the headteacher (academy principal) (DfE, 2020c).

⁸ Annex B presents an overview of the members and trustees of a sub-sample of trusts: three large MATs (two secular, one religious) and one small MAT along with organigrammes of the overall governance structure.

In MATs, the situation is different. In MATs with LGBs (or LACs) (all except for one MAT in our sample) we found considerable variation. In one large MAT, the LGB recommends the appointment of each Academy’s headteacher, which is subject to approval by the Trust and the Diocese. In another, the trustees appoint the headteacher with the LGB being expected to take part in the selection and appointment process. Similarly in the case of a small MAT, the trust board appoints the headteacher, but the LAC is consulted, and the LAC Chair or delegated representative is expected to sit on interview panel. In one case there was no involvement of the LGB in the appointment of the headteacher or principal.

Composition of LGBs and representation of key stakeholders

As noted above, the composition of governing bodies of maintained schools is laid down by statute. Academy trusts are run by trust boards. In the case of SATs, the composition of the trust board varies. In one SAT, the trust board comprised parent trustees, the headteacher, staff trustees and community trustees. In the case of another, which was run along co-operative principles, there were 15 governors (trustees) of the school comprising parents, staff, and members of the community. Turning to MATs, in our sample all except for one had local governing bodies. Their composition varied as illustrated in Figure 2.

Figure 2: Composition of local governing bodies (or equivalent) in sub-sample of MATs

<p>Large MAT Academy A: Local governing body with nine governors (one parent governor, one staff governor, one appointed by the trust board and the rest appointed by the LGB).</p>
<p>Large MAT Academy B: Academy governing body with eleven governors (one staff governor, one parent governor, seven sponsor governors and two ex-officio governors, the principal and executive principal).</p>
<p>Large MAT Academy D: Local governing body with ten governors (six trust-appointed governors, one staff governor, one parent governor, the principal and chair of governors).</p>
<p>Small MAT Academy A: Academy governing committee with eleven governors (principal, vice principal, executive principal, the MAT chief executive officer (CEO) and Deputy CEO, one parent governor, one staff governor and others).</p>

In our sample, parent governors were represented on the maintained school’s governing body, the academy trust’s LGB or the academy trust board. In the maintained school that was part of a federation, there were two parent governors on the joint governing body. Amongst our sample of MATs and SATs (n=16), the actual number of parent governors was, in five cases, fewer than the required number. On the other hand, three academy trusts had more than the minimum number of parents on the LGB. In the one MAT with no LGBs (Large MAT Academy F) there were two parent representatives on the trust board. It is also noteworthy that although all seven maintained schools had parent governors, one had only one parent governor, whilst four had four or five parent governors (the remainder had two as required).

We also examined the extent of representation of staff on maintained school governing bodies, LGBs of MATs and of SATs. All maintained schools had staff governors as required. One academy trust did not have an LGB, but most of the remainder had a staff governor.⁹ In accordance with legislation, all maintained schools had local authority governors; interestingly, two academy trusts could appoint a local authority governor, but neither listed one.¹⁰

Turning to special educational needs and disabilities (SEND), according to the DfE's guidance (DfE, 2020b), there should be 'an individual on the board or a committee with specific oversight of the school's arrangements for SEND' (pp. 84-85). We found that 22 of the 23 schools in our sample had a SEND governor,¹¹ as in the case of Large MAT C:

Each academy council has a named governor for SEND. It is also a requirement for the trust to have a named governor for SEND and for safeguarding, appointed by the board annually.

Publication of information about governance arrangements

According to the DfE (2020b), governing bodies of maintained schools and academies 'must publish details on their website about each person including all governors and associate members in maintained schools and all Members, academy trustees, individuals on any LGBs ... in academy trusts'. This 'must include any relevant material business or pecuniary interests, including any governance roles in other educational institutions. ...' (DfE, 2020b, pp. 51-52).

However, there are subtle differences between the information that should be provided on the websites of maintained schools and academy trusts, as shown in Figure 3. The requirements are broadly similar, although it is an obligation on trusts which is not the case for maintained schools according to the statutory guidance for maintained schools (DfE, 2017).

⁹ SAT Academy A could appoint staff governors, and SAT Academy C must appoint up to three, but none were listed on either website.

¹⁰ Small MAT Academy A and SAT Academy C.

¹¹ One school, part of a MAT, had no LGB.

Figure 3: Information to be made available on school/trust websites

Maintained schools

DfE statutory guidance specifies that ‘a governing body should publish on its website up-to-date details of its governance arrangements in a readily accessible form. This should include:

- the structure and remit of the governing body and any committees, and the full names of the chair of each;
- for each governor who has served at any point over the past 12 months:
- their full names, date of appointment, term of office, date they stepped down (where applicable), who appointed them (in accordance with the governing body’s instrument of government), relevant business and pecuniary interests (as recorded in the register of interests) including: governance roles in other educational institutions; any material interests arising from relationships between governors or relationships between governors and school staff (including spouses, partners and close relatives); and their attendance record at governing body and committee meetings over the last academic year’ (DfE, 2017, pp. 11-12).

Academy Trust

The Academy Trust Handbook¹² states that the trust ‘**must** publish on its website up-to-date details of its governance arrangements in a readily accessible format, including:

- the structure and remit of the trust’s members, board of trustees, committees and local governing bodies (the trust’s scheme of delegation for governance functions), and the full names of the chair of each
- for each of the trust’s members serving at any point over the past 12 months, their full names, date of appointment, date they stepped down (where applicable), and relevant business and pecuniary interests including governance roles in other educational institutions
- for each trustee and local governor serving at any point over the past 12 months, their full names, date of appointment, term of office, date they stepped down (where applicable), who appointed them, and relevant business and pecuniary interests including governance roles in other educational institutions. If the accounting officer is not a trustee their business and pecuniary interests **must** still be published
- for each trustee their attendance records at board and committee meetings over the last academic year
- for each local governor their attendance records at local governing body meetings over the last academic year’ (ESFA, 2021, pp. 31-32).

Notwithstanding the different requirements noted in Figure 3, DfE guidance states that governance arrangements *must* be published by all boards (maintained school and academy):

In the interests of transparency, the board must publish on its website up-to date details of the overall governance arrangements they have put in place. This must be in a readily accessible form. This scheme of delegation must set out the structure and remit of the board and any committees (including any LGBs in a MAT), as well as the full names of the chair of each...Readily accessible means that the information should be on a webpage without the need to download or open a separate document (DfE 2020b, s. 5.5, para 82, p. 70).

¹² With which trusts must comply ‘as a condition of their funding agreement’ (ESFA, 2021, p. 2).

Table 2 provides a summary of the information provided in school websites in our sample regarding governance arrangements.

Table 2: Governance arrangements published on websites of schools in sample

	Maintained schools n=7	Academy Trust (MAT) n=11	Academy Trust (SAT) n=5
Structure, Remit, Committees, Chair of GB/LGB	5	4	1
Names, Date, Term, Appointment of Governors and Members	6	7	4
Governors' and Members' business and pecuniary interests	6	7	3
Trustees' / Governors' attendance record	4	9	5

In some cases, information was provided on the MAT website, not that of the school. In some cases, information on governors but not members was provided; and in some cases, only partial information was provided – for example, the remit of the Members was not explained, and details of the structure and remit of committees were not given. Notwithstanding the requirement for documents to be “readily accessible”, this was not the case for all MATs/schools.

Turning to committees of the governing body or LGB, we found that all maintained schools and most academy trusts in our sample published information about these. The most common committees were Curriculum (or Teaching and Learning), and Finance. These committees were in place in all seven maintained schools and four out of five SATs.¹³ Of the ten schools that were part of MATs with LGBs, four had Curriculum (or Teaching and Learning), and Finance committees.¹⁴

As regards the publication of minutes of the governing body or LGB, only a minority of schools published these on their websites: one maintained school, one small MAT and one SAT.¹⁵ In the case of these three schools, minutes were available going back for several years, implying a commitment to making such information publicly available.

Turning to the remuneration of employees, maintained schools and academy trusts must publish¹⁶ how many employees have a gross annual salary and benefits of £100,000 or more. However, only two maintained schools and four of the five SATs in our sample provided such information. The majority of MATs provided this information at the MAT level.

¹³ One had instead Remuneration, Personnel, and Resources and Audit committees.

¹⁴ No information on LGB committees was available for the remaining six schools that were part of MATs.

¹⁵ Maintained School G, Small MAT Academy E, and SAT Academy D.

¹⁶ For maintained schools by virtue of The School Information (England) (Amendment) Regulations, 2020, and for academy trusts by virtue of the Academy Trust Handbook (ESFA, 2021, p. 28) with which they must comply.

4.2 School admissions

Guidance

According to the extant School Admissions Code (DfE, 2021c):

The admission authority for the school must set out in their arrangements the criteria against which places will be allocated at the school when there are more applications than places and the order in which the criteria will be applied. All children whose Education, Health and Care Plan names the school must be admitted. If the school is not oversubscribed, all applicants must be offered a place (with the exception of designated grammar schools...) (DfE, 2021c, s.1.6).

All schools must have oversubscription criteria for each 'relevant age group' and the highest priority must be given, unless otherwise provided in this Code, to looked after children... (DfE, 2021c, s.1.7).

Oversubscription criteria must be reasonable, clear, objective, procedurally fair, and comply with all relevant legislation, including equalities legislation (DfE, 2021c, s.1.8).

Responsibility for admission arrangements

The local authority is the admission authority for community and voluntary controlled schools. For voluntary aided schools, the governing body is the admission authority and for academies, the academy trust. Whilst for schools with a legal identity – maintained schools and single academy trusts – the locus of responsibility is clear (the local authority, the governing body, or the academy trust), for MATs, this is less straightforward.

In the case of seven of the ten schools that are part of a MAT which had established LGBs, the MAT delegated some responsibility to the LGB. Figure 4 exemplifies the diverse arrangements. In all cases, ultimate responsibility for determining admissions arrangements rested with the trust board, with LGBs in the main reviewing policies.

Figure 4: Responsibility for admissions policies in sub-sample of MATs

Large MAT B: The trust board delegates responsibility to individual academies to review, amend and determine their admission policies annually, and the board reviews admissions policies and makes changes in discussion with the academy governing Body e.g., to ensure one academy's policy is consistent across the trust. The academy governing body determines the academy's admissions policy in alignment with the trust board's values and vision; approves any admissions policy changes; and approves the policy yearly. The executive team reviews the admissions policy from time to time and if a change is believed to be in the interests of the trust, it recommends changes to the academy governing body or trust board.

Large MAT D: The local governing body is responsible for the review from time to time of the Academy's admissions policy. The trustees shall be ultimately responsible for the setting and approval of the admissions policy and no change will be made to the admissions criteria without the written consent of the trustees.

Large MAT E: The local governing body is responsible for the setting and review from time to time of the academy's admissions policy provided that no material change is made to the

admissions criteria without the approval of the CEO, who may refer controversial questions to the trust board.

Small MAT D: The board of trustees is responsible for determining admissions policies for Trust schools following local governing committees' review and recommendations.

Small MAT E: The local governing body shall be responsible for the setting and review from time to time of the academy's admissions policy provided that no change will be made to the admissions criteria without the written consent of the trustees.

It is the responsibility of academy trusts to set the own admissions criteria for the school or schools they run. As shown in Figure 4, one MAT stressed the interests of the trust. By way of contrast, in three academies in our sample – Large MAT Academy A, Large MAT Academy F and SAT Academy A – the trust had decided to adopt the local authority oversubscription criteria operating in their area, for example:

Large MAT Academy F is sponsored by [named MAT] and is committed to an Admissions Policy which is consistent with all other maintained schools in its local authority area.

SAT Academy A has decided to act in accordance with the admission arrangements determined and published by the local authority for its area.

Adopting the local authority admissions arrangements is significant as concerns have been expressed regarding admissions to academy trusts – in particular, the increased potential for them as their own admission authority to select pupils, and additionally, increased complexity for parents (OSA, 2014).

Our analysis of the admissions criteria (see Table C1, Annex C) used by schools and academy trusts revealed that in line with statute, all schools in our sample prioritised children in care. Some schools¹⁷ with a religious character combined this criterion with religion.¹⁸

Turning to special educational needs and disability, in the case of 20 of the 23 schools in our sample, the website mentioned having a statement of SEN/EHCP as an admissions criterion. For 15 schools, this information was given along with admissions criteria;¹⁹ arguably, this makes the admission process clear for parents when making preferences. For example:

¹⁷ Maintained School C (Muslim); SAT Academies B (Catholic) and C (Jewish); and Large MAT Academy E (Catholic).

¹⁸ The School Admission Codes states 'Admission authorities for schools designated with a religious character may give priority to all looked after children and previously looked after children whether or not of the faith' (DfE, 2021c, s.1.37).

¹⁹ Five of the seven maintained schools, eight of the eleven MATs, two of the five SATs. Although SAT Academy D prioritises applicants with an EHCP, it states it 'is unable to provide 1:1 Teaching Assistant support'. Hence having an EHCP and high-need teaching assistant support would likely be judged as 'incompatible with the efficient education of others'.

Maintained School A: Places will first be offered to applicants with a statement of special education needs naming the school, issued by or with the support of [named] Local Authority.

SAT Academy C: The admissions authority will admit any girl whose statement of special education needs or Education, Health and Care Plan names the school.

Five schools did not include pupils having statements of SEN/EHCPs with other admissions criteria, but the procedure was explained to parents as exemplified by one large MAT academy and one maintained school:

Children with an EHC plan are admitted to schools under separate statutory procedures which are managed by the child's home Local Authority, not under schools' determined admission arrangements. Parents of children with an EHC plan should therefore liaise with their child's home Local Authority's SEN team if they want the Academy to be named in their child's EHC plan as their child's school (Large MAT Academy B).

Applications for girls with an Educational Health care plan (or in receipt of other SEN support) are considered separately in liaison with the Local Authority (Maintained School C).

In the case of three schools – of different types – the admission of pupils with statements of SEN or EHCPs was not specifically mentioned.²⁰

Turning to other admissions criteria, previous literature has highlighted the use of feeder schools by some MATs,²¹ with MAT secondary schools giving priority to children who had attended primary schools in the same trust. This was the case with one school in our sample. In this case, the second oversubscription criterion was 'students who are currently educated in Small MAT D schools'; there were two such schools, one a partner phase primary school in the same local authority and one in another local authority. The fifth oversubscription criterion was 'children who attend one of the Academy's partner primary phase schools'. This school thus prioritised children from the MAT school in a neighbouring local authority over children in a local feeder school that was not part of the MAT.

Pupil ability banding is a permitted form of selection which can be used by admission authorities to ensure that the intake for a school includes a proportionate spread of children of different abilities (DfE, 2021c, s1.25).²² It was reported to be used – or possibly used – by two academy trusts: one of these stated: 'The Academy reserves the right to apply a fair banding system at its own discretion as part of the oversubscription criteria in order to achieve an intake that better reflects a range of abilities in [the

²⁰ One voluntary aided maintained school, one large MAT academy and one small MAT academy.

²¹ 'If the giving of priority by a secondary school to children from certain feeder primaries means that other children will face a significantly longer or more difficult journey to different schools as a result, then the arrangements are likely to be found to be unfair' (OSA, 2018, p. 11).

²² Banding can be used to produce an intake that is representative of: a) the full range of ability of applicants for the school(s); b) the range of ability of children in the local area; or c) the national ability range (DfE, 2021a, s.1.25).

school's] catchment area' (Small MAT Academy C). This appears counter to the School Admissions Code which states that 'The admission authority must publish the admission requirements and the process for such banding and decisions, including details of any tests that will be used to band children according to ability' (s.1.27).

4.3 Curriculum

It is not obligatory for academies to follow the national curriculum (unlike maintained schools). Instead, they are required to offer a balanced and broadly based curriculum (see section 2.3). Whilst the content of the school curriculum must be published on the school website for maintained schools, the situation for academies is different: 'Academies and free schools should refer to their funding agreement concerning what information must be published online and consider the non-statutory guidance online' (DfE 2020b, p. 76).

Drawing on material published on school websites, we found that information on the curriculum was available and aligned with the national curriculum in terms of the subjects taught/offered in virtually all cases.²³ The four schools deviating from this were one small MAT academy, two SATs and one voluntary aided maintained school.

We also examined the information provided by academies to establish whether *explicit* reference was made to the national curriculum. Eight academies of the 16 in our sample did so for key stage 3, as exemplified in Figure 5.

Figure 5: Examples of reference to the national curriculum by sub-sample of academy trusts

Large MAT Academy B: Students in years 7 to 9 study the national curriculum, which has been interpreted, designed and sequenced by subject experts to prepare students for their next steps.

Small MAT Academy A: At key stage 3 pupils will study the five core national curriculum subject areas which will enable them to attain the English Baccalaureate in key stage 4. Key stage 4 pupils continue to follow the national curriculum, but an element of choice is available via the Options at key stage 4.

Small MAT Academy B: At key stage 3, our curriculum is broad and balanced, based upon the entitlement outlined in the 2014 national curriculum.

SAT Academy B: In key stage 3 pupils follow the programmes of study set out by the national curriculum.

Autonomy over the curriculum

We also wanted to establish the extent of autonomy that individual academies in MATs (n=11) had as regards the curriculum. Figure 6 provides examples of schools that were part of different academy trusts and the extent of delegation to the LGB or headteacher/principal.

²³ Ten of the eleven MATs, three of the five SATs, six of the seven maintained schools.

Figure 6: Responsibility for the curriculum in sub-sample of MATs

Large MAT B: The trust board has ultimate responsibility for curriculum and standards, while the principal is responsible for designing and delivering the curriculum, and for the quality and delivery of the curriculum. The academy governing body is responsible for ensuring compliance of the curriculum and making sure that spending plans take account of and deliver it. It monitors and evaluates the curriculum offer, establishing that it satisfies the national curriculum's requirements.

Large MAT C: The board of trustees is responsible for fulfilling its statutory obligations regarding the curriculum and quality of education it provides; the Executive Team must confirm to the Board that these statutory requirements, ambitions and aims are being satisfied, and the principal must meet these statutory obligations by monitoring and evaluating the school's quality of education.

Large MAT D: The trustees, who have an obligation to the Secretary of State to provide a broad and balanced curriculum, are responsible for the setting and review of the curriculum but shall have regard to, but not be bound by, any views of the LGB.

Large MAT E: The local governing board shall be responsible for the setting and review of an academy plan outlining the curriculum and standards, with regard to any views of its local area board, CEO, director of school improvement and/or the trust board in recognition of the trust board's obligation to the Secretary of State to ensure a broad and balanced curriculum. The LGB will be responsible for the curriculum as agreed for any school year. Day to day implementation of the curriculum is delegated to the headteacher/principal and senior leadership team.

Small MAT A: The principal of the academy is responsible for ensuring that the curriculum offer fulfils legal requirements, and for developing curriculum policy and its implementation.

Small MAT D: The local governing committee is responsible for ensuring the school complies with all statutory curriculum and assessment requirements and for ensuring the provision of a broad and balanced curriculum.

Small MAT E. The local governing board is responsible for the monitoring and review of the curriculum within the remit of relevant trust policy but shall have regard to any views of the trustees and CEO. The headteacher should develop and deliver the curriculum for their academy. The LGB should monitor and enhance the curriculum.

As shown in Figure 6, there is variation between MATs as regards the extent of delegation: in short, the trustees may set and review the curriculum, or this may be the responsibility of the LGB. In one case the principal was reported to be responsible for ensuring the curriculum offer fulfils legal requirements, and for developing curriculum policy and its implementation.

4.4 Pupil premium grant

The pupil premium grant is distinct from the main school budget, but in order to provide a context for this grant and its allocation, we outline how the main school budget is allocated to schools, before focusing specifically on the pupil premium grant.

The main school budget is allocated differently for maintained schools and academies. For maintained schools, funds are allocated to the school by the local authority. In the case of academies, funding is allocated by the Education and Skills Funding Agency. Although funding is allocated to individual academies, a MAT can amalgamate the general annual grant it receives for its schools to form one central fund. This can be used to meet the running costs at any constituent academy within the trust (ESFA, 2021). In Figure 7 we provide four examples of how budgets are ascertained and allocated in a sub-sample of MATs.

Figure 7: School budgets in sub-sample of MATs

Large MAT B: The Chief Financial Officer recommends the academy's yearly budget to the trust board after taking into account the academy's priorities and deployment of resources to achieve the desired outcomes. The Finance Committee must review and approve the annual budget prior to it being recommended to the trust board. The Academy Governing Body monitors the school's financial performance against the approved budget. It reviews the budget summary; reviews pupil premium spending and impact; supports or challenges any suggested capital expenditure; and supports or challenges any suggested restructuring or staff cuts.

Large MAT C: The academy leadership drafts the budget against the Trust's benchmarking data on capital expenditure, staffing levels and curriculum. The budgets must be authorised by the Principal, Chief Executive Principal, Chief Financial Officer and Chief Executive Officer. Following this, the budget is presented to Trustees for ratification. The Trust pools some funding from each academy: A contribution of 5% of each academy's general annual grant income is levied, granting all academies access to a whole range of functions and services as and when required.

Large MAT E: Each academy has its own governance committee which has responsibility for approving policies within the constraints of trust policies and recommending annual plans and budgets of the academy to the trust board of directors.

Small MAT E: The headteacher should propose their academy's budget and monitor their monthly spending, while the trust should approve the budget.

As shown in Figure 7, decision making was found to lie predominantly with the trust board. Central control appeared stronger in some trusts than in others. In one MAT, there was no specific mention of the LGB; in another, the academy leadership drafted the budget, prior to it being authorised centrally; in another case, the LGB "recommended" the budget to the trust board of directors; and in yet another, the headteacher "proposed" the budget. In all cases, approval of the budget rested with the trust officers or trustees. One MAT was explicit as regards both pooling funding and the "top slicing" that takes place to provide services across the trust.

Turning to the pupil premium grant (PPG), this provides funding to improve the attainment of disadvantaged pupils of all abilities to enable them to reach their potential (DfE, 2021e; 2020f). For maintained schools the ESFA allocates the PPG to local authorities; at each mainstream school they maintain they 'must allocate' the specified per pupil amounts for each full-time equivalent pupil on roll on the specified date (DfE, 2021e, s.4). The grant 'may be spent for the purposes of the school, i.e., for the educational benefit of pupils at that school' (s.6). The ESFA allocates PPG to academies. As in the case

of maintained schools, the grant ‘may be spent for the purposes of the academy; that is, for the educational benefit of pupils registered at that school’ (DfE, 2021f, s.4). For both maintained schools and academies, the DfE states that the grant may also be spent on pupils registered at other maintained schools or academies; and on services in the community that benefit pupils at the school (DfE, 2021e; 2021f).

There are different requirements for different types of schools in terms of the information that should be published regarding the use of the pupil premium. Maintained schools ‘must publish their strategy for their school’s use of the pupil premium on their website’. Academies on the other hand ‘should read their funding agreement to identify what they need to publish on their website. The Department recommends that all academy trusts publish details of their pupil premium strategy, spending and its impact’ (DfE, 2020b, p. 107). In short, there is an obligation on maintained schools to publish their strategy for the school’s use of pupil premium funding, but not for academies, unless stipulated in the funding agreement.

The role of governors varied in our sample of schools. The majority of schools were reported to have a pupil premium governor or “disadvantage” link governor.²⁴ The role of the governors was made explicit in the case of one SAT: ‘We involve governors in the monitoring and evaluation of pupil premium spending and have a named pupil premium governor.’ In another academy (part of a small MAT) the pupil premium action plan stated that governors were to ‘act as critical friends to the school and to ensure the pupil premium is being spent in a way that has most benefits for the identified students’ (this school had no pupil premium governor lead).

For maintained schools and SATs, the responsibility for the pupil premium policy was reported to rest with the school (via its governing body and trust board respectively). For schools in MATs, the role of the LGB varied. For a minority, the role was to understand and challenge the progress and attainment of pupil premium pupils. In one, the scheme of delegation stated that the LGB is ‘responsible for knowing, understanding and challenging progress and attainment of different groups of pupils (including but not limited to pupil premium and others facing financial disadvantage...)’. In some cases, LGBs did not appear to play a role.

As regards how the pupil premium was spent, there was considerable variation amongst the eleven MATs. In the case of one large MAT the scheme of delegation stated that the regional Education Director must approve academies’ strategy for pupil premium expenditure following consultation with the headteacher. In another, the Trust’s Finance and General Purposes committee was responsible for monitoring and reporting on the use of the pupil premium. In two cases there were trust-wide principles along with the preferred general approach to spending the pupil premium, namely, to ensure high quality teaching and learning. In one of these, there was nevertheless a school-specific policy. In marked contrast, one small MAT delegated full autonomy to the school. The academy governing committee and principal were responsible for ensuring that pupil premium funding was used appropriately to ensure that recipients ‘optimise their

²⁴ Total of 18 schools: all seven maintained schools, seven of the eleven MATs, four of the five SATs.

performance'. This variation between schools in MATs contrasts with the autonomy afforded to maintained schools and SATs.

5 Discussion and implications for policy

In this final section we return to our research questions: How does school governance – in theory and in practice – vary between maintained schools and academy trusts (MATs and SATs) of different types? What is the extent of delegation regarding school admissions, the curriculum, and the pupil premium in multi-academy trusts? And to what extent is guidance adhered to? We focus in the first instance on overall governance arrangements, then address specific areas of governance: school admissions, the curriculum, and the pupil premium grant, before proposing implications for policy.

Governance arrangements vary between maintained schools and academy trusts. To recap: the school governing body in maintained schools has a constitution laid down by statute which is vested with specific powers and obligations. The composition is prescribed by statute and includes representation of parents, staff, and the local authority. Academy trusts are private companies and adhere to company law. Their constitution varies: there is generally a small number of members, and they appoint trustees; the board of trustees makes decisions regarding the mission of the academy trust and determines which powers and responsibilities should be delegated or controlled centrally. The composition of trust boards for secular academy trusts is not tightly prescribed, unlike that for Church of England and Catholic trusts.

We found that the process regarding the appointment of SAT or MAT trustees is generally opaque and not open to public scrutiny, although this is not invariably the case. In terms of the actual composition of trust boards, trustees who were in paid work tended to have corporate positions; there was generally little, if any, education expertise amongst trustees. Not all trusts had the required number of parent governors on the board or LGB; however, some LGBs had staff governors (not a DfE requirement). A small number of trusts also provided for the representation of local authorities or members of the community on the LGB.

Overall control in an academy lies with the SAT or MAT trust board, and in our sample, this extended to the appointment of governors to local school governing bodies (where the MAT allowed for them to exist), the appointment of the chair of any LGB and the appointment of headteachers of academies (with or without input from the academy concerned). In terms of functions, maintained school governing bodies are responsible for deciding the school budget, appointment of governors (within parameters laid down by statute) and staff appointments, including the appointment of the headteacher. Stand-alone academies (SATs) have similar responsibilities. This is not the case with schools that are part of MATs: in some cases, we found that LGBs (where they were in place) had input regarding the appointment of the headteacher, but this was not universal. Trust boards could appoint governors and the chairs of LGBs and indeed remove them. Whilst information regarding governance arrangements should, according to DfE guidance, be made “readily available”, we found that this was not always the case in our sample of schools.

We turn now to specific areas of governance. Admissions policies are important when considering equality of opportunity (in terms of access to schools). Admissions arrangements are the responsibility of the local authority (for maintained community and voluntary controlled schools), the school (maintained voluntary aided schools) or the trust board. For schools in MATs, we found that in some academy trusts the LGB (where one had been established) was involved with admissions policies, but the way in which it was involved varied and in some cases was very limited.

Turning to admissions criteria, these varied and in the main those adopted by academy trusts differed from those of community schools in the local authority, and five of the seven schools with a religious character (“faith schools”) prioritised children of the faith. Nevertheless, some academies followed the local authority oversubscription criteria for community schools, making it easier for parents making preferences for their child’s school to navigate the process of school “choice”. In some cases, academies appeared to prioritise the interests of the trust (in terms of the overall admissions policy or specific oversubscription criteria). As regards adhering to guidance/statute, we found that in all schools in our sample, top priority was given to children in care as required. There were, however, examples of arrangements that were not aligned with the School Admissions Code (e.g., banding arrangements). Whilst most schools gave information regarding the admission of children with EHCPs, some academies and voluntary aided schools²⁵ failed to do so, with possible implications for equality of access for children with special educational needs.

Turning to the curriculum, for maintained schools and SATs, this is the responsibility of the school (ultimately the governing body/trust board). However, for schools in MATs, we found that there was, in some cases, limited delegation to LGBs: in short, the trustees may set and review the curriculum, or this may be the responsibility of the LGB (if one has been established). As regards the substantive content of the curriculum, a national curriculum is, on *a priori* grounds, important from the perspective of equality of opportunity enabling access to a common nationwide curriculum. The fragmentation between different school types is clear, with maintained schools but not academies being required by statute to follow the national curriculum.²⁶ It is noteworthy that in the majority of academies in our sample, the curriculum was aligned with the national curriculum in terms of the subjects taught. Moreover, explicit reference to the study of the national curriculum, particularly at key stage 3, was made by half of the academy trusts in our sample.

As regards the use of resources, and specifically the pupil premium grant, governing bodies of maintained schools and SATs have autonomy to decide how best to use the grant, but for schools in MATs there is less clarity and in only one case was the local governing body responsible for how the grant was used.

It is clear from our research findings that the system of state funded secondary schools in England is fragmented, with schools operating to different rules: education law in the case of maintained schools and company law in the case of academies. The variation in

²⁵ These schools are their own admission authority.

²⁶ One voluntary aided school did not follow the national curriculum.

terms of governance is notable. Governing bodies of maintained schools are legal entities with specific powers and responsibilities. Academy trusts are legal entities and schools that are part of MATs have no legal identity, with only the powers and responsibilities as delegated to them by the trust board. The fragmentation extends to the structure of academy trusts themselves: there is marked variation in terms of the number of members, the number of trustees, the expertise of trustees, schemes of delegation, admissions arrangements, the curriculum, and the use of resources. There is no transparency regarding decision making as trusts do not have to publish minutes of meetings. The deficit in terms of local democratic accountability in academy trusts is clear: whilst some trusts do have a clear community focus and/or representation, this is not the norm.

In summary, school autonomy was a key policy goal when the academies programme was extended in 2010 (DfE, 2010), but the move to MATs has led to marked variations in autonomy between school types. MATs are more or less centralising in terms of key areas of decision making such as admissions, the curriculum, and use of resources; in theory and in practice schools in MATs have less autonomy than either maintained schools or SATs.

Several policy implications arise from our research:

- There is a strong case for there to be greater transparency regarding the process of setting up academy trusts; this would mean that parents and other interested stakeholders are better informed about the companies in receipt of public money.
- There is an *a priori* case for the appointment of trustees of academies to be more transparent, and for trustees to have expertise in the field of education: whilst they are companies, academy trusts are providers of state-funded education and recipients of large amounts of public funding.
- A stakeholder model of governance (at all levels, SAT/MAT and any LGB) would provide more transparency about the functioning of academy trusts and local democratic accountability, with representation not only from parents but also staff of the school, the local authority, and the wider community.
- Local governing bodies (where they exist at all) have only limited power in some MATs but more in others. There is a case for all schools to have governing bodies with clear powers and responsibilities (including what are often regarded as the core functions of a governing body, including headteacher appointment and budget, curriculum, and ethos setting), so that all state-funded schools have similar levels of autonomy to that following the 1988 Education Reform Act (not just maintained schools and SATs as at present).
- The schemes of delegation for MATs should be similar in form and content to ensure that individual schools have the same powers and responsibilities.
- There is a strong case for admissions arrangements and criteria used by academy trusts to be aligned with those of maintained schools in the local area, as is the case with some academy trusts. This would aid the process of parental “choice”.
- All state-funded schools should be obliged to provide clear information regarding the admission of children with special educational needs and disabilities including those with EHCPs to aid parents making preferences for their child’s school.

- A national curriculum can be a means of ensuring equality of opportunity in terms of access to the curriculum: there is thus a strong case for a common curriculum to be offered in all state-funded schools.
- There should be common requirements for all state-funded schools regarding the information publicly provided on the use of funding such as the pupil premium grant.

In conclusion, the current fragmentation of secondary education raises important questions regarding the school system as a whole and the extent to which it is fit for purpose. Our research findings provide support for greater clarity and transparency regarding the governance of schools and add support to the notion of a common rule book for all state funded schools and so assist with the laudable goal of ‘creating a fair and cohesive system’ (HM Government, 2022, p. 44).

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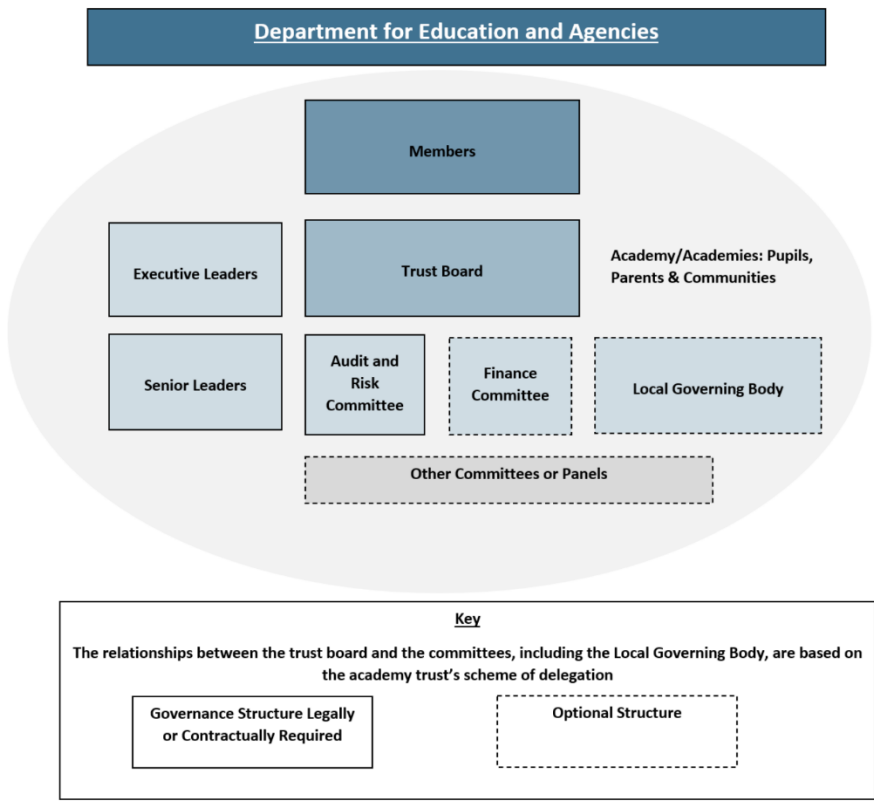
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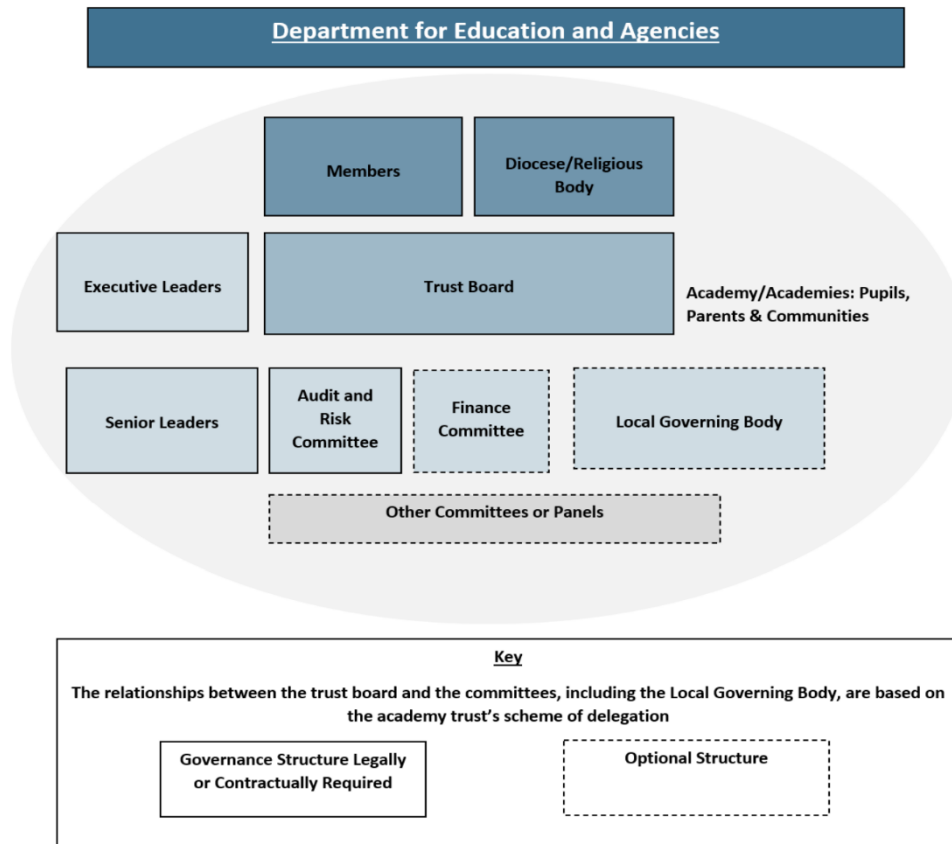
Annex A Common governance structures for Academy Trusts

Figure A1: Common Governance Structure for Academy Trusts



Source: DfE 2020c.

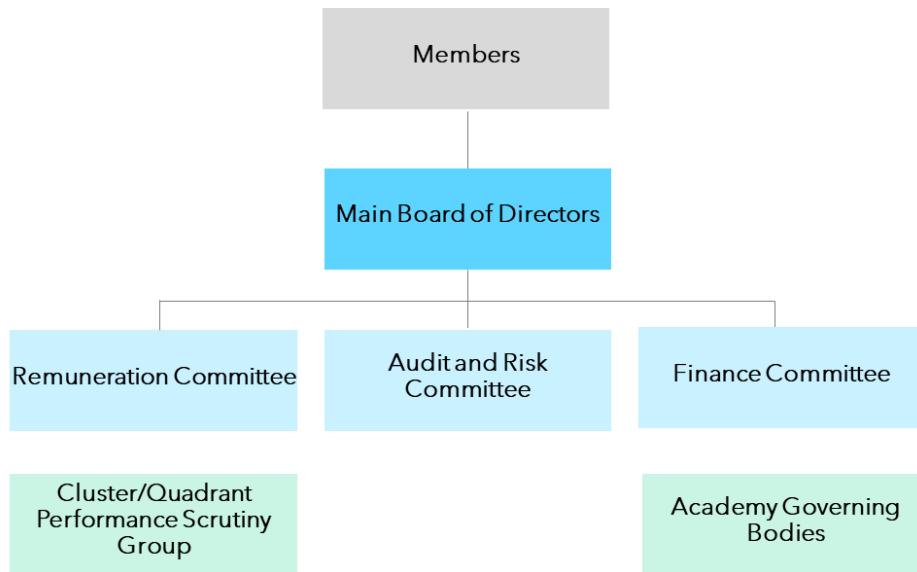
Figure A2: Common Governance Structure for Academy Trusts with a Religious Character



Source: DfE 2020c.

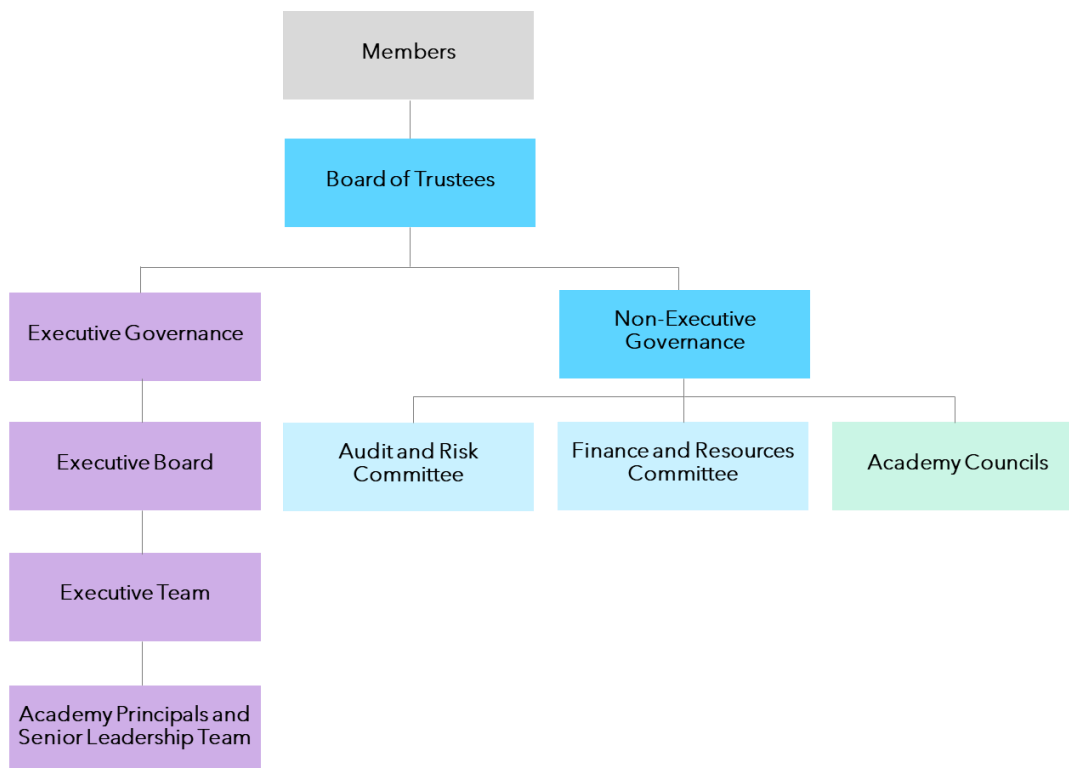
Annex B MAT Governance Arrangements

Figure B1: Large MAT B



The Members are the Principal Sponsor and two individuals appointed by the Principal Sponsor. There are thirteen trustees appointed by the Members; one is a teacher, and most others hold corporate positions.

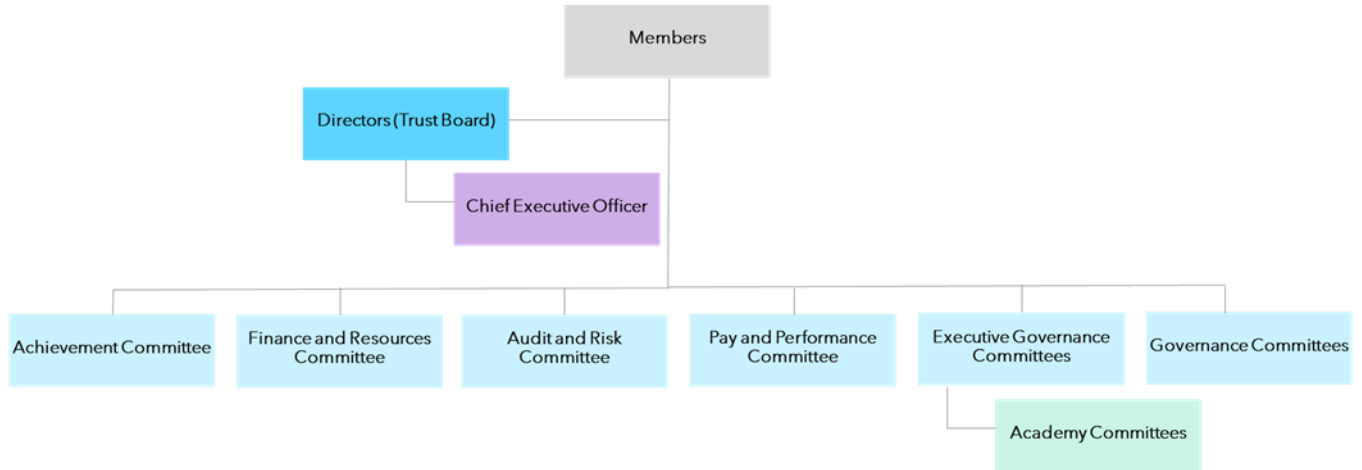
Figure B2: Large MAT C



There are five Members, including the Chair and Vice Chair of the Board of Trustees. The Trustees – there are nine – are appointed by the Members and include the Principal

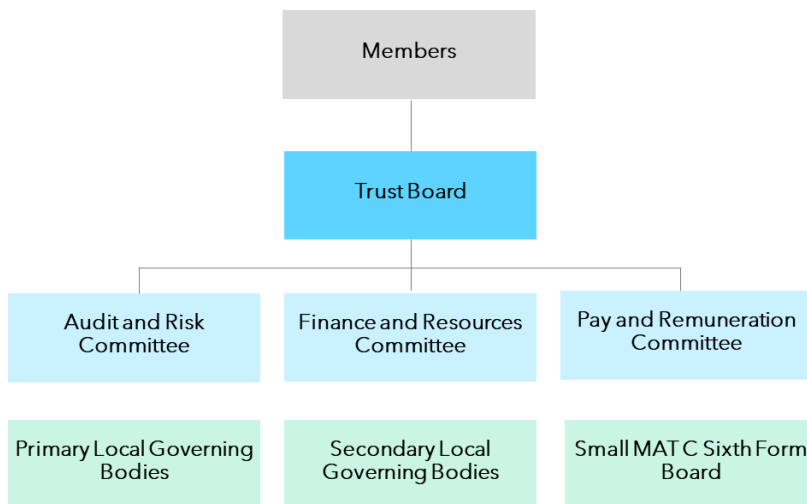
Sponsor and Chief Executive. The Trustees are predominantly from the corporate sector, but one has been an education professional.

Figure B3: Large MAT E



There are five Members, selected by the Archbishop of the Diocese. There are ten Foundation Trustees who are practising Catholics appointed by the Archbishop. The Trustees hold corporate positions, are retired or not in paid work.

Figure B4: Small MAT E



There are five Members. There are nine trustees appointed by the Members. Trustees hold corporate positions, one is in the field of education, others are retired or not in paid work.

Annex C Schools' admissions arrangements

Table C1: Main admissions criteria used by schools/academies in sample

	Number of schools/academies N=23
Child in care	23
Child has sibling at school	23
Child has SEN Statement or EHCP	20
Child lives in catchment area/parish	14
Child attends feeder primary school	8
Child of staff member	9
Distance between home and school	9
Medical/social need	8
Religion*	5
Partial selection by aptitude in subject area	2
Banding	2

*Used by two maintained voluntary aided schools, one school in a MAT and two SATs (all had a religious character: Catholic, Jewish, Muslim).

In the case of children satisfying all oversubscription criteria, the tiebreaker was based on distance, but in some cases, there was random selection and in others catchment area was used. Supplementary information forms (SIFs) were used by nine schools.²⁷

²⁷ SIFs were used by five schools with a religious character (Maintained Schools C and D; Large MAT Academy E; SAT Academy B and C) and two schools that use partial selection based on aptitude (Small MAT Academy B and SAT Academy A). Large MAT Academy B had a "children of staff" SIF. Large MAT Academy F had a SIF for applicants who met one of three criteria: exceptional medical or social needs; pupil premium pupils and children of staff, but only the latter was an oversubscription criterion.