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## GOVERNANCE OF ACADEMIES IN ENGLAND: THE RETURN OF “COMMAND AND CONTROL”?\*

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*ABSTRACT: School-based education in England has undergone significant changes since 2010, with a huge expansion of academies, schools outside local authority control, funded directly by central government. Academies and local authority (LA) maintained schools are subject to different legislative and regulatory frameworks. This paper focuses on the governance of LA maintained schools, single academy trusts (SATs) and schools that are part of multi-academy trusts (MATs). The research involved analysing legislative provision, policy documents, and documents addressing the governance arrangements of a sample of 23 secondary schools. Our findings reveal a fragmented state-funded secondary school system as regards overall governance, school admissions, the curriculum, and the use of funding. Significantly schools in MATs, which are governed by the trust board, lack the autonomy of either SATs or maintained schools and are instead under the ultimate control of the trust board. The paper argues that there is a need for greater consistency regarding the governance of state-funded schools.*

*Keywords: academies, governance, autonomy, multi-academy trust, maintained schools, faith schools*

### 1. INTRODUCTION

Over the past decade, government policy has led to the transformation of the publicly funded secondary school system in England. In 2010, local authorities (LAs) maintained most secondary schools, which, in turn, were run by statutory school governing bodies. Since then, there has been an extraordinary expansion of academies: these are schools outside local authority control that are funded directly by central government.<sup>1</sup> As a direct result of the reforms, the number of schools maintained by LAs has declined markedly, especially at the secondary level. The governance arrangements of schools are fundamentally important for

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\*A previous version of the manuscript was made available online as a pre-print (West et al. 2022)

the functioning of the school system, yet the rules governing schools maintained by LAs (hereafter maintained schools) and academies differ (and moreover, differ between academies). This paper focuses on these arrangements in the English secondary school system.

The 2010 Academies Act, enacted by the Conservative-Liberal Democrat Coalition government, can be seen as a critical juncture in the development of academies. This followed the 1988 Education Reform Act enacted under the Conservative government, which enabled independent city technology colleges (CTCs) to be established. In 2000, the Labour government announced city academies, closely modelled on CTCs as regards their legal structure. All aspects of school governance were prescribed by a contract, with academies being ‘freed’ from certain statutory provisions applicable to maintained schools including – amongst other provisions – the national curriculum (Department for Education and Employment, 2000; West and Wolfe, 2019; Wolfe, 2013).

Initially, academies generally replaced schools that the national inspection agency, Ofsted, deemed to be failing. They were called ‘sponsored academies’ and comprised 6% of secondary schools by the 2010 general election (West and Bailey, 2013). Following the 2010 Academies Act, maintained schools could apply to the Department for Education (DfE) to convert to academy status and become ‘converter academies’. There were financial advantages associated with conversion. Schools received the per pupil funding that maintained schools in the LA received, funding to purchase services previously provided by the LA, and a £25,000 grant to aid the conversion process (DfE, 2010a; West and Bailey, 2013). The increase in academies since 2010 has been notable: by January 2023, 80% of secondary schools and 40% of primary schools were academies (DfE, 2023).

In law, academies are independent schools. They are not ‘maintained’ by local authorities; instead, they are run by not-for-profit private trusts (exempt charities) which register as companies with Companies House and are subject to company law. They are controlled and funded directly by central government via a contract, colloquially known as a funding agreement (‘Academy arrangements’ according to the 2010 Academies Act) between a trust (that is, a legal entity) and the Secretary of State for Education. The trust can run a single academy under contract (a Single Academy Trust [SAT]), or many academies (a Multi-Academy Trust [MAT]) under a single contract. MAT contracts often comprise a single ‘master agreement’ along with a ‘supplemental agreement’ for each school run by the MAT. The DfE’s policy goal is for all schools to be ‘part of strong academy trusts’ (DfE, 2021a, p. 4).

As a result of the academies policy, the education system has been transformed from a national system of maintained schools into a fragmented system comprising locally administered maintained schools and centrally controlled academies. Whilst our focus is on two main school types – academies and maintained schools – there are further, historically rooted distinctions in the state-funded school system including religious (voluntary-aided and voluntary-controlled) schools, foundation schools, academically selective (grammar)

schools, schools which specialise in different areas of the curriculum, and schools that form part of larger groupings (e.g., federations of maintained schools) (Courtney, 2015; see also West, 2023).

This paper adds to the burgeoning research on academies, which has addressed legislation and policy development (e.g., Glatter, 2017; West and Nikolai, 2017; Wilkins, 2017; Yaghi, 2023); socio-economic composition and pupil outcomes (e.g., Andrews and Perera, 2017; Gorard, 2014); and the governance of MATs, leadership, and school improvement (e.g., Baxter and John, 2021; Greany and Higham, 2018; Greany and McGinity, 2021; Simon *et al.*, 2021). Our interest is in the governance of state-funded secondary schools – LA maintained schools and academies (SATs and MATs) – and related to this, school autonomy. The paper draws on research carried out as part of a larger project (West *et al.*, 2022). It addresses the overall governance arrangements of secondary schools of different types, along with policies regarding admissions, the national curriculum and the allocation of the pupil premium grant, a ‘positively discriminatory voucher’ (Le Grand, 1991, p. 1266) which targets funds on children who are/have been eligible for free school meals with the goal of raising their attainment (Education & Skills Funding Agency (ESFA), 2022a).

We address two research questions: First, how does school governance, both in theory and in terms of policy, vary between maintained schools and academy trusts (MATs and SATs) of different types? Second, what is the extent of delegation regarding school admissions, the curriculum and the pupil premium in multi-academy trusts? In so doing, we argue that ‘command-and-control’ has re-emerged as a form of service delivery, namely ‘a hierarchy of control, with direction from the top’ (Le Grand, 2010, p. 60) for schools in MATs. Central government now determines overall policy and funding for state-funded secondary schools and MATs determine policies of individual schools in the trust. We further argue that a stakeholder model of school governance with local representation has advantages over more hierarchical approaches, where decisions are made in the absence of local knowledge of the school and community.

The research comprised an analysis of documents which involved providing a ‘thick’ description (Ryle, 1949) of legislative provision and policy documents, together with empirical research. The next section provides an overview of the policy context and legislative provision regarding school governance, together with associated research. The third section describes the methods. In the fourth section we present our findings along with government guidance relating to the key themes we address: overall governance, admissions, the curriculum and the pupil premium grant. The final section discusses the findings and policy implications.

## 2. SCHOOL GOVERNANCE PAST AND PRESENT

Governance can be construed in different ways (James, 2014; Peters and Pierre, 1998). In this paper, we use the notion of governance in the traditional sense in

terms of hierarchies of control. We focus specifically on maintained schools and academies: who is responsible for running the institution, the regulatory arrangements, and contractual arrangements. We outline how the governance of state-funded schooling has developed over time before discussing relevant research.

From the 1944 Education Act until the late 1970s, schools in England were largely controlled by local education authorities, with school governing bodies typically comprising local politicians and/or church representatives. However, the actual arrangements were diverse (Connolly *et al.*, 2017; James, 2014). In 1977 the Taylor Report, commissioned by the Secretary of State for Education and Science and the Secretary of State for Wales, recommended a stakeholder approach to school governance with ‘as much delegation by the local education authority to the governing body as is compatible with the [authority’s] ultimate responsibility’ (Taylor Report, 1977, p. 16) for running schools in the area. Further, to operate effectively ‘provision must be made to ensure that the local education authorities, the staff, the parents of the children attending the school, and the local community have adequate representation on the governing body’. These groups were felt to have ‘a common interest in the welfare of the school’ and should between them ‘be able to speak with knowledge and experience’ (p. 23) about relevant matters. Local authorities were felt to be important because of ‘their knowledge of the opinions and aspirations of local communities’ (Connolly *et al.*, 2017, p. 8). Subsequently, the 1986 Education Act (No 2) established school governing bodies as freestanding legal entities. The governing body runs maintained schools, enabling them to make and act on key decisions such as finance and appointments, with oversight by the maintaining LA (West and Wolfe, 2019).

In marked contrast, the governance of academy trusts is complex, multi-layered and variable from trust to trust. Academy trusts are founded by members, who ‘have a general duty to exercise their powers to further the academy trust’s charitable object’ (DfE, 2020a, p. 9) and are signatories to the initial memorandum confirming that they wish to form a company. Members can be appointed by a foundation/sponsor body, a church diocese or existing members (DfE, 2020a). In a church trust, the diocesan board is a ‘corporate member’. Except in the case of a Church of England or Catholic trust, the members are ‘typically a self-perpetuating group with no term of office’ (Confederation of School Trusts and Stone King, 2021, p. 1).<sup>2</sup> Members can (but need not) appoint academy trustees (officially known as directors or company directors in trusts with a religious character) and remove serving trustees. Significantly, members should ‘not be involved in the day-to-day business of the academy trust and must ensure they do not assume the powers of the Academy Trustees’ (DfE, 2020a, p. 9).

The trust board, which is led by the chair, is the decision-making body of the academy trust. It is responsible for all academies in the trust. All academy trustees (in trusts without a religious character) and ‘directors’ (in trusts with

a religious character) are both charity trustees and company directors. For academies with no religious character, the DfE's current 'model' articles of association give academy trusts (which provide the template for future trusts) 'almost complete flexibility to design the constitution of their board of trustees as they see fit' (DfE, 2020b, p. 36).

In the case of a single academy trust, the trust board runs the school. The trust board may (but need not) call itself a governing body (although in this context it has no legal meaning). In the case of a MAT, the trust board may (but need not) choose to establish one or more local governing bodies (LGBs) to oversee an academy or group of academies; in some trusts, LGBs are referred to as 'academy committees' or 'academy governing committees'.<sup>3</sup>

The trust board may delegate certain responsibilities to the executive leader (but the extent and nature of that varies from case to case). Members can appoint the executive leader to the trust board (DfE, 2020a). Executive leaders are those 'held to account by the board for the performance of the organisation' (DfE, 2020b, p. 7). In a single academy trust (SAT), the executive leader is the principal or headteacher. In a MAT, the executive leader is the Chief Executive Officer (CEO) or equivalent and heads the management team (ESFA, 2022b). MATs are hierarchical in terms of their structure, with the CEO overseeing the work of the headteachers of schools in the MAT (Simon *et al.*, 2021).

Table 1 provides a schematic overview of how governance operates in principle across maintained schools (in general terms but not necessarily the same way in each instance), SATs, and MATs.

School level governance thus varies according to school type. The governing bodies of maintained schools and the trust boards of SATs are free standing legal entities which are responsible for running the school. In the case of schools that are part of MATs, the trust board is the legal entity. Although there may be LGBs, the loose requirements regarding their composition lack real meaning as the trust board decides which, if any, governance functions it in practice delegates to LGBs. Therefore, any intended impression of 'stakeholder' governing bodies (akin to those in maintained schools) within MAT academies is superficial. In short, whilst the LGB may outwardly (in structure) resemble a maintained school's governing body, its legal status, legal role, and – most importantly – decision-making ability differ significantly.

That is particularly so with faith (religious) MATs. There are specific arrangements regarding Church of England (CofE) and Catholic schools and academisation, as the government is committed to 'securing the religious character of every church school and to preserving diocesan families of schools ...' (DfE and the Church of England Education Office [CEEEO], 2016, p. 4). The Memorandum of Understanding between the National Society (the CEEEO) and the DfE expects that most church schools seeking to convert to academies will join a MAT with governance arrangements at member and director level which do not weaken the level of church governance and

TABLE 1: Overall governance arrangements (in principle) for maintained schools and academy trusts

Category of School	Governance	Composition of legal entity
Maintained schools: community (without a religious character), voluntary-aided, voluntary-controlled (with a religious character)	School governing body Freestanding legal entity	Membership defined by statute School governing body must be no fewer than seven governors and must include: the headteacher, at least two parent governors, only one elected staff governor, only one LA governor, and where appropriate, foundation governors or partnership governors Members set up the trust.
SATs (with and without a religious character)	Trust board Freestanding legal entity	Trust board composition requirements: at least two parent local governors; no more than one-third can be trust employees; fewer than 20% associated with an LA
MATs without a religious character	Trust board Freestanding legal entity	Members set up the trust Trust board composition requirements: at least two parent local governors on the board or LGB; no more than one-third can be trust employees; fewer than 20% associated with an LA
MATs with a religious character	Trust board For CofE and Catholic MATs: Trust board must establish local governing bodies (LGBs) akin to those in a voluntary-aided (faith) maintained school.	Members set up the trust Trust board composition requirements: at least two parent local governors on the board or LGB; no more than one-third can be trust employees; fewer than 20% associated with an LA For CofE and Catholic MATs: each CofE and Catholic academy must have a governing body composed akin to that in a voluntary-aided (faith, maintained) school

involvement that existed prior to conversion (DfE and CEEO, 2016). The Memorandum of Understanding between the Catholic Church and the DfE is different, as in canon law the Catholic Church must control a Catholic school: ‘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 Catholic Education Service, 2016, p. 14).

The DfE has also published a model scheme of delegation for Catholic schools and articles of association for Catholic and CofE 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. However, the MAT trustees decide what powers should be exercised by the LGB. Thus, any comparison with a voluntary-aided school’s position is likely to be at a superficial level. Accordingly, moving from being a voluntary-aided school to faith school in a church-run MAT is likely to involve a significant shift of power away from teachers, parents and the local community, towards the church.

Previous research has highlighted some of the differences between the governance of maintained schools and academies. It has also compared decision-making, whereby decisions regarding maintained schools are taken by LAs with local democratic oversight by local elected councillors, and decisions regarding academies are taken by DfE regional directors: these are civil servants appointed by the DfE<sup>4</sup> who act on behalf of the Secretary of State for Education (West and Wolfe, 2019, 2021). Research has found that regional directors have pressured or required MATs with more decentralised structures to pursue more hierarchical, corporate models (Greany and Higham, 2018). These ‘command and control’ structures are more common amongst large MATs than smaller ones with looser governance structures (Wilkins, 2017).

In contrast to maintained schools, there is no local democratic oversight by the LA or requirement for open process with academies, for instance regarding opening and closing academies or arranging for them to be transferred (‘re-brokered’) from one MAT to another (West and Wolfe, 2019). Instead, a highly controlled, hierarchical system has emerged with MATs representing a ‘national system of schooling, “locally” managed’ by DfE regional directors (Simon *et al.*, 2021, p. 124). Whilst academies run by MATs have less decision-making power and freedom than SATs and maintained schools (West and Wolfe, 2019), a survey by the National Governance Association (Henson and Tate, 2021) found that 88% of MAT trustees reported that their trust had some form of local tier of governance: 76% had one committee for every school within their trust, and 12% had other models covering more than one school.

We now turn to our empirical study, which focuses on school governance in a sample of schools of different types – maintained schools, SATs and schools that are part of MATs – in order to understand the nature of their similarities and differences.



### 3. METHODS

In this section we provide an overview of our methods (for more details see West *et al.*, 2022). The empirical research comprised an exploratory, predominantly qualitative study of 23 secondary schools: seven maintained schools, five SATs, and 11 MAT academies. We adopted a purposive sampling method and used a maximum variation approach to ensure the sample reflected a wide diversity of schools covering different dimensions of interest. These included the school's religious character (Christian, CofE, Catholic, Muslim, Jewish), geographical region, urban/rural location, LA area, and for MAT academies, their size (large and small trusts). Table 2 summarises the schools' characteristics.

The six academies that were part of large MATs belonged to MATs of different types, with each trust running an average of 40 schools. The five academies in small MATs belonged to trusts with approximately six schools. The SATs represented different faiths and regions. The maintained schools comprised voluntary-controlled, voluntary-aided and community (non-religious) schools (one community school belonged to a federation). As the study was small-scale, it is not possible to generalise across all types of secondary schools, but it is possible to make illuminating, in-depth comparisons between different types of schools.

We analysed different types of documents relating to the legal context in which schools operated and the formal arrangements and policies in place (Bowen, 2009). The documents concerned school governance (including for academy trusts, their schemes of delegation and articles of association), admissions arrangements, the curriculum on offer and the pupil premium grant. These are public documents accessible online (e.g., via the DfE, individual schools, academy trusts and Companies House), and thus should portray an accurate reflection of official policies (Scott, 1990). We analysed the material thematically and systematically compared the information in each category: overall governance, admissions, curriculum and the pupil premium.

### 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 – then present our main findings based on our documentary analysis. Table 3 summarises our key findings regarding each dimension.

#### *Governance*

##### *Guidance*

In maintained schools there is a statutory school governing body, whose membership is laid down by statute (School Governance (Constitution) (England)

TABLE 2: *Characteristics of schools in the sample*

School (mixed/single sex) N = 23	Category of school	Region	Urban/rural	Religious character
Large MAT Academy A, B, C, D, E, F (Mixed) n = 6	Large MAT (4 sponsored, 2 converter)	2 East, 1 Yorkshire & the Humber, 1 North-East, 1 South-East, 1 West Midlands	Urban	3 None, 1 Christian, 1 CofE, 1 Catholic
Small MAT Academy A, B, C, D, E (Mixed) n = 5	Small MAT (3 sponsored, 2 converter)	1 London, 1 South-East, 1 South-West, 1 Yorkshire & the Humber, 1 East Midlands	4 Urban 1 Rural	4 None, 1 Christian
SAT Academy A, B, C, D, E (4 Mixed, 1 Girls) n = 5	SAT (4 converter, 1 free school [new academy])	1 East Midlands, 1 North-West, 1 South-West, 1 East, 1 London	4 Urban 1 Rural	3 None, 1 Catholic, 1 Jewish
Maintained School A, B, C, D, E, F, G (5 Mixed, 1 Girls, 1 Boys) n = 7	4 community, 2 voluntary-aided, 1 voluntary-controlled	2 North-West, 1 West Midlands, 1 North-East, 1 London, 1 South-West, 1 South-East	5 Urban 2 Rural	5 None, 1 Catholic, 1 Muslim

Note: Source for characteristics of schools/academy trusts: DfE (2021b).

Regulations, 2012). The membership of a maintained school governing body must be no fewer than seven governors and must include: the headteacher, at least two parent governors, only one elected staff governor, only one LA governor, and where appropriate, foundation governors or partnership governors (to retain the religious character of a faith school, for example). The governing body may also appoint as many co-opted governors as it considers necessary to contribute to the effective governance of the school (DfE, 2020b).

The governance of academies differs markedly. 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, 2020a, p. 11). The DfE's 'strong preference is for a majority of members to be independent of the board of trustees' (ESFA, 2022b, p. 10). Schools that are part of MATs may decide to have (but need not) have their own LGB. If they do, this is, in effect, a committee of a MAT board established under the trust's articles of association (DfE, 2020a) operating whatever functions have been delegated from the trust. All trusts should have reserved places for parents/carers: SATs should have at least two such places on the board and MATs at least two on the trust board or on each LGB (if they exist) (ESFA, 2022b)

#### *Governance and Characteristics of Trustees and Governors*

Whilst the governance of maintained schools is laid down by statute, academy trusts have flexibility concerning their governance arrangements. Trusts in our sample varied markedly in terms of their governance. Our analysis revealed that significant power is vested with a (generally) small number of members (in our sample, three to 10).

Members appointed all trustees in 10 of the 11 MATs in our sample. In Large MAT B, the members appointed trustees, and the trust board appointed co-opted trustees. In the case of SATs, members appointed some trustees, but the trust board (governing body) also included parent, staff, community, and/or co-opted governors and the headteacher. For instance, the members appointed the majority of governors in SAT Academy D. In Catholic SAT Academy B, the members appointed 'up to one governor', with the remaining governors including parents, staff, foundation governors appointed by the diocesan bishop and co-opted governors appointed by the governing body.

Although the DfE stresses the need for members and trustees to be independent, in nearly half of the trusts in our sample, between one and four members were also trustees. Similarly, a DfE-funded study found 'a great deal of overlap across different tiers of governance structures' (Kettlewell *et al.*, 2020, p. 14). Fifty one per cent of the chairs of trust boards in their sample reported that they were also a member of the trust, and 21% of trustees reported they were also members of the trust.

TABLE 3: Governance arrangements for sample of maintained schools, SATs and MATs

Category of School	Overall Governance	School level governance	Admission authority	Curriculum	Pupil Premium
Maintained school	Responsible body: School governing body	Responsible body: School governing body Appointed headteacher Appointed chair	Responsible body: Local authority (community and voluntary-controlled schools) School governing body (voluntary-aided schools)	Responsible body: School governing body (School must follow statutory national curriculum) Virtually all schools followed national curriculum	Responsible body: School governing body All schools had Pupil Premium Link Governor.
SAT	Responsible body: Trust board	Responsible body: Trust board	Responsible body: Trust board	Responsible body: Trust board (School must offer balanced and broadly based curriculum) Most SATs followed national curriculum	Responsible body: Trust board Most schools had Pupil Premium Link Governor.
MAT	Responsible body: Trust board	Responsible body: Trust board All except one MAT had LGBs Most boards appointed or ratified appointment of governors Most boards appointed LGB chair Board appointed headteacher LGB typically participated in selection process	Responsible body: Trust board LGBs mainly reviewed admissions policies	Responsible body: Trust board (School must offer balanced and broadly based curriculum) Most schools followed national curriculum Large MATs: Board typically responsible for curriculum Small MATs: LGB or headteacher responsible for curriculum	Responsible body: Trust board Most schools had Pupil Premium Link Governor.

Legally, academy trusts are established as private companies, and perhaps unsurprisingly, trustees in our sample of non-religious MATs had predominantly corporate occupations, although a significant number were retired. In some cases (for example, Large MATs B, C, Small MAT E), one trustee was from the education sector, and in Small MAT A, most trustees were from the sector. The trustees of non-religious SATs were diverse, with SATs D and E comprising parents, school staff and community trustees. Turning to non-religious maintained schools, the governors were more likely to be in education-related occupations and included teachers, department heads or governors of other schools. The LA governors at Maintained Schools A and C were university academics; and in Maintained School G, nine of the 16 governors had education expertise.

In contrast, the religious academy trust boards in our sample comprised predominantly diocesan trustees/directors who were retired or in corporate roles. In Catholic Large MAT E, the foundation directors (who maintain the trust's religious character) were practising Catholics appointed by the archbishop; they held corporate positions, mainly in finance, or were not in paid work. The composition of CofE Large MAT D differed, as in addition to those in corporate occupations or who were retired, there were trustees with education expertise: an executive headteacher, diocesan director of education, school bursar and the chair of the diocesan board of education. Across the faith MATs and SATs, foundation governors, who maintain the school's religious character, formed half the governors in almost all cases. Whilst foundation governors in voluntary-aided schools should also have overall control of the school governing body, meaning that they comprise the majority of governors (DfE, 2017), this was not the case in Muslim Maintained School C and Catholic Maintained School D.

The overall governance structure of academy trusts relates to the schemes of delegation adopted by trust boards, which determine at which level of the trust decisions are made. This is particularly important with regard to MATs as there are normally two levels of governance – the trust and the school.

### *School Level Governance*

Turning to governance at school level, six out of seven maintained schools and all five SATs had their own governing body. (Maintained School E was part of a federation with a governing body covering all schools in the federation.) Ten of the 11 MATs had LGBs for all the schools in their trust. However, they did not have the autonomy vested with the governing body of a maintained school as the trust board played a key role in selecting the governors and LGB chair. The trust board's precise role varied according to the schemes of delegation. In most MATs the board appointed the LGB chair: CofE Large MAT D's trustees appointed at least six and up to 10 governors and the LGB chair, taking into consideration but not being bound by the views of the LGB. In contrast, Small MAT A's CEO appointed the chair, and in Catholic Large MAT E the CEO

approved the nominated academy committee chair on behalf of the trust board. Thus, in our sample, the trustees in most MATs appointed or ratified the appointment of governors serving on LGBs and most also appointed the chair, with or without considering the LGB's views. The LGB was thus effectively an agent of the board of trustees and not an independent body as with a maintained school governing body. The CEO's role is noteworthy and aligned with other research findings which reveal the prominent role played by the CEO in MATs (e.g., Simon *et al.*, 2021).

The functions of school governing bodies and LGBs varied too. Considering the appointment of the headteacher, in a maintained school, the governing body appoints the headteacher, perhaps with input from the LA. In academy trusts there is variation between SATs and MATs. In SATs, the trustees appoint what is sometimes termed an executive leader, who will be the headteacher (academy principal) (DfE, 2020a). In MATs with LGBs, we found considerable variation. In CofE Large MAT D and Small MAT B, the trustees appointed the headteacher, with the LGBs participating in the selection and appointment process, and the LGB Chair or delegated representative sitting on the interview panel in the latter. In contrast, in Small MATs A and E, the LGB was not involved in the headteacher's appointment.

#### *Composition of LGBs and Representation of Key Stakeholders*

Whilst the composition of governing bodies of maintained schools is laid down by statute (School Governance (Constitution) (England) Regulations, 2012), academy trusts are run by trust boards. In SATs, the trust board's composition varied. SAT Academy D, which was run along co-operative principles, and SAT Academy E had governors (trustees) comprising parents, staff, the headteacher and members of the community. In MATs, the composition of the LGB (where one existed) also differed. Small MAT Academy B had a 'local academy committee with 12 governors: four parent governors, three staff governors, four community governors representing the community on a skills basis and the headteacher'. The presence of community governors appeared to mirror co-opted governors in maintained schools.

Large MAT Academy B had a heavier focus on trust-appointed governors. Its governing body had 11 governors: seven sponsor governors (one of whom was the MAT CEO), one staff governor, one parent governor and two ex-officio governors, the principal and executive principal. The trust board played a less influential role than the LGB in Christian Large MAT Academy A, with the LGB comprising nine governors: one parent governor, one staff governor, one trust-appointed governor and the rest appointed by the LGB.

As regards parental representation, there were parent governors on the governing body of all seven maintained schools (in Maintained School E,

part of a federation, there were two parent governors on the joint governing body). However, Catholic Maintained School D had only one parent governor, whilst four schools had four or five. Amongst our sample of MATs and SATs ( $n = 16$ ), five academies had fewer parent governors than required and one had none on the LGB or trust board. In contrast, three academy trusts had more than the minimum number of parent governors. (Large MAT Academy F, with no LGB, had two parent representatives on the trust board.)

Turning to special educational needs and disabilities (SEND), the DfE's guidance states there should be 'an individual on the board or a committee with specific oversight of the school's arrangements for SEND' (DfE, 2020b, pp. 84–85). Twenty-two of the 23 schools in our sample had a SEND governor (Large MAT Academy F had no LGB).

### *School Admissions*

#### *Guidance*

According to the 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 ...' (s.1.6) and 'All schools must have oversubscription criteria ...' (s.1.7). As admissions are a key 'freedom' of academy trusts, it is perhaps unsurprising that in two surveys over a fifth (22%) of academies reported that they had changed their admissions criteria (Cirin, 2014; Greany and Higham, 2018).

#### *Responsibility for Admission Arrangements*

The LA or the governing body was the admission authority for the maintained schools in our sample. The LA was the admission authority for the community and voluntary-controlled schools (Maintained Schools A, B, E, F, G), whilst the governing body was the admission authority for the voluntary-aided schools (Maintained Schools C, D). The academy trust was the admission authority for academies.

For schools with a legal identity (maintained schools and SATs), the locus of responsibility for admissions arrangements is clear: the LA, governing body or academy trust. For MATs, this is less straightforward. In seven of the 10 schools that were part of a MAT which had established LGBs, the MAT delegated some responsibility to the LGB. In all cases, the trust board had ultimate responsibility for determining admissions arrangements, with LGBs mainly reviewing policies. In CofE Large MAT D, the trustees had final responsibility for setting and approving the admissions criteria, with any change being subject to their written consent. The LGB was responsible for reviewing, on occasion, the academy's admissions policy. The policy was broadly similar in Small MAT

E and Catholic Large MAT E, except that admission policy changes could not be made without the CEO's approval, who could refer controversial questions to the trustees.

In Large MAT B, the trust board delegated 'responsibility to individual academies to review, amend and determine their admission policies annually'. The board reviewed admissions policies and made changes in discussion with the LGB. In this case, the LGB was obliged to determine the academy's admissions policy 'in alignment with the trust board's values and vision'. The trust's executive team reviewed the admissions policy periodically and if a change was 'believed to be in the interests of the trust' it recommended changes to the LGB or trust board. Small MAT D's trust board also prioritised the trust's interests in its oversubscription criteria by ranking applicants from the MAT primary school in a neighbouring LA above those from a local feeder school that was not part of the MAT, reducing access to pupils living nearby.

Whilst Large MAT B and Small MAT D prioritised the interests of the trust, three trust boards adopted LA oversubscription criteria for their academies – Christian Large MAT Academy A, Large MAT Academy F and SAT Academy A. Large MAT Academy F was 'committed to an admissions policy which is consistent with all other maintained schools in its local authority area', and SAT Academy A had decided to follow the admission arrangements determined and published by the LA for its area. This is significant as concerns have been expressed regarding admissions to academy trusts, particularly the increased potential for them as their own admission authority to select pupils, and additionally, greater complexity for parents (Office of the Schools Adjudicator, 2014; West *et al.*, 2011).

## *Curriculum*

### *Guidance and Past Research*

For maintained schools in England, the 'basic' school curriculum includes the 'national curriculum' as well as religious education and sex education (DfE, 2022). The national curriculum, introduced following the 1988 Education Reform Act, seeks to ensure that children 'learn the same things' (DfE, 2022), so promoting equality of opportunity by means 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 are required to follow the national curriculum and programmes of study for 'core' and 'foundation' subjects (DfE, 2014).

In contrast, academies are simply required to offer a balanced and broadly based curriculum. SATs have autonomy over the curriculum within the parameters of their funding agreement. However, schools *within* a MAT do not necessarily have such autonomy. A large-scale survey of a representative sample



of academies (Cirin, 2017) found that 58% of SATs and 28% of MATs had changed their curriculum, and that most MATs prescribed the school's curriculum to some extent. Whilst Ofsted (2019) and Greany and McGinity (2021) found variation between MATs in terms of how far they standardised, aligned or granted autonomy to schools regarding the curriculum, both studies revealed that imposed standardisation on schools within the trust was not the most common approach.

The curriculum in virtually all schools in our sample was aligned with the national curriculum. Four schools deviated from this: Small MAT Academy D, SAT Academy A, Jewish SAT Academy C and Muslim Maintained School C. Small MAT Academy D did not mention teaching physical education and SAT Academy A did not mention teaching computer studies/ICT at key stage 4 (normally 14–16 years). The Jewish and Muslim schools did not teach music, but offered religious equivalents (Ovos and Nasheed, respectively), and neither taught citizenship. Moreover, eight of the 16 academies in our sample made *explicit* reference to the national curriculum at key stage 3 (normally 11–14 years), as in the case of Catholic 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 explored the extent of autonomy that individual academies in MATs ( $n=11$ ) had regarding the curriculum. The trustees in large MATs typically had ultimate responsibility for setting and reviewing the curriculum. In Christian Large MAT A:

The trustees are responsible for the oversight of the curriculum ... The senior executives must propose and develop a curriculum ... The headteacher is responsible for developing and implementing the school's curriculum policy ... the LGB must agree the principles upon which the school's curriculum policy is based.

In contrast, in Small MAT D, the LGB was responsible for ensuring the school complied with statutory curriculum requirements and provided a broad and balanced curriculum. Small MAT A's principal was responsible for developing and implementing the curriculum policy and ensuring it fulfilled legal requirements. There were clear distinctions between MATs regarding the nature and extent of delegation to the LGB or principal.

#### *Pupil Premium Grant*

##### *Guidance*

The pupil premium grant (PPG) provides funding primarily to raise the attainment of disadvantaged pupils (those who are/have been eligible for free school meals) (ESFA, 2022a). For maintained schools, the ESFA allocates the PPG to

the LA, which then ‘must allocate’ the specified per pupil amounts to each school it maintains (ESFA, 2022a, s.4); for academies, the ESFA allocates the PPG directly to academies. Previous research has found that MATs may give schools autonomy regarding the precise use of funding (Yaghi, 2023).

#### *Autonomy over the Pupil Premium*

Most schools in our sample – all seven maintained schools, seven MATs and four SATs – had a pupil premium (or ‘disadvantage’) link governor. The governors’ role was made explicit in Catholic SAT Academy B: ‘We involve governors in the monitoring and evaluation of pupil premium spending and have a named pupil premium governor’.

For maintained schools and SATs, the responsibility for the pupil premium policy rested with the school (via its governing body and trust board, respectively). For schools in MATs, the role played by LGBs varied. In some they did not appear to play a role. However, for a minority (Large MATs A, E, and Small MATs B, D), they were responsible for understanding and challenging pupil premium pupils’ progress and attainment.

There was variation amongst the 11 MATs regarding the use of the PPG. In Large MAT F (with no LGBs), the regional education director approved the academy’s strategy for pupil premium expenditure following consultation with the headteacher. In Large MAT B, the finance committee was responsible for monitoring and reporting on the use of the pupil premium. Large MATs E and F had trust-wide principles and a preferred general approach to PPG spending. In marked contrast, Small MAT A delegated full autonomy to the school, with the LGB and principal being responsible for ensuring that the PPG was used appropriately. This variation between schools in MATs contrasts with the autonomy afforded to SATs and maintained schools.

## 5. DISCUSSION

Our research has revealed significant variation in the governance arrangements between maintained schools and academy trusts. The school governing body in maintained schools has a constitution laid down by statute and has specific powers and obligations. Academy trusts are private companies and their constitution differs. They are founded by members with no public process; in our sample the number of members ranged from the minimum recommended by the DfE, three to 10. Members appointed all of the trustees in almost all of the MATs and some trustees in the SATs in our sample.

The composition of trust boards in our sample varied. Trustees who were in paid work tended to have corporate positions. Typically, there was little, if any, education expertise amongst them, particularly in non-religious MATs, although there were some notable exceptions in smaller MATs and SATs. This is significant as research has found that trustees may rely on insights stemming from

their current or previous occupations, which may not be appropriate in an educational setting (Baxter and John, 2021).

Trust boards of faith-based academies were more varied regarding trustees with education expertise. In contrast, the governing body of maintained schools frequently included governors employed in the education sector, most often in school-based and further education and occasionally in universities. Co-opted governors and parent governors who were teachers at other schools had different areas of expertise, ranging from public examination examiners to SEND specialists.

We can thus discern three models of governance amongst the schools and trusts in our sample: the corporate model (frequently found in non-religious MATs); the faith-based model (typically found in religious academy trusts and voluntary-aided schools); and the stakeholder model (found in non-religious maintained schools and some SATs and smaller MATs), with representation from the education sector and local community.

These categorisations are significant in light of previous research that has contrasted the stakeholder and skills-based models of governance (Connolly *et al.*, 2017). Whilst the former ensures interested parties are represented on board, the latter, promoted by the DfE (2020b) selects board members based on expertise. There is potentially tension between these two models as the skills required for governing a school may not be present amongst the school's stakeholder groups, raising 'a dilemma over whether stakeholder representation should be prioritised over skills' (James, 2014, p. 905).

However, the absence of a stakeholder model, as observed in some MATs in our sample, does not imply the presence of a skills-based model covering relevant skills/expertise. The corporate and faith-based models indicate how the composition of trust boards do not necessarily incorporate expertise relevant to education. On the other hand, the stakeholder model entails clear minimum requirements for boards to be inclusive of groups which are invested in the school. This is advantageous 'as it affords a ... degree of independence not easily replicated in the skills based approach' (Connolly *et al.*, 2017, p. 17). As revealed in our analysis, there may not be independence between different levels of governance in MATs. Moreover, in addition to representing different stakeholders, a local stakeholder approach enables key decisions to be delegated to the institutional level so that local knowledge can inform decision-making.

Overall control in an academy lies with the SAT or MAT trust board, and in our sample, this extended to the appointment of governors for LGBs (where they existed), the appointment of the LGB chair and the appointment of academy headteachers. This situation contrasts with the role played by maintained school governing bodies, which are responsible for deciding the school budget, appointment of governors and staff appointments, including the appointment of the headteacher.

Turning to specific areas of governance, admissions policies are the responsibility of the LA, the school governing body or the trust board depending on the school type. The academies in our sample had admissions arrangements that were, in some cases, in line with those of maintained community schools in the area, but in others the interests of the trust board were prioritised over the interests of children in the local area. The role of schools in MATs differed: in some cases, the LGB was involved with admissions policies, but the way in which it was involved varied. The curriculum is the responsibility of the school governing body of maintained schools (within the confines of the national curriculum) and ultimately the trust board of SATs and MATs. In some schools in our sample that were part of MATs, there was limited delegation to LGBs. The curriculum in academy trusts was generally aligned with the national curriculum regarding the subjects taught, with explicit reference being made to the national curriculum. Turning to the pupil premium grant, governing bodies of maintained schools and trust boards of SATs have autonomy to decide how best to use the grant. There is less clarity for schools in MATs and in our sample only one LGB was responsible for how the grant was used.

Our findings reveal clear fragmentation within the school-based education system, with schools operating to different rules: education law in the case of maintained schools and company law and charity law in the case of academies. The governing bodies of maintained schools are legal entities with specific powers and responsibilities. However, schools that are part of MATs have no legal identity and only have the powers and responsibilities that the trust board (the legal entity) has delegated to them. The fragmentation extends to the structure of academy trusts themselves: there is variation regarding the number of members, the number of trustees, the expertise of trustees, schemes of delegation, admissions arrangements, the curriculum and responsibility for the use of the pupil premium.

Although school autonomy was a key policy goal when the academies programme was extended in 2010 (DfE, 2010b), the move to MATs has led to significant variation in autonomy between school types. In terms of key areas of decision-making, MATs are more or less centralising even whilst acknowledging the centralisation of power that has taken place across the entire state-funded school-based education system (cf., Glatter, 2017; West, 2015; Wilkins, 2017). Schools in MATs have less autonomy than either maintained schools or SATs. Indeed, we argue that schools in MATs are subject to a new form of ‘command and control’. However, rather than control being from the LA, as was theoretically the case prior to the 1988 Act, or from central government (as in the case of SATs), control is via the MAT, which is responsible for deciding how schools should be governed. As a result of the growth of MATs, the claimed historical policy goal of school autonomy has largely in practice over time been ‘transferred substantively to the MAT board

and the CEO' and the 'freedom to . . . respond to local need devolved upwards significantly' (Simon *et al.*, 2021, p. 124).

In short, maintained schools have a stakeholder model of governance giving significant autonomy with an element of local democratic accountability via the LA governor on the statutory school governing body. For SATs, there is accountability to central government (via the funding agreement with the Secretary of State). However, for schools that are part of MATs, the model of accountability is not one that requires a democratic or community element and school level autonomy depends entirely on choices made by the MAT trustees.

Several implications for policy emerge from our findings. First, a common rule book for all state-funded schools would ensure less fragmentation across different school types, so aiding parents and other stakeholders (West and Wolfe, 2021). Second, a stakeholder model of governance (for SATs, MATs and any LGB) – including parents, staff, the LA and wider community – would provide representation of key stakeholders. Such a model would also provide an element of local accountability and greater transparency to the local community, as is the case with maintained schools, some SATs and some MATs in our sample. Third, in line with the views expressed in the 1977 Taylor Report, we argue that there is a strong case for all state-funded schools to have local governing bodies with clear powers and responsibilities. These could include the appointment of the headteacher and responsibility for the budget and curriculum, giving them all a similar level of autonomy to that of maintained schools. The rationale for stakeholder school governing bodies is ultimately tied in with how schools should be governed. In our view this approach acknowledges the importance of the school as an institution and the pupils, teachers, parents and community it serves.

In conclusion, the fragmentation, variability and loss of school level autonomy that has taken place in the secondary school system raises important questions regarding the English school system as a whole. Our findings have implications for policy, particularly regarding governance. We would argue that a stakeholder model is the most conducive to responding to the needs of the school and the community it serves. There is also a need for greater clarity and transparency, including a common overarching framework and common rule book for all state-funded schools. In our view, this would assist with the government's stated goal of 'creating a fair and cohesive system' (HM Government, 2022, p. 44).

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## 6. DISCLOSURE STATEMENT

No potential conflict of interest was reported by the author(s).

## 7. NOTES

- <sup>1</sup> Academies are officially classified as private government-dependent schools (West and Nikolai, 2017).
- <sup>2</sup> Members can also remove existing members except the foundation/sponsor/related body and any members appointed by the foundation/sponsor (DfE, 2020a).
- <sup>3</sup> No more than one third of the board can be employees of the trust, and fewer than 20% associated with an LA (DfE, 2020b).
- <sup>4</sup> The main responsibilities of Regional Department for Education Directors as regards academies include addressing low performance, offering support, intervening where deemed necessary, taking decisions regarding significant changes to academies and establishing, reducing or expanding MATs (Regional Department for Education Directors, 2023).

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