



National Audit Office

Report

by the Comptroller
and Auditor General

Department for Education

Academies and maintained schools: Oversight and intervention

Our vision is to help the nation spend wisely.

Our public audit perspective helps Parliament hold government to account and improve public services.

The National Audit Office scrutinises public spending for Parliament and is independent of government. The Comptroller and Auditor General (C&AG), Sir Amyas Morse KCB, is an Officer of the House of Commons and leads the NAO, which employs some 820 employees. The C&AG certifies the accounts of all government departments and many other public sector bodies. He has statutory authority to examine and report to Parliament on whether departments and the bodies they fund have used their resources efficiently, effectively, and with economy. Our studies evaluate the value for money of public spending, nationally and locally. Our recommendations and reports on good practice help government improve public services, and our work led to audited savings of £1.1 billion in 2013.



National Audit Office

Department for Education

Academies and maintained schools: Oversight and intervention

Report by the Comptroller and Auditor General

Ordered by the House of Commons
to be printed on 29 October 2014

This report has been prepared under Section 6 of the
National Audit Act 1983 for presentation to the House of
Commons in accordance with Section 9 of the Act

Sir Amyas Morse KCB
Comptroller and Auditor General
National Audit Office

27 October 2014

Our report examines the oversight and intervention system for schools, in terms of how cost-effective it is and how it supports the Department's overall objectives for the school system.

© National Audit Office 2014

The material featured in this document is subject to National Audit Office (NAO) copyright. The material may be copied or reproduced for non-commercial purposes only, namely reproduction for research, private study or for limited internal circulation within an organisation for the purpose of review.

Copying for non-commercial purposes is subject to the material being accompanied by a sufficient acknowledgement, reproduced accurately, and not being used in a misleading context. To reproduce NAO copyright material for any other use, you must contact copyright@nao.gsi.gov.uk. Please tell us who you are, the organisation you represent (if any) and how and why you wish to use our material. Please include your full contact details: name, address, telephone number and email.

Please note that the material featured in this document may not be reproduced for commercial gain without the NAO's express and direct permission and that the NAO reserves its right to pursue copyright infringement proceedings against individuals or companies who reproduce material for commercial gain without our permission.

Links to external websites were valid at the time of publication of this report. The National Audit Office is not responsible for the future validity of the links.

Contents

Key facts 4

Summary 5

Part One

Framework for school oversight 12

Part Two

Information for oversight 20

Part Three

Intervention activities 28

Part Four

Monitoring the oversight system
and sponsors 38

Appendix One

Our audit approach 43

Appendix Two

Our evidence base 45

The National Audit Office study team consisted of:
Ian Cockburn, Andy Fisher,
Daniel Greenwood, Erin Mansell,
Nicola Richards, Hannah Robinson,
and Jamie Sharp, under the direction
of Tim Phillips.

This report can be found on the
National Audit Office website at
www.nao.org.uk

For further information about the
National Audit Office please contact:

National Audit Office
Press Office
157–197 Buckingham Palace Road
Victoria
London
SW1W 9SP

Tel: 020 7798 7400

Enquiries: www.nao.org.uk/contact-us

Website: www.nao.org.uk

Twitter: @NAOorguk

Key facts

1.6m

children attending schools not rated 'good' or 'outstanding' by Ofsted (August 2014)

£382m

estimated Departmental spend on oversight and intervention in 2013-14¹

1,036

sponsored academies created from previously underperforming maintained schools by August 2014

- 15%** of schools have not been inspected by Ofsted in the last 4 years (from September 2010 to August 2014)
- 221** warning notices have been issued to schools by local authorities since September 2010
- 306** interim executive boards have been approved by the Secretary of State since September 2010
- 62** underperforming maintained schools (out of 129) improved their Ofsted rating following formal intervention
- 83%** real-terms reduction in average revenue grants provided to sponsors to reopen underperforming secondary schools as academies between 2010-11 and 2013-14

Summary

1 The Department for Education (the Department) is accountable to Parliament for the overall performance of the school system in England, which currently educates almost 7 million children aged 4 to 16 years old, at an annual cost of £40 billion. The system comprises 21,500 state-funded schools. Of these, 17,300 are maintained schools, overseen by local authorities, and 4,200 are academies, directly accountable to the Secretary of State.

2 The Department aims for all schools to give children a high-quality education. Its overall objective is for all children to have the opportunity to attend a school that Ofsted, the independent inspectorate for schools, rates as 'good' or better. To achieve this, the Department expects the leaders of individual schools, along with governors and trustees, to manage resources effectively in an increasingly autonomous school system. The Department also presides over a system of external oversight, which:

- sets objective measures to monitor school performance;
- identifies underperformance; and
- intervenes to tackle underperformance.

The Department's aim is for a school-led system where schools increasingly support one another to improve.

3 The Department shares responsibility for external oversight with the Education Funding Agency (the Agency, which is part of the Department) and 152 local authorities. Currently, 460 sponsors also work with over 1,900 academies (including the 1,036 created from previously underperforming maintained schools). The Department has set up frameworks that specify how it and other bodies should assess school performance and when they should intervene. In extreme circumstances, this may mean the closure of a school or the termination of an academy's funding agreement, but this is rare. The main formal interventions are:

- warning notices (a formal letter raising concerns about a school's performance);
- changing a school's governing body; and
- appointing a sponsor, which, for a maintained school, has the effect of turning it into an academy.

It has been the Department's policy since 2010 that a maintained school with sustained or serious underperformance should normally expect to become a sponsored academy.

Our report

4 The Department funds the activities of other oversight bodies and is accountable to Parliament for this expenditure.² It is, therefore, ultimately accountable for the value for money of these bodies' activities. Our report evaluates the oversight and intervention system for schools, in terms of how cost-effective it is and how it supports the Department's overall objectives for the school system. Specifically, the report examines:

- whether the roles and responsibilities of external oversight bodies are clear;
- whether these bodies have enough information to identify underperformance;
- whether they intervene to address underperformance consistently; and
- how much the Department knows about the impact and cost-effectiveness of oversight and interventions.

5 The report audits the oversight and intervention system as it was up to August 2014. It does not audit actions taken in individual schools and does not review how Ofsted conducts its inspections. We set out our audit approach in Appendix One and our evidence base in Appendix Two.

6 A number of further developments to the school oversight and intervention system are planned or in progress, but are not sufficiently advanced at the time of the report to contribute to our conclusions. The Department believes that these will strengthen the system. They include:

- regional schools commissioners and headteacher boards, that took up post in September 2014;
- new requirements for all academy trusts to provide additional detail in their annual governance statements from 2014/15 and for new trusts to notify the Agency within 14 days of company member appointments or resignations; and
- changes to school accountability measures from 2016, which will focus on pupil progress and make it easier to identify coasting schools.

² This does not include Ofsted, the independent inspectorate, which is directly accountable to Parliament for its own expenditure.

Key findings

Information on school performance

7 The Department has been clear about what constitutes unacceptable educational performance. It expects schools to be rated 'good' or 'outstanding' when inspected by Ofsted and has set minimum standards for pupil attainment (known as 'floor standards'). The Department raised floor standards between 2011 and 2014, challenging schools to aim higher. Ofsted has changed the name of its 'satisfactory' judgement to 'requires improvement', sending a similar message. These measures are widely used by oversight bodies to trigger intervention. Our surveys found that all local authorities and 95% of multi-academy trusts were likely to intervene in schools that Ofsted rated 'inadequate' or where results were below the floor standard (paragraphs 1.2 to 1.3 and 2.2).

8 Nationally, educational performance has improved, but a significant number of children still attend underperforming schools. In recent years, the national trend has been for year-on-year improvements in schools' educational performance. In 2012/13, the proportion of schools rated 'good' or 'outstanding' at their most recent Ofsted inspection increased by 8%. However, there remains a minority of schools that do not meet expectations. We estimate that, in 2013/14, 1.6 million children (23%) were not attending a 'good' or 'outstanding' school. In 2012/13, we estimate that in a third of local authority areas, secondary-aged pupils had less than a 70% chance of being in a 'good' or 'outstanding' school place. In the same year, attainment was below the floor standard in 763 primary and 150 secondary schools (paragraphs 1.3 to 1.5).

9 The Department's principal measures of school performance are focused on educational performance, and therefore limited. Its main focus is educational performance, measured by exam results and Ofsted inspections. These are important, and the Department wants to balance the need for comprehensive oversight with its aim to increase schools' autonomy. However, the measures do not reflect in a timely way the full range of children's outcomes that can be affected by their education. As lag indicators that measure pupils' performance up to 7 years after they begin attending a school, they may identify schools' underperformance only after several years. The Department knows that schools that underperform educationally can have safeguarding,³ leadership and financial issues. Such issues may also develop in schools that still achieve the minimum standards for educational performance, as has been highlighted by a number of recent cases. Ofsted's inspections provide a wider, snapshot view of the quality of education a school provides, including its safeguarding and leadership. However, in August 2014, there were 2,969 schools (15%) that had not been inspected for over 4 years. The Department has limited measures – principally schools' annual financial reporting and ad hoc intelligence such as whistleblowers – to give early warning of a serious decline in performance that does not feed through to exam results between inspections (paragraphs 1.6 and 2.7 to 2.12).

³ The Department defines safeguarding as "protecting children from maltreatment; preventing impairment of children's health or development; ensuring that children grow up in circumstances consistent with the provision of safe and effective care; and taking action to enable all children to have the best outcomes", Department for Education, *Keeping Children Safe in Education*, April 2014.

10 The Department and the Agency do not know enough about school-level governance to identify risks. School- and trust-level governance is vital to the success of the education system, particularly as the Department develops its vision for schools increasingly to support one another. External oversight bodies need to be confident that governors and trustees have the capacity to support continual school improvement. The Department has a ‘fit and proper person’ test for governors in new academy trusts, but up to now has not been notified when these governors change. It does not perform subsequent checks on new governors to identify risks, such as entryism. It relies on local authorities to oversee governance arrangements in maintained schools, in line with legislation, but does not know whether or how well they do this. We do not expect the Department to know the identity of every governor in every English school, but, in addition to the analyses in Ofsted’s periodic inspections and on a risk basis, it needs more routine information about governors than it has had up to now (paragraphs 2.10 and 2.11).

The Department’s oversight framework

11 The Department has not clearly articulated some of the roles and responsibilities of external oversight bodies. The increasing diversity of the school system has meant significant changes to oversight bodies’ responsibilities and the introduction of new bodies (academy trusts and sponsors). There are many sources of guidance that outline the Department’s expectations.⁴ The Department intended its Accountability System Statement to be a single statement of the duties different organisations have and the risks they are expected to manage. But there has been some confusion about: oversight of safeguarding; the responsibilities of academy sponsors; and the role of local authorities in relation to academies. On the last point, there have been mixed messages from the Department and Ofsted. Despite a commitment in 2012 to update its Accountability System Statement annually, the Department did not do so in 2013. It announced in June 2014 that a revision was under way (Figure 2, paragraphs 1.7 to 1.14).

Interventions

12 External oversight bodies are intervening more often in underperforming schools than in the past. In 2010/11, 28 local authorities issued warning notices to schools. In 2013/14, this rose to 47 authorities, which issued 88 warning notices in total. Twenty three of these notices came from authorities that had never issued them before. In addition, by August 2014, the Department had intervened to turn 1,036 maintained schools into sponsored academies following poor performance. The Department has also made greater use of its powers under academies’ funding agreements, issuing 35 pre-warning and warning notices to them in 2013/14 compared with 10 in 2011/12 (paragraphs 3.2 to 3.5 and 3.13).

⁴ Department for Education: *Schools Causing Concern*, May 2014; *Keeping Children Safe in Education*, April 2014; *Working Together to Safeguard Children*, March 2013; and *Governors’ Handbook*, January 2014.

13 The application of intervention frameworks involves judgement, but it is not always clear that intervention decisions are made on a consistent basis. The Department's policy is that the best way to tackle underperformance in a maintained school is to match the school with an academy sponsor. It writes to maintained schools judged by Ofsted to be 'inadequate' setting out its expectation that the school will become a sponsored academy. We looked at how it intervened in maintained schools rated 'inadequate' in August 2013. We found that 10% of them (34 schools) were still 'inadequate' maintained schools a year later, with no record of the Department intervening formally. The Department uses judgement to determine when to proceed with formal intervention. For open academies, the Department and the Agency have developed frameworks to determine when and how to intervene, but again apply judgement to these and there is no record to demonstrate that they do so consistently (paragraphs 3.3 to 3.8 and 3.14).

Effectiveness of interventions

14 The Department has not done enough to evaluate the effectiveness of the different interventions it and others make, so it does not know which are cost-effective. In general, schools rated 'inadequate' by Ofsted improve performance by their next inspection. We looked at Ofsted outcomes for 129 underperforming maintained schools where formal interventions took place; of these, 48% improved at their next inspection and the remainder stayed the same or deteriorated. Meanwhile, 59% of schools that received no formal intervention also improved. This is a partial analysis due to the limitations of the data currently available, and does not mean that it is better to do nothing than intervene formally. Instead it illustrates the need for further work in this area, to understand these findings and examine the relationship between formal interventions and school performance (Figure 9, paragraphs 3.16 to 3.19).

15 The Department does not know the costs of different interventions. In total, we estimate the Department and other oversight bodies spent at least £382 million on oversight activities, including formal interventions, in 2013-14. This includes Department and Agency staff costs, local authority funding for school improvement, and grants to academy sponsors to take over underperforming maintained schools. This estimate is likely to be understated as the Department does not collect data on spending by multi-academy trusts to improve schools. The Department supplied information on the grants it has provided for each sponsored academy. This shows the Department had reduced the average grant significantly by moving to a formula-driven approach. It has not collected data on the costs of other interventions (paragraphs 3.20 to 3.25).

Monitoring the oversight system and sponsors

16 The Department does not know enough about the effectiveness of local authorities' oversight of schools. It receives notification of some local authority formal interventions but does not routinely collect information about local authorities' other school oversight activities. In 2011, the Department had serious concerns about 16% of local authorities' plans for school improvement and some concerns about another 68%. Since May 2013, Ofsted has inspected 11 local authorities' school improvement services on a risk basis and found that 9 were 'ineffective'. With thousands of schools to remain maintained for the foreseeable future, given the current rate of conversion to academies, effective local authority oversight is essential to ensuring value for money in the school system. The Department's policy is to monitor maintained schools' performance and intervene directly in individual schools wherever there is failure; it has intervened in local authorities sparingly (paragraphs 4.2 to 4.5 and 4.11 to 4.13).

17 The Department does not yet know why some academy sponsors are more successful than others. It relies on academy sponsors to turn around underperforming maintained schools and academies. Currently 460 sponsors are working with over 1,900 academies. There are many different types of sponsors including charities, businesses and high-performing academies. To date, some sponsors have been successful at raising results in previously underperforming schools, but not all sponsors have achieved improvements. The Department challenges sponsors when it has concerns, but does not routinely collect information from sponsors on the types of support they give schools. Ofsted is not able to inspect academy sponsors or multi-academy trusts so there is no independent source of information about the quality of their work. The Department is carrying out research to address some information gaps and intends to use the new regional schools commissioners and headteacher boards to strengthen its understanding of successful sponsorship (paragraphs 4.6 to 4.10 and 4.14).

Conclusion on value for money

18 The Department works with a range of bodies to oversee a diverse school system. In many ways, its oversight system is still developing and this has resulted in, at times, inconsistent action from both the Department and others. The Department sets the tone from the top, with a clear focus on raising educational performance and the majority of schools that Ofsted rates 'inadequate' improve by the time of their next inspection. The Department has reduced the funding it allocates to oversight and intervention, including reducing the average grant it pays to sponsors to take on underperforming schools, and the number of formal interventions has increased; the Department regards these as positive developments. However, we cannot conclude that the oversight system is delivering value for money at present because the Department and other oversight bodies continue to have limited information about some important aspects of school performance and have not demonstrated the effectiveness of their interventions, despite investing at least £382 million annually.

19 The Department has taken action to improve some elements of its oversight system. However, the clear messages about acceptable standards of performance must be paired with more ways to spot problems early on and a demonstrably consistent approach to tackling underperformance when it occurs. This is essential if the new systems are to develop to maturity and establish the foundations for continuous improvement and good value for money.

20 The Department agrees the factual accuracy of this report, but it does not accept that all the report analysis, conclusions and recommendations are supported by those facts.

Recommendations

21 Our recommendations are designed to strengthen the oversight and assurance of all publicly-funded schools.

- a** The Department should undertake more work to understand the relative costs and effectiveness of different oversight and intervention activities. It should use this to:
- share good practice with local authorities, academy trusts and sponsors; and
 - inform its own decision-making.
- b** The Department should ensure that it has an independent source of information for assessing the quality, capacity and performance of academy sponsors.
- c** The Department should update its framework for oversight and intervention. In particular, future iterations of its Accountability System Statement should set out:
- the responsibilities and accountabilities of oversight bodies, and how they interact with schools' own responsibilities; and
 - how it will assess whether its oversight and intervention system is achieving value for money.
- d** Given its aim for schools increasingly to support one another to improve and the increased autonomy given to schools, the Department should improve its understanding of the quality of school governance. This should include how it can gain adequate but proportionate assurance that governance is fit for purpose.
- e** The Department should also develop, in conjunction with other oversight bodies, routine and fully comparable measures of the quality of schools' financial management and safeguarding, which it can apply on a risk basis.

Part One

Framework for school oversight

The Department's objectives for schools

1.1 The Department for Education (the Department) distributes around £40 billion a year to some 21,500 schools in England, which currently educate almost 7 million children. The leadership of individual schools is responsible for spending this money to achieve good outcomes for pupils. The Department, accountable to Parliament for the system's performance, is responsible for the overall quality of teaching and learning that children and young people receive, and, specifically, for helping disadvantaged pupils to achieve more, as well as for supporting the professionals who work in schools.

1.2 The Department sets objectives for the school system. A key one is to increase the number of high-quality schools. The Department measures progress against this objective by setting minimum standards (known as 'floor' standards) against which to judge school performance. It also monitors the results of independent Ofsted inspections. The Department aims for all children to have the opportunity to attend a school that Ofsted rates as 'good' or better. Schools which do not meet minimum standards, or are not rated 'good' or better, are deemed to be underperforming. The Department also wants schools to have good financial management and to safeguard the children who attend them.

School performance

1.3 Recently, school performance at the national level has been improving, as measured both by the Department's minimum standards and by Ofsted. Since 2011, the proportion of schools judged to be below the floor standard has decreased, even as the Department has raised the level of this standard, a move specifically intended to encourage continued improvement. Similarly, in 2012/13, Ofsted reported the highest-ever movement of schools up to 'good' or 'outstanding' from lower levels of performance (we estimated an increase of 8%). Ofsted decided, from September 2012, to replace its 'satisfactory' rating with a rating of 'requires improvement', to challenge schools to see 'good' as the minimum acceptable level of performance. We discuss the use of these performance measures further in Part Two.

1.4 Despite the national improvements, there remains a notable minority of schools that do not meet expectations. We estimated that in 2013/14 1.6 million children in England (23%) were not receiving at least a 'good' level of education as rated by Ofsted. In 2013, 763 mainstream primary and 150 mainstream secondary schools did not achieve the floor standard for attainment. Of those, 7% of primary and 7% of secondary schools had also been below the floor standard for the preceding 2 years.

1.5 The Department has not defined a way to measure whether children have access to 'good' or better school places. Our indicative analysis shows that, in September 2013, pupils of secondary-school age had less than a 70% chance of having a 'good' or better school place in more than one third of local authorities (**Figure 1** on pages 14 and 15). Research indicates that children in deprived areas are more likely to be affected by underperformance. In December 2012, Ofsted estimated that there was a 20 percentage point gap in the effectiveness of schools in the most and least deprived areas of the country. We analysed the proportion of children eligible for free school meals in different schools and found that, on average in 2013/14, 11% of children in 'outstanding' schools were eligible for free school meals but 22% of children in 'inadequate' schools were eligible.

1.6 The Department told us it has identified that schools underperforming educationally can also have financial management, internal governance and safeguarding issues. Some schools with strong educational performance also encounter these issues. The Department has issued guidance on all of these subjects,⁵ in many cases including the minimum standards it would expect schools to comply with. However, the Department has not defined national measures and, beyond annual financial reporting, data is not routinely collected to identify risks. This means it is not possible to describe overall trends in schools' financial management and governance, or in how schools protect the children who attend them.

⁵ Department for Education: *Schools Causing Concern*, May 2014; *Keeping Children Safe in Education*, April 2014; *Working Together to Safeguard Children*, March 2013; and *Governors' Handbook*, January 2014.

Figure 1

Map of 'good' or better places compared to the number of pupils in the local authority area, 2012/13

In some areas, pupils are less likely to have a 'good' or better school place

Primary

Number of 'good' or better places for every 10 primary pupils

- 1 to 5
- 6 to 7
- 8 to 9
- 10 or more

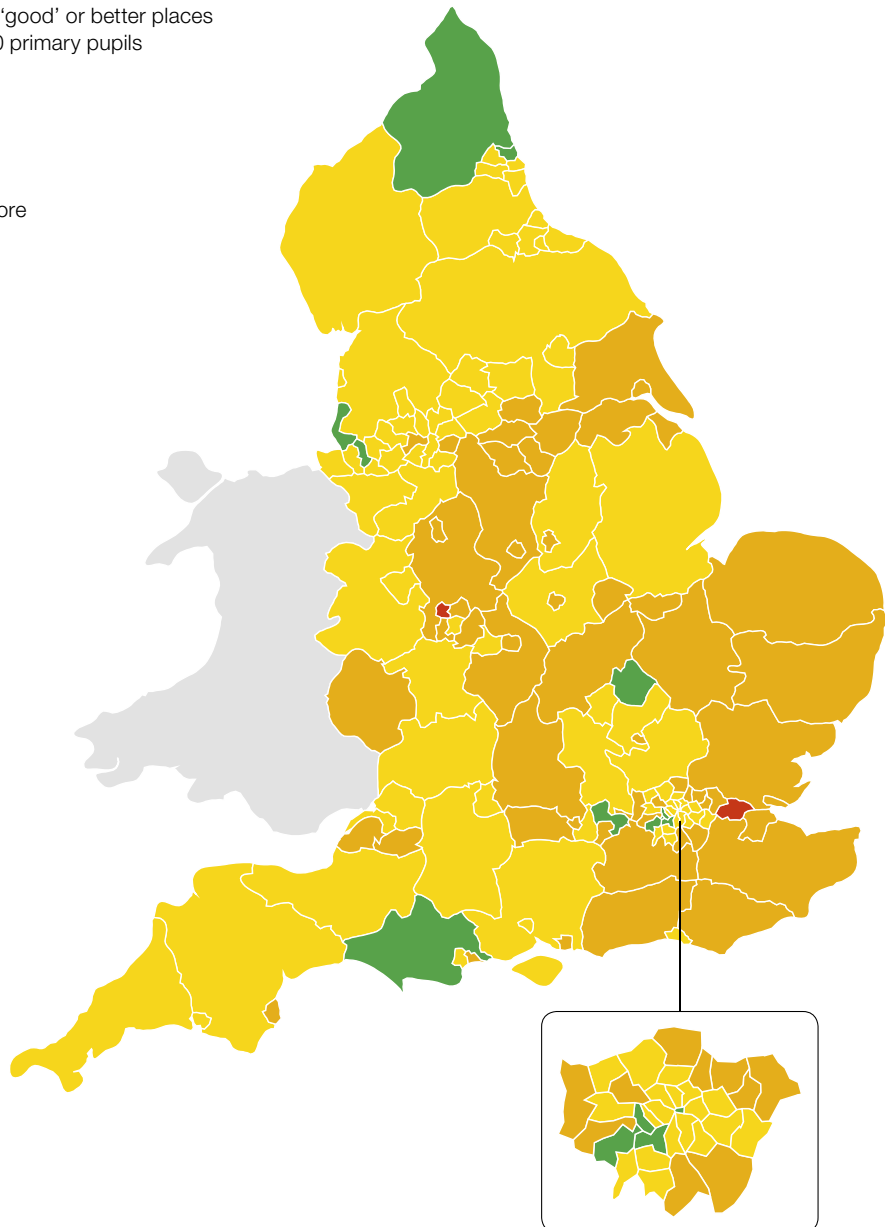


Figure 1 *continued*

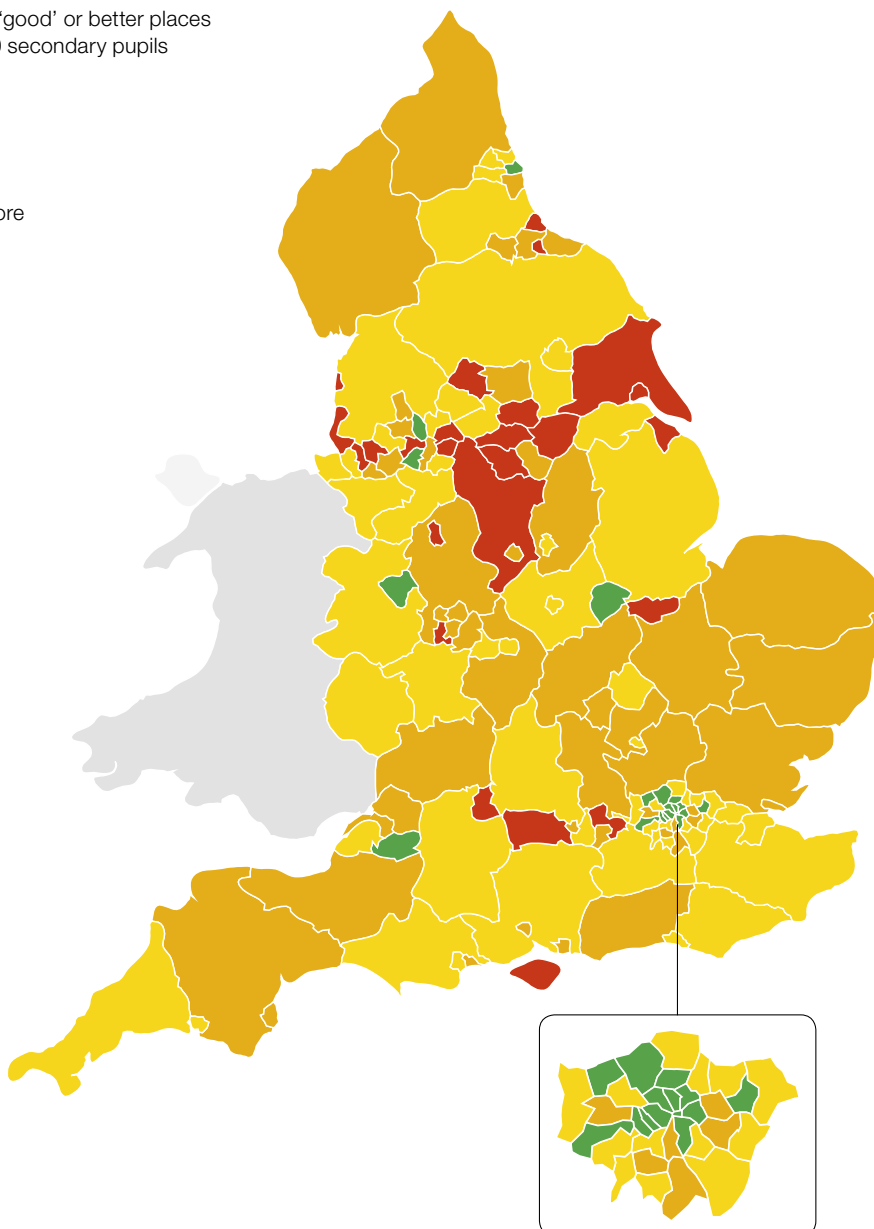
Map of 'good' or better places compared to the number of pupils in the local authority area, 2012/13

In some areas, pupils are less likely to have a 'good' or better school place

Secondary

Number of 'good' or better places for every 10 secondary pupils

- 1 to 5
- 6 to 7
- 8 to 9
- 10 or more



Source: National Audit Office analysis of Department for Education and Ofsted data

Responsibilities for school oversight

1.7 In recent years, the Department has given greater autonomy to school leaders and expects all schools to maintain high standards and strive continually to improve. School governors and trustees⁶ provide important oversight and support at the level of the individual school to ensure this is happening. The Department also presides over a system of external oversight to:

- set objective measures to monitor school performance;
- identify underperformance; and
- intervene to address underperformance.

The Department shares its external oversight responsibilities with the Education Funding Agency (the Agency, which is part of the Department) and 152 local authorities. It also works with 460 academy sponsors⁷ in over 1,900 academies. In addition, Ofsted independently inspects all schools.

1.8 Overall, the school oversight system is complex. At present, no single document sets out all roles and responsibilities for school oversight. The Department told us that the Accountability System Statement should do this. However the last edition, issued in September 2012, does not give a complete picture of the oversight system and is now out of date. The Department originally intended to update it annually but did not do so in 2013. Currently, the statement does not reflect the responsibilities or accountabilities of academy sponsors and the introduction, in September 2014, of regional schools commissioners. In June 2014, the Department announced that it was updating its statement.

1.9 We have established the full oversight arrangements for the school system by interviewing the Department, the Agency and Ofsted, and analysing Departmental guidance to oversight bodies. Any school's underperformance can trigger an intervention from the Department on behalf of the Secretary of State, who has wide-ranging intervention powers. But, day-to-day, oversight arrangements differ by type of school (**Figure 2**). The education system has many types of school, but the main distinctions, in terms of oversight, are between:

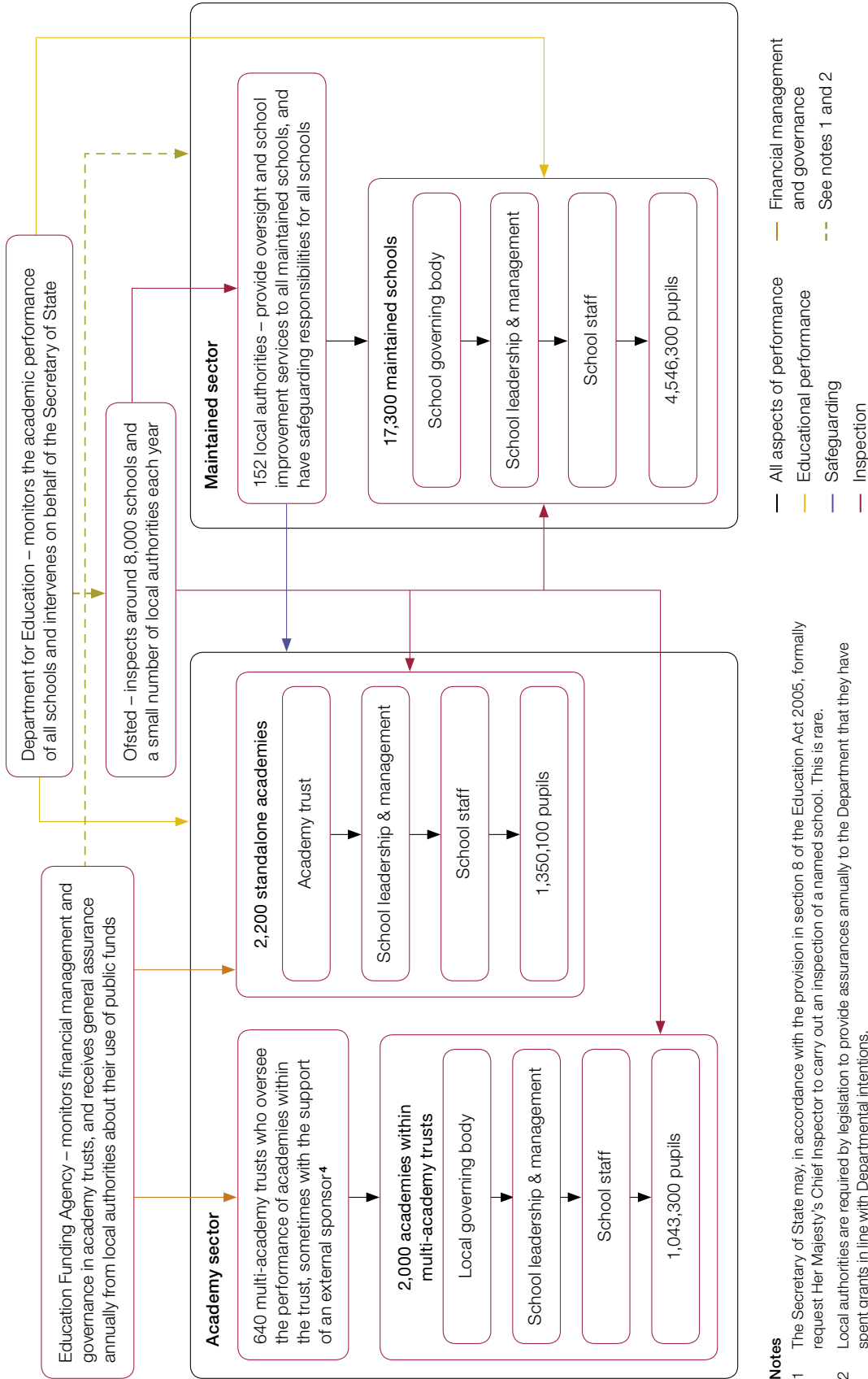
- **maintained schools** (17,300 schools educating 4.5 million children), which have their own governing bodies, with local authorities providing the main external oversight; and
- **academies** (4,200 schools educating 2.4 million children), which belong to trusts with their own school-level oversight arrangements, and where the Agency and Department provide external oversight.⁸

6 Each academy is part of an academy trust, which is a charitable company. The trustees are also the directors of the company.

7 An academy sponsor is responsible for setting up an academy trust and challenging its performance. Between 2002 and 2010, sponsors provided some financial support to the school but this is no longer required.

8 Faith schools, whether maintained or academies, are also overseen by religious authorities, but this relates only to the school's religious ethos and property.

Figure 2
Responsibilities for school oversight



1.10 For all schools, the Department expects school- and trust-level oversight bodies (governors and trustees) to oversee school performance, including educational performance, financial management and safeguarding. For maintained schools, the governance structure is set by legislation.⁹ Within academy trusts, trustees determine their own governance structure, providing they act within broad constraints agreed with the Department. Depending on the trust's size, this could be a single governing body or governing bodies at individual schools and a central overarching board. Where the Department has appointed an academy sponsor, the sponsor also provides support and challenge.

1.11 In terms of external oversight:

- for maintained schools, the Department expects local authorities to oversee all aspects of performance, so they are ready to intervene when necessary. In general, local authorities are accountable to local communities and the Department for Communities and Local Government. The Department is directly accountable to Parliament for that part of its resources that local authorities spend on school oversight and intervention; and
- for academies, the Department is the oversight body. The Secretary of State is the Principal Regulator for academies, and each trust's funding agreement is with the Secretary of State. The Department oversees academies' educational performance and tasks the Agency with overseeing financial management and governance. From September 2014, the Department has introduced 8 regional schools commissioners who work for the Department and whom it intends will provide better local accountability for academies. Its aspiration is that commissioners will be better placed to intervene in academies in a more nuanced way than the Department centrally.

1.12 The Department explained to us its expectations of different oversight bodies. However, these have not always been clear to the oversight bodies themselves, which has led to some confusion within the sector. We found a lack of clarity in 2 important areas:

- how oversight of academies' safeguarding of children should work; and
- more generally, conclusions local authorities have drawn about their role in relation to academies from documents produced by the Department and Ofsted.

9 The School Governance (Constitution) (England) Regulations 2012.

1.13 On the second issue, local authorities have a legal responsibility to ensure that their educational functions are exercised in a way that promotes high educational standards.¹⁰ With maintained schools, they can discharge this duty through routine oversight, using their statutory powers to intervene when necessary. But with academies, local authorities have no powers to intervene and the Department only expects them to maintain constructive relationships and raise concerns about performance with itself. The Department's policy is that local authorities do not need to monitor academies proactively and should not require academies to report performance data to them. However, Ofsted has interpreted local authorities' statutory duties differently, and has criticised authorities for not working effectively with local academies to improve performance.

1.14 Practice varies between local authorities in a way that demonstrates the confusion. Responding to our survey in April 2014, over 90% of authorities said they were monitoring academies' educational performance, and around 35% said they were monitoring academies' governors. One third said they would seek to intervene directly if they had concerns about an academy's educational performance, even though they have no formal intervention powers. When we interviewed multi-academy trusts with academies in more than one local authority area, they also confirmed that different authorities took different approaches.

School-led improvement

1.15 The Department's aim is for schools increasingly to support one another to improve. It believes that this would make the system less reliant on external oversight and intervention. Since 2010, it has allocated more than £13 million to programmes such as Teaching Schools and National Support Schools, in which a strong school leads others to share expertise. There are now 1,053 such schools, and all local authority areas have at least one. While this peer support builds on the existing practice of many local authorities and academy trusts, at present the Department does not have a mechanism to ensure that underperforming schools access the support available. The Department has not yet reviewed the extent to which such peer support can replace external oversight, nor the extent to which the school system has the capacity to self-regulate.

¹⁰ Section 1 of Education and Inspections Act 2006 – duty to promote high standards and the fulfilment of potential – Amended by Paragraph 3, Schedule 2 of the Apprenticeship, Skills, Children and Learning Act (ASCL) 2009.

Part Two

Information for oversight

2.1 At a high level, the Department has set clear expectations about the need for oversight bodies to intervene where schools are underperforming. In its 2010 White Paper, *The Importance of Teaching*, the Department wrote:

“Where schools are failing or seriously underperforming, it is vital that there is rapid intervention to address the problems as quickly as possible, so that children’s education is affected as little as possible.”

The information oversight bodies use to identify underperformance varies according to type of body, type of school and type of underperformance, as do the interventions available. This part of the report examines the information available and what triggers specific interventions.

Identifying underperformance

Educational performance

2.2 Oversight bodies have access to good information about schools’ educational performance. As previously described, the Department sets ‘floor’ standards for children’s performance. It measures performance against these standards through assessments at Key Stage 2 (end of primary school, age 11) and Key Stage 4 (end of secondary school, age 16). Information about which schools are below floor standards is available to all oversight bodies, providing a comparative measure of performance across all schools. Of those responding to our surveys, all local authorities and 95% of multi-academy trusts told us they were likely to intervene in schools with results below the floor standard, in line with the Department’s expectations.

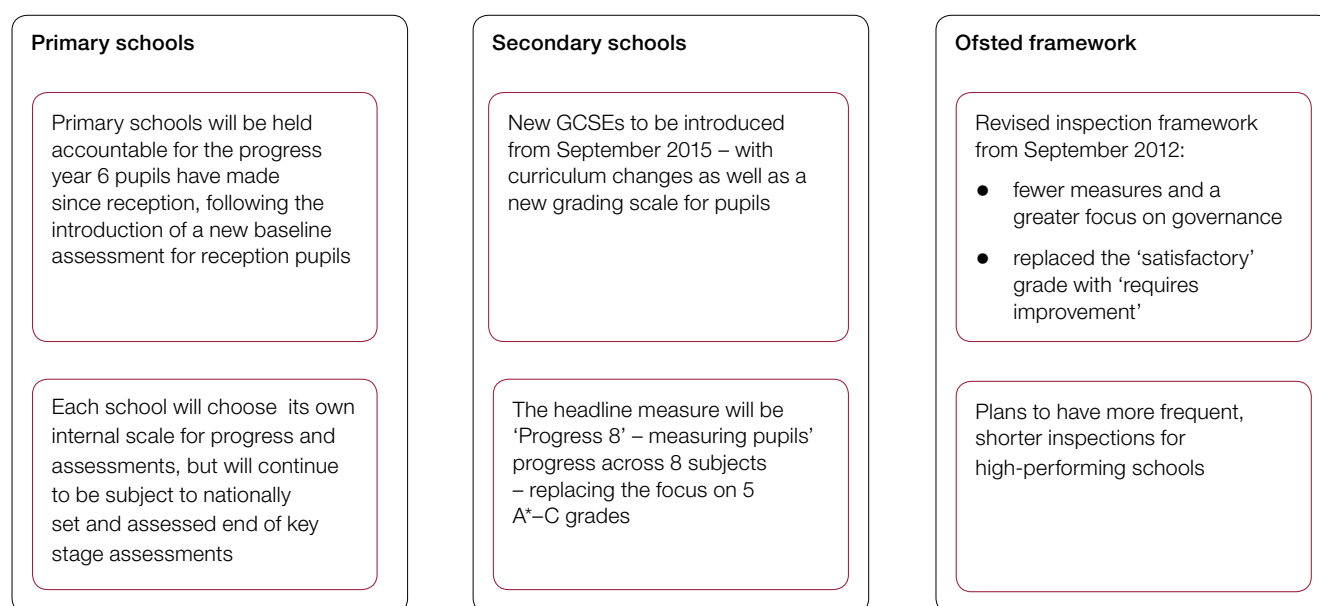
2.3 The current measures have some weaknesses. The Department and academic researchers have expressed concerns that they are unfair to schools in more challenging circumstances, as they focus on achievements at the end of school rather than measuring progress. For this reason, the Department is introducing new progress-based performance measures from 2016 (**Figure 3**).¹¹ In the short term, these new measures will make it harder to compare performance and to know whether schools are on a downward trajectory. During the summer of 2014, the independent exam regulator, Ofqual, identified that changes to the exam system may affect national and school-level trends and may introduce year-on-year volatility into results and change the national picture of school performance. In the long term, the Department and Ofsted will have to monitor the impact of the changes on schools' performance.

2.4 Alongside attainment, oversight bodies place great reliance on Ofsted to identify underperformance. Of those responding to our surveys, all local authorities and 95% of multi-academy trusts told us they would be likely to intervene if Ofsted rated a school 'inadequate'. Ofsted inspections are an independent source of information about schools' performance, and assess all schools against a common framework. The framework covers pupils' achievements; the quality of teaching, leadership and management; and pupil behaviour and safety.¹²

Figure 3

Ongoing education reforms

Changes to the measures used to hold schools to account are designed to give a fairer assessment but will make it harder to compare performance between years



Source: Department for Education and Ofsted

¹¹ Secondary schools can opt into the new measures from 2015.

¹² Ofsted, *The framework for school inspection*, last updated July 2014, available at: www.ofsted.gov.uk/resources/framework-for-school-inspection-january-2012

2.5 Ofsted's findings are a snapshot and schools are not inspected as regularly as information is available about pupils' attainment. Ofsted schedules inspections based on each school's type and recent performance (**Figure 4**). Inspections can be brought forward if pupil attainment falls below the floor standard. Thus, for schools with results below the floor standard in 2012, 53% were inspected in 2012/13, of which 83% were rated 'requires improvement' or 'inadequate'. Schools rated 'inadequate' will also receive regular monitoring visits from Ofsted.

2.6 There were 2,969 mainstream schools that did not receive an inspection between September 2010 and August 2014 and, while all but 3 had been rated 'good' or 'outstanding' at their last inspection, schools may deteriorate substantially between inspections. We looked at the schools rated 'inadequate' in 2012/13 and found 36% had previously been 'good' or 'outstanding'. For schools that had moved from 'outstanding' to 'inadequate', the average time between the 2 inspections was 3.5 years.

Figure 4

Frequency of Ofsted inspections

The normal frequency of Ofsted inspections depends on school performance

Type of school	Usual time frame for section 5 inspection ¹	Exceptions
School requiring 'special measures' ('inadequate')	Within 24 months In addition, a monitoring inspection takes place within 4–6 weeks, followed by up to 4 further monitoring inspections	
School judged to have 'serious weaknesses' ('inadequate')	Within 18 months In addition, a monitoring inspection takes place within 4–6 weeks. May also receive a further 2 monitoring inspections	Schools that are taken on by a sponsor, which are treated as new schools
School judged as 'requires improvement'	Within 2 years	
School judged as 'good'	Within 5 years, of the end of the school year in which the school was last inspected	
School judged as 'outstanding'	Exempt from routine inspection	
New school	Within 2 years of opening	Academies formed from converter schools previously rated 'good' or 'outstanding' retain their performance history so may not be inspected for 5 or more years

Note

¹ A section 5 inspection is the regularly scheduled Ofsted inspection carried out under section 5 of the Education Act 2005. The Chief Inspector can choose to inspect a school at any time under section 8 of the same act, if he determines there is a need to do so.

Source: Ofsted

Other measures of performance

2.7 Other measures of school performance are important, both to give wider assurance about schools' effectiveness and value for money, and to provide earlier warning of problems that may adversely affect future educational performance. The Department's September 2012 Accountability System Statement noted that "educational outcomes are a lag indicator" and so oversight bodies rely on "other, more immediate, sources of information to provide assurance [of] value for money."¹³ Currently, however, the information available to oversight bodies about other measures of performance is patchy and tends to be qualitative rather than quantitative.

Financial management

2.8 The Department expects all schools to manage their finances so as to ensure regularity, propriety and value for money. In particular, individual maintained schools and academy trusts should avoid budget deficits and seek agreement with the local authority (for maintained schools) or Agency (for academy trusts) for recovery plans whenever deficits occur.

2.9 Information about schools' financial performance is available annually from academy trusts' budgets and audited accounts, and local authorities' annual returns. In addition, the Department has designed the Schools Financial Value Standard, which sets out good practice principles of financial management including value for money. The Department only requires maintained schools, not academy trusts, to complete an annual self-assessment of their performance against this Standard, which it expects local authorities to review. All academy trusts are required to submit a value for money statement to the Agency annually, but the format is free form and in practice the length and detail of submissions vary. In addition, new academy trusts complete self-assessments of their financial management and governance in their first year of operation. The Agency validates a sample of these; it visited 81 trusts in 2013-14. It does not routinely visit trusts after their first year.

Governance

2.10 The Department describes school- or trust-level oversight (governance) as the "critical first tier of accountability for all schools".¹⁴ The impact governors and trustees can have on schools has been highlighted in Ofsted reports and recent reviews of sector performance.¹⁵ In its inspections, Ofsted looks at how effectively governors challenge school leaders, publishing a short description in each report. Our analysis showed that 27% of schools that dropped from 'outstanding' to 'inadequate' in Ofsted inspections in 2012/13 had had a significant change in governance since their last inspection.

¹³ Department for Education, *Accountability system statement for education and children's services*, September 2012.

¹⁴ See footnote 13.

¹⁵ Reviews of schools in Birmingham: Ofsted, *Advice note provided on academies and maintained schools in Birmingham to the Secretary of State for Education, Rt. Hon Michael Gove MP*, June 2014; Peter Clarke, *Report into allegations concerning Birmingham schools arising from the 'Trojan Horse' letter*, HC 576, July 2014.

2.11 The Department has a ‘fit and proper person’ test for governors in new academy trusts. It also expects trusts to include governance statements in their annual accounts. The Agency’s guidance states that these should include a brief description of the trust’s governance and committee structure. Apart from this, the Department does not proactively collect data on schools’ governance arrangements, assuming that they are adequate unless pupil attainment, Ofsted or other information it receives indicate otherwise. The Department is also unaware of whether local authorities monitor schools’ governance arrangements. This includes, for instance, the number of governor vacancies in a school, skills gaps or the extent to which governors respond constructively to Ofsted’s findings. A recent estimate put the number of governors in England at 350,000.¹⁶ From September 2014, the Department requires academy trusts to include additional details of governors in their annual reports.

Safeguarding

2.12 Ofsted considers child safety as part of its inspections and raises any concerns with governors and school leaders, as well as in inspection reports. The Department and local authorities expect schools to meet all statutory responsibilities for safeguarding children. This includes, for example, ensuring that all school staff have the necessary clearance to work with children. However, there is no routine, comprehensive or comparable information about how well schools carry out their safeguarding responsibilities.

Options for intervention

2.13 External oversight bodies can take a range of possible actions when schools’ identified underperformance triggers intervention. This may include informal activity, such as brokering external support for the school, or requiring additional reporting. The main formal intervention powers across the system are:

- warning notices (a formal letter raising concerns about a school’s performance);
- changes to the governing body; and
- appointing an academy sponsor to help improve a school.¹⁷

The Department sets the frameworks for using these interventions in both maintained schools and academies. The use of these interventions is discussed further in Part Three.

¹⁶ National Governors Association, *The state of school governing in England 2014*, May 2014, available at: www.nga.org.uk/News/NGA-News/May-Sept-14/New-report-The-state-of-school-governing-in-Englan.aspx

¹⁷ Other intervention powers available to local authorities include suspending a school’s delegated budget or requiring schools to enter into arrangements to secure improvements, such as a federation.

2.14 The intervention framework for maintained schools is set out in the Department's statutory guidance, *Schools causing concern*.¹⁸ The Department expects local authorities to exercise judgement in meeting their statutory duties to promote high standards, based on the Secretary of State's guidance. The intervention framework for each academy trust is set out in its funding agreement and the Department and the Agency's internal guidance. Both frameworks require an escalating response to underperformance and there is nothing to stop oversight bodies intervening sooner than the guidance recommends, if they feel that the specific circumstances warrant it. The usual circumstances that would trigger particular interventions are set out in **Figure 5**.

Figure 5 Eligibility for intervention

The usual circumstances that would trigger an intervention for different schools

Maintained schools

Warning notice

Local authority intervention:

- standards of performance are 'unacceptably low'¹ and are likely to remain so
- serious breakdown in the way the school is managed or governed affecting, or likely to affect standards of performance
- safety of pupils or staff at the school is threatened

Academies

Department or Agency intervention:

- a fall of 2 grades between 1 Ofsted inspection and the next or between 2 inspections carried out in a 5-year period
- results below floor standard

Changes to the governing body

Local authority intervention:

- school has failed to comply with a warning notice
- Ofsted has rated the school 'inadequate'

Department or Agency intervention:

- school has failed to comply with a warning notice

Appointing an academy sponsor

Local authority intervention:

- school has failed to comply with a warning notice
- school has a history of sustained underperformance
- Ofsted has rated the school 'inadequate'

Department intervention:

- school has failed to comply with a warning notice
- an academy is put into special measures by Ofsted; and does not make appropriate changes to improve performance
- Department lacks confidence that the trust (or current sponsor) has the ability to drive improvements without support

Note

¹ 'Unacceptably low' is defined in reference to the national floor standard, as well as 'standards that the pupils might in all the circumstances reasonably be expected to attain; the standards previously attained by them; or, standards attained by pupils at comparable schools.'

Source: Department for Education

2.15 It is rare for an oversight body to close a school in response to underperformance, although it may be considered appropriate in extreme circumstances where other interventions are not considered feasible or desirable. For a maintained school, the local authority would close the school. For academies, the Department would do so by terminating the funding agreement.

2.16 The circumstances in which the Department can terminate academy funding agreements vary according to the wording of individual agreements (**Figure 6**). In particular, it is difficult for the Department to terminate an agreement signed before December 2012, even when there is underperformance, without giving 7 years' notice, unless a mutual agreement can be reached with the trust. In these cases, the Department can only terminate sooner where Ofsted judges the school to require 'special measures', and where a monitoring visit has found progress to be 'inadequate'. In the 1 case where the Department has terminated a funding agreement it took 11 months from the Ofsted inspection to the closure of the school. Since 2012, the Department has strengthened the intervention clauses in its standard funding agreements, particularly its powers when Ofsted rates a school as 'inadequate'. Where trusts have consented, it has also amended older funding agreements to strengthen the intervention powers; to date, it estimates that it has done this for 240 academies. Its negotiations with a number of other academy trusts are ongoing.

Figure 6 Intervention clauses in academy funding agreements

The Department has strengthened its intervention powers in more recent funding agreements

Period of usage	Academies originally covered ¹	Circumstances in which agreement can be terminated			Safety of pupils threatened	Other intervention powers
		Seven years no fault termination	'Inadequate' Ofsted judgement	Unacceptably low performance		
Up to 2007	60	Yes	No	No	No	Appointment of new (not replacement) directors if performance is unacceptably low, there is a serious breakdown of governance, or safety is at risk, as long as the Department has first issued a pre-warning notice, then warning notice
2007 to Sep 2010	140	Yes	Limited (for 'special measures' and only if progress found 'inadequate' at next inspection, up to two years later)	No	No	Appointment of new (not replacement) directors if performance is unacceptably low, there is a serious breakdown of governance, or safety is at risk, as long as the Department has first issued a pre-warning notice, then warning notice
Sep 2010 to Dec 2012	2,520	Yes	Limited (for 'special measures' and only if progress found 'inadequate' at next inspection, up to two years later)	No	No	As above, although no requirement for pre-warning notice and existing trust directors must resign
Dec 2012 to Mar 2014	940	Yes	Yes (except sponsored academies within two years of first opening)	Prompts termination measures and timescale Failure to comply can result in termination	None	None
Mar 2014 onwards	200	Yes	Yes (less leniency for new sponsored academies)	Prompts termination measures and timescale Failure to comply can result in termination	None	None

Notes

- 1 The Department provided estimates of the number of academies covered by these terms when their agreements were first signed. It estimates that 240 academies on early agreements have now been updated to agreements that reflect terms used since December 2012.
- 2 Numbers rounded to the nearest 5.

Source: Department for Education

Part Three

Intervention activities

3.1 Overall, external oversight bodies have made greater use of their intervention powers in recent years in both maintained schools and academies. This part examines the main interventions used by oversight bodies including: issuing warning notices; changing the governing body; and appointing an academy sponsor to help improve the school. We also consider evidence for the cost-effectiveness of these activities.

How oversight bodies intervene

Warning notices

3.2 Warning notices are letters to a school's governing body or trustees raising concerns about specific aspects of performance. They set out the actions required to address concerns and set a timetable for implementation. Local authorities have the power to issue warning notices to maintained schools. The Department has the power to issue warning notices to academy trusts, although sometimes only after issuing a pre-warning notice. Failure to comply with a notice can result in an escalated intervention from local authorities or the Secretary of State. Similarly, the Agency may issue academy trusts with financial notices to improve, which are warnings to improve financial management or governance.

3.3 The number of local authorities using warning notices increased between 2010/11 and 2013/14. In 2010/11, 28 authorities issued warning notices (18%) compared to 47 (31%) in 2013/14. The number of notices issued has also increased over this period, from 39 to 88 (221 in total over the 4 years). In 2013/14, 23 of the notices were from authorities that had never issued them before and one authority issued 24 notices. By August 2014, there were still 56 authorities (37%) that had never issued a warning notice. Our analysis shows that the range of educational performance in these areas was similar to that in areas where warning notices had been used. This suggests that variation in local authority practice determines when this intervention is used.

3.4 The Department has also increased the number of pre-warning and warning notices it issues, from 10 in 2011/12 to 35 in 2013/14. The Department issues pre-warning notices if required to by the terms of the trust's funding agreement. However, the Department has not intervened consistently where it has identified academies as underperforming.

3.5 We looked at what the Department knew about academies' performance in September 2013. At that point, the Department had identified 38 academies as candidates for formal intervention, based on poor pupil attainment. We reviewed the performance of other academies and found that a further 141 had similarly poor performance but were not identified as candidates for formal intervention at that time. Of the 38 underperforming schools the Department had identified, it issued pre-warning or warning notices to 15. Eight others had previously received pre-warning notices. Our review found the Department had not applied its criteria consistently to determine when to issue a notice and when to take a less formal approach. The Department told us that both the identification of candidates for formal intervention, and decisions about the type of information drew on a range of evidence including local intelligence and the feedback from the Department's own education adviser visits.

Financial notices to improve

3.6 The Agency's financial handbook for academies states that a financial notice to improve may be issued when it "has concerns about financial management and/or governance in an academy trust". For example, "where there is a deficit, a projected deficit, cash flow problems, risk of insolvency, other financial concerns (such as irregular use of public funds), or inadequate financial governance and management".¹⁹ Between March 2013 and August 2014, the Agency issued its first 9 financial notices to improve to academy trusts. In 4 cases, the notices related to allegations of fraud or financial irregularity.

3.7 In July 2014, there were 37 academy trusts about whose financial management the Agency had some concerns at a national level. The Agency has outlined criteria for inclusion on its list of concern, such as forecasting a deficit of 5% or more for the current year. Officials exercise judgement in identifying the most serious cases. This means that not all academies that currently forecast a deficit of 5% or more appear on the list, nor does the Agency intervene formally in all academies identified as causing concern. The Agency and the Department consider the list at monthly meetings, and determine the need for formal intervention on a case-by-case basis.

3.8 Overall, between October 2012 and April 2014, 104 academies have featured on the Agency's list of concern at least once, with around 40 typically featuring at any one time. The most common reason for appearing on the list was an actual or forecast deficit (51% of trusts). The number on the list has not changed significantly as the number of academies has increased. Of those that have appeared on the list and not received a financial notice to improve, 7 had cases of suspected fraud.

¹⁹ *Academies financial handbook*, Education Funding Agency, September 2014, available at: www.gov.uk/government/publications/academies-financial-handbook

Changing the governing body

3.9 Both local authorities and the Department may change the governing body of a maintained school in response to underperformance. This may involve appointing additional governors to an existing governing body, bringing in expertise where it is lacking, or replacing the entire governing body with an interim executive board, when a school needs wholesale change. The Secretary of State has to approve each interim executive board before it is appointed.

3.10 Our survey of local authorities shows that they have increased their use of interventions to appoint additional governors or interim executive boards, and of all formal interventions, these are the most common. The use of these and other formal interventions are shown in **Figure 7**. Departmental records show that the Secretary of State approved 289 interim executive boards, across 95 local authorities, between September 2010 and August 2014.

3.11 The Department used its powers to change the governing bodies of maintained schools less frequently. Between September 2010 and August 2014, the Department intervened directly to appoint 17 interim executive boards. Normally, when it intervenes directly in maintained schools, the Department prefers to appoint an academy sponsor, as described below. Eleven of the 17 schools where the Department appointed interim executive boards have since become sponsored academies.

Appointing an academy sponsor

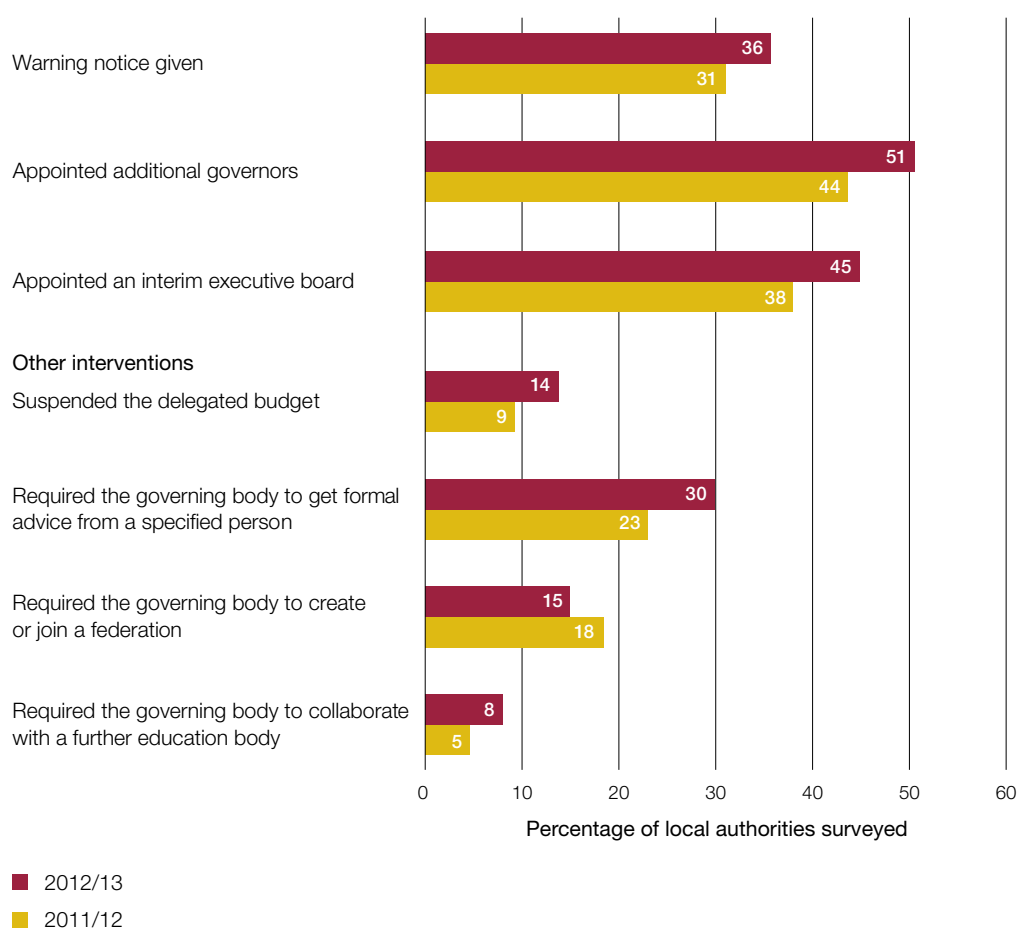
3.12 Only the Department can appoint an academy sponsor as an intervention in a school. The Department can do this in both maintained schools and existing academies, though to date the large majority of such interventions have been in maintained schools. The Department's policy is that any maintained school that fails to act on a warning notice, has 'sustained underperformance' or an Ofsted rating of 'inadequate', should normally expect to be matched with a sponsor and turned into an academy. In practice, this happens in many but not all schools that are eligible.

3.13 By the end of August 2014, there were 1,112 sponsored academies in England, of which 93% had been formed from underperforming maintained schools. The rate at which maintained schools are becoming academies has increased. Overall, across both the primary and secondary sectors, the Department opened over three times as many sponsored academies in 2012/13 as 2011/12. It opened a further 376 sponsored academies by the end of 2013/14 (**Figure 8** on page 32). In 2012, the Department committed to matching 400 underperforming primary schools to academy sponsors, having already opened 200 primary sponsored academies. It surpassed this target, reporting that a further 445 underperforming primary schools had been reopened or matched to academy sponsors by the end of 2013.

3.14 There has been inconsistency in the Department's use of this intervention. We looked at 344 maintained schools that had held 'inadequate' Ofsted ratings for more than a term at the end of August 2013. Of these, 10% (34 schools) were still 'inadequate' maintained schools at the end of August 2014.²⁰ The Department writes to schools rated 'inadequate' by Ofsted about the academies process, but there was no record of the Department beginning procedures to match the 34 schools with a sponsor, or making any other formal intervention. A small minority, 10 schools, had been rated 'inadequate' for over 18 months without the Department formally intervening. The Department told us it was less likely to intervene if the school could demonstrate it had the capacity to improve and if there were insufficient high-quality sponsors in the area. Additionally, the Department expects sponsors to carry out due diligence on any new schools. This may result in a sponsor not accepting a particular project.

Figure 7
Local authorities' use of intervention powers in 2012/13

More local authorities reported using intervention powers in 2012/13



Note

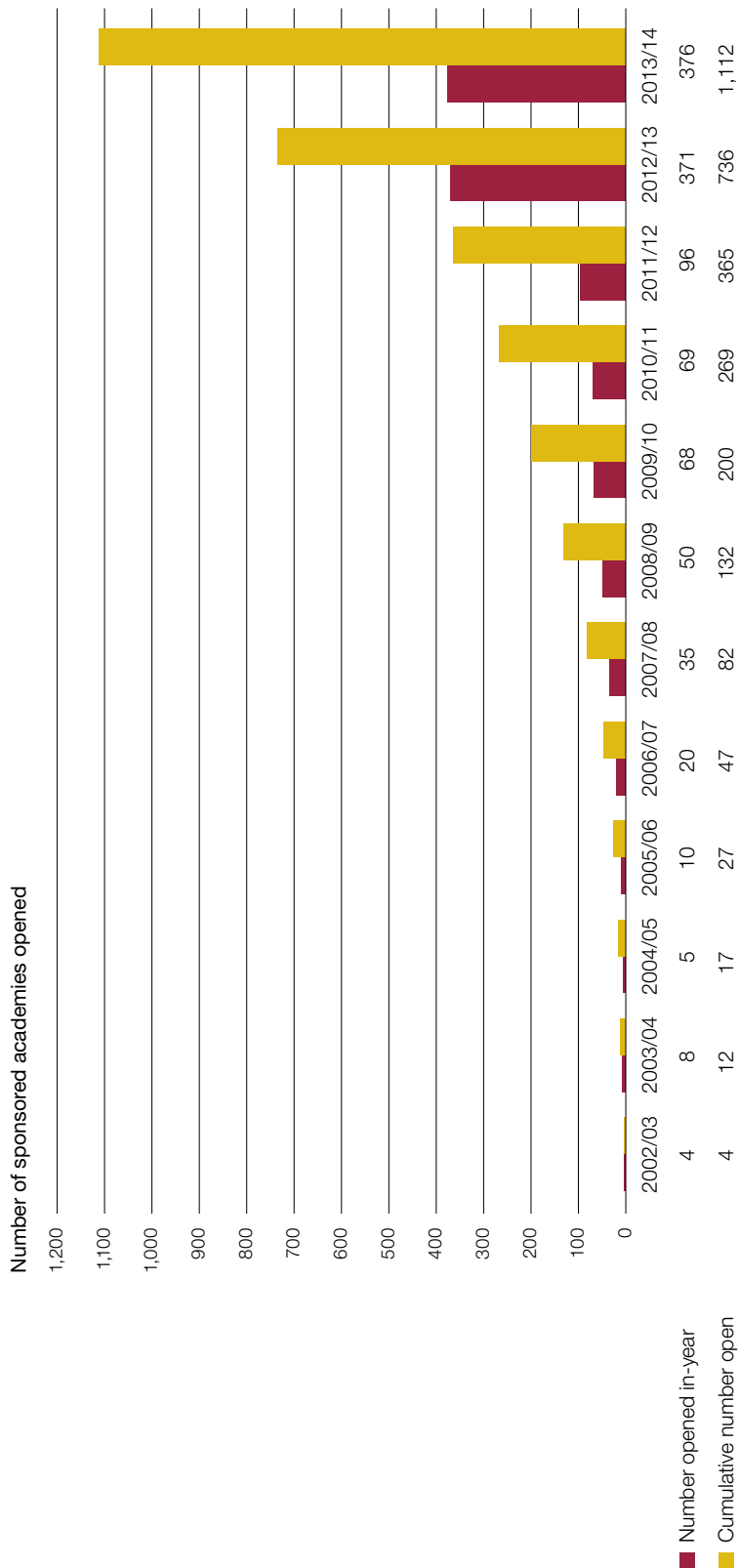
1 Base: 87 local authorities.

Source: National Audit Office survey of local authorities

²⁰ Based on Ofsted's published inspection outcomes at 31 August 2014.

Figure 8
Number of sponsored academies

The Department has increased the number of sponsored academies opened each year



Source: Department for Education

3.15 The Department has matched 15 existing academies with new sponsors since April 2012, in response to underperformance. Of these, 7 were converter academies that had not previously had a sponsor, 1 was a free school, and 7 were already sponsored academies where the Department changed the sponsor.

Effectiveness of interventions

3.16 In general, underperforming schools identified by Ofsted improve their performance by their next inspection. Ninety-three per cent of schools rated 'inadequate' by Ofsted in 2011/12 had improved by 2013/14. Schools rated 'satisfactory' (the rating Ofsted has reclassified as 'requires improvement') were less likely to have improved. Only 43% had gained a higher rating by 2013/14. As part of our review, we looked for evidence of how formal intervention activity had affected school performance.

3.17 The Department has not yet evaluated the effectiveness of all the formal interventions that external oversight bodies, including itself, use. In our 2010 report on the Academies Programme,²¹ we highlighted that pupils in sponsored academies were, on average, making better progress in their attainment than pupils in similar maintained schools. However, we also noted that there was wide variation in sponsored academies' performance. The Department reported on its own similar analyses in 2011 and 2012, but subsequently it has not sought to understand the variations in performance, nor taken account of recent changes in sponsorship arrangements, such as substantial funding reductions (see paragraph 3.24).

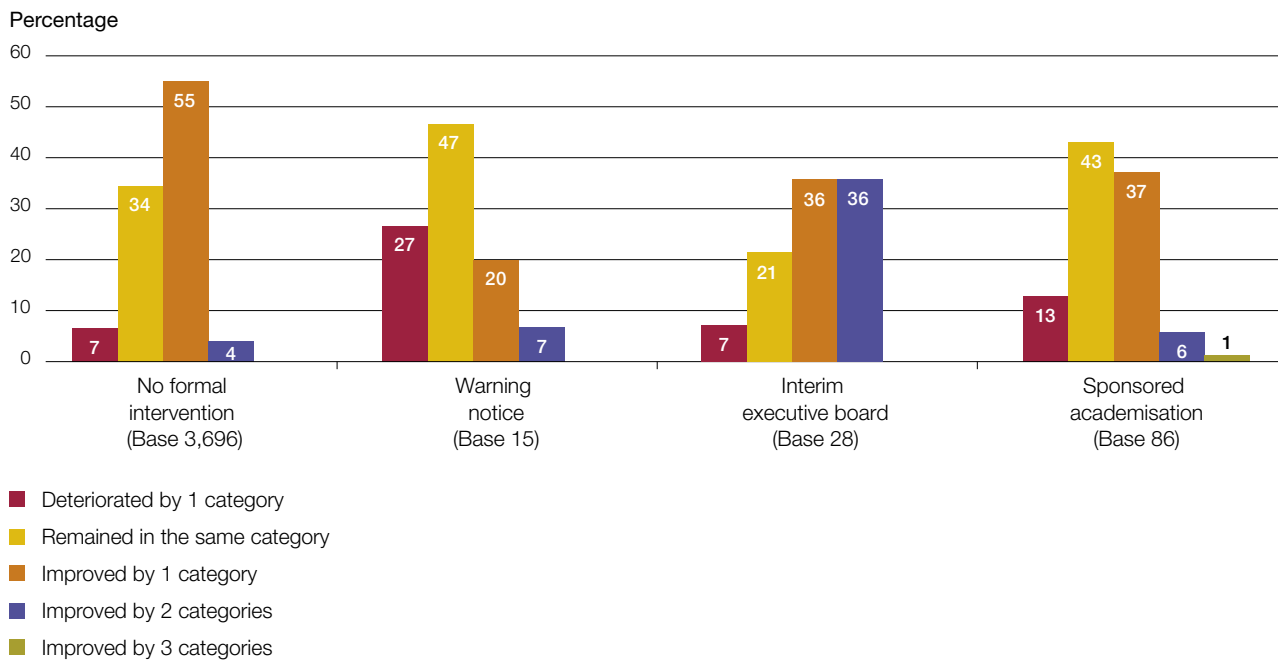
3.18 We undertook one part of what we believe a comprehensive assessment would require, including interim executive boards and warning notices. This involved looking at the change in Ofsted outcomes for schools that had received formal interventions and others that had not (**Figure 9** overleaf). This is a partial analysis, based on a small number of schools with a wide range of characteristics. As such, it is illustrative and we recognise that further work is needed. The main findings from our analysis were:

- improvements in Ofsted ratings followed formal interventions in 62 (of 129) schools;
- 2,181 schools (of 3,696) that received no formal intervention improved (this does not mean that it is better not to intervene formally, and may be because schools received informal support, or due to other factors that our analysis could not control for);
- the greatest improvement was in 1 school that became a sponsored academy and moved up 3 ratings from 'inadequate' to 'outstanding'; and
- of those that received formal interventions, schools with interim executive boards were the most likely to improve.

²¹ Comptroller and Auditor General, *The Academies Programme*, Session 2010-11, HC 288, National Audit Office, September 2010.

Figure 9
Formal interventions and Ofsted outcomes in 2012/13

Different interventions are associated with a range of outcomes



Average number of months between intervention and next inspection (or between inspections where no interventions):

No formal intervention	21
Sponsored academisation	25
Warning notice	12
Interim executive board	11

Note

1 Numbers may not total 100 due to rounding.

Source: National Audit Office analysis of Ofsted and Departmental data

3.19 The Department only holds data on these formal interventions. In our survey, we asked local authorities and multi-academy trusts about other informal interventions they used to improve schools. These included drawing on external expertise from former headteachers or Ofsted inspectors, facilitating school-to-school support or partnerships with external organisations, such as universities. An interim executive board or academy sponsor may also initiate such activities as part of their work improving a school.

Cost of oversight and intervention

3.20 In 2013-14, the Department allocated some £40 billion to pay for education in 16,800 primary, 3,300 secondary, and 1,400 special and other types of schools. In the same year, we estimate that the cost of school oversight and intervention was at least £382 million. This includes:

- a projected £247 million spent by local authorities on school improvement;
- £119 million allocated by the Department to academy sponsors to improve underperforming schools; and
- £16 million spent by the Department and the Agency on oversight activities.

3.21 We know this figure does not represent the total cost of external oversight and intervention because the amount spent by individual schools and academy trusts or sponsors is unknown. Furthermore, insufficient information is available to compare the cost of different intervention types or the efficiency of different oversight bodies. The amount that schools and trusts spend on school-level oversight is also unknown.

Local authorities

3.22 Local authorities have reduced their spending on school improvement, which they allocate from Departmental funding that is not ring-fenced. In 2013-14, they estimated they would spend £247 million – equivalent to £43 per maintained school pupil. This was reduced from £83 per maintained school pupil in 2010-11. Local authorities responding to our survey said that they had also reduced the number of full-time school improvement staff by nearly 50% between 2011-12 and 2013-14.

Sponsored academies

3.23 Turning an underperforming school into a sponsored academy involves a substantial initial investment. Sponsors receive grants to cover the costs of activities such as staff recruitment, project management and leadership development. Although, as described in paragraph 3.21, the cost of all the main formal interventions is not known, the cost of this intervention is likely to be greater than that of other approaches such as changing governors or issuing a warning or pre-warning notice.

3.24 The Department has significantly reduced the value of the grants it gives to sponsors in recent years. It has done so by replacing case-by-case funding negotiations with a formula-driven approach. In 2010-11, the Department spent £148 million and opened 67 sponsored academies. By 2013-14, it reduced this to £96 million and opened 393 sponsored academies (61% of which were opened using a fast-track approach). The average secondary school reopening as a sponsored academy in September 2010 received £0.8 million before opening and £1.8 million afterwards. The average is now £150,000 before opening and £304,000 afterwards for fully sponsored projects (a real-terms reduction of 83%). If a secondary school is fast-tracked, sponsors receive £80,000 before and nothing afterwards.

3.25 Academy sponsors may also apply for other grants:

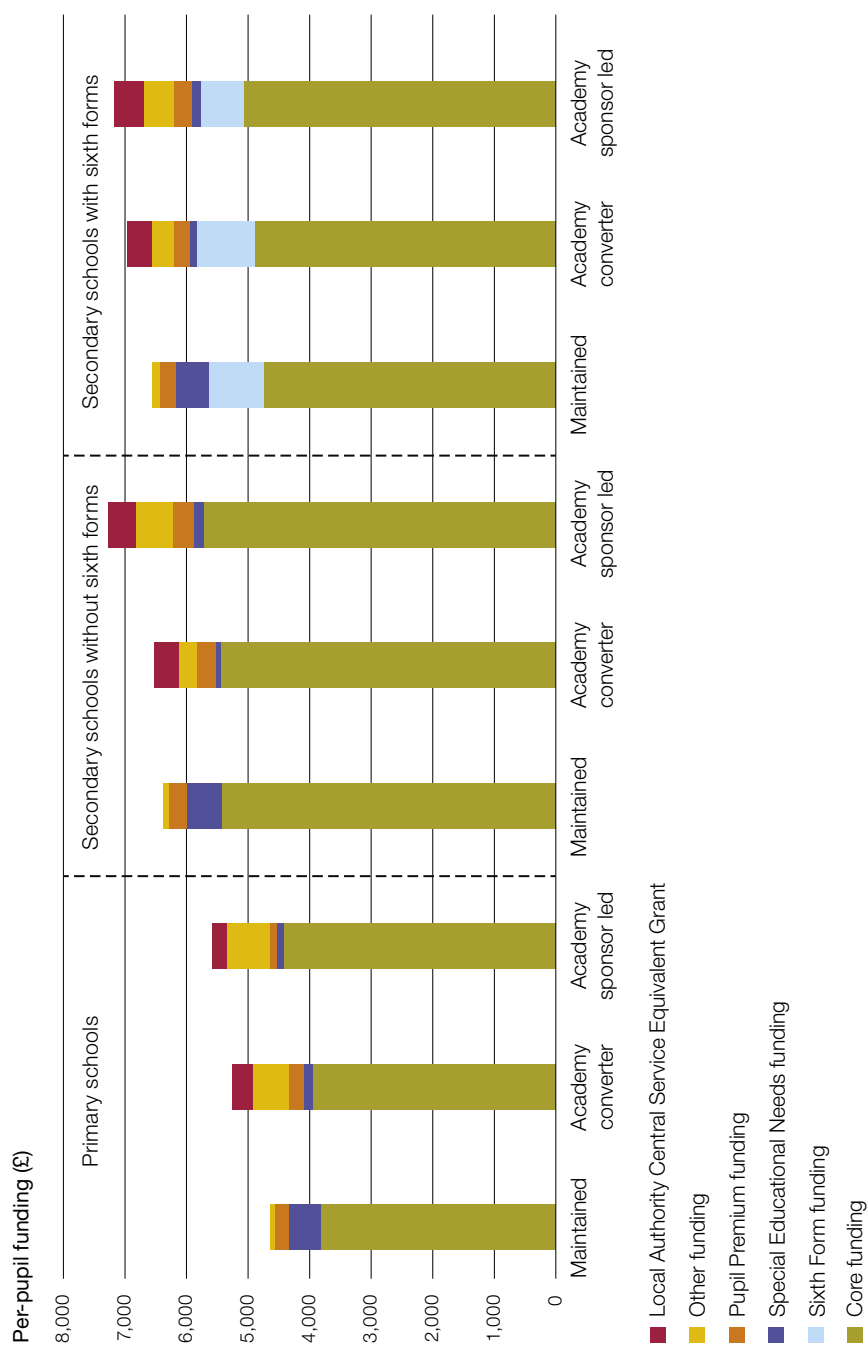
- an environmental improvement grant for minor capital works, including signage, new entrances, and improving security – in 2013-14, the Department allocated £8.7 million to 141 academies; and
- a sponsor development grant to help new sponsors with one or no schools to prepare and build capacity – in 2013-14, the Department allocated £14 million to 144 sponsors.

School funding

3.26 To understand the funding of different schools, we looked at average funding per pupil for different types of schools in 2012-13, the most recent year for which comprehensive income returns are available for maintained schools and academies. As school funding is particularly affected by relative levels of deprivation, we only looked at schools with a moderate level of deprivation. We found the average secondary maintained school with a sixth form received grants of £6,560 per pupil. Converter academies in similar circumstances received £6,960 per pupil and sponsored academies received £7,170 per pupil (**Figure 10**). It is difficult to explain precisely the reason for the differences because data are recorded differently between school types; the cost of academies' extra responsibilities is unclear; and school types have different characteristics.

3.27 The Department has stated that a school's status should not result in financial advantage. It intends academies' funding to reflect that of maintained schools in the same area, with additional funding only to replace local authority support services for maintained schools and support sponsored academies through their opening years.

Figure 10
Funding per pupil in areas of moderate deprivation by school type, 2012-13



Notes

- 1 Maintained school and academy financial years do not align.
- 2 Maintained school and academy funding data is not categorised in exactly the same way.
- 3 There are low numbers of sponsored primary schools (4) and secondary schools without sixth forms (12) in moderately deprived areas.
- 4 Multi-academy trusts are not included in the analysis as data is reported on a different basis that makes it hard to identify funding in individual schools.

Source: National Audit Office analysis of maintained school and academy financial returns

Part Four

Monitoring the oversight system and sponsors

4.1 As the overall steward of the system, the Department is responsible for ensuring that it operates effectively. This includes holding other bodies to account for their activities, in particular local authorities and academy trusts and their sponsors. In this section, we examine how the Department monitors these bodies' effectiveness and acts when problems occur.

Local authorities

4.2 The Department relies on local authorities for most external oversight of maintained schools. Local authorities must inform the Department and Ofsted when they want to take certain actions, but, beyond this, the Department does not routinely collect information on their activities, or data to hold them to account. In 2011, the Department conducted a one-off review of 146 local authorities' plans for improving maintained schools that were causing concern. The review identified areas of concern in over 80% of plans (68% 'amber'-rated and 16% 'red'). (**Figure 11**). The Department provided feedback to local authorities on the findings but does not know how authorities responded and has not repeated the exercise.

4.3 The Department sometimes intervenes when evidence comes to its attention that there may be cause for concern in local authority activities. In 2012-13, it wrote to 8 authorities that had reported a significant surplus or deficit against their Dedicated Schools Grant. It told us that all authorities had replied with detailed explanations.

4.4 The Department monitors maintained schools' performance and sometimes intervenes in individual schools directly when it identifies underperformance. It has been the Department's policy to intervene in this way in all local authorities, including those whose plans for school improvement it assessed as strong in 2011. If the resources to create sponsored academies were to reduce in future, this approach would create a risk that the Department might use its limited resources to improve schools in areas where the local authority would have done so anyway.

4.5 In January 2014, the Department identified 13 priority areas for increasing the number of academies. This was based on analysing the potential for new converter academies (high-performing schools) and new sponsored academies (underperforming schools). The Department also considered informal intelligence about the local authority itself, although it was not clear that the quality of local authority school improvement work had formed part of its assessment. The Department has identified these priority areas in order to prioritise its own activities.

Figure 11

The Department's review of local authority plans (2011)

The majority of local authorities' plans for school improvement were judged to need improvement

Rating	Criteria	Number of authorities	Typical characteristics identified by the Department's review
Red	Plan judged to have serious weaknesses; Department for Education (DfE) to prioritise action in these areas	23 (16%)	Common areas of concern Slow engagement with reforms and over-reliance on historic mechanisms rather than building capacity for school-to-school support; lack of overall strategic vision expressed in plan; poor knowledge of local schools; limited use of statutory powers to tackle failure
Amber	The plan raises key concerns about the local authority's abilities and would benefit from DfE engagement	99 (68%)	
Green	The plan clearly demonstrates that the local authority will be able to meet expectations	24 (16%)	What good looks like Clear strategy based on the vision in the White Paper; credible plans for sustainably improving their schools that are vulnerable or below floor standards; good grip of school data

Source: Department for Education review of local authority plans

Academy sponsors

4.6 The Department relies on academy sponsors to improve school performance, but their impact varies. Recent research from the Sutton Trust has highlighted that some sponsors are raising attainment significantly for all pupils, including disadvantaged children, while some fail to improve pupils' outcomes.²² The Department collects information on sponsors' strategies for working with schools during the sponsor application process. Once a sponsor has been approved, the Department does not require sponsors to report on their school improvement activities unless it has concerns about their schools' performance. The Department is carrying out research on sponsors' effectiveness and expects new regional schools commissioners to help improve its understanding of this.

4.7 The Department's main lever for influencing sponsors is its ability to restrict their growth. It can choose not to match any new schools to a sponsor. The Department does not have set criteria for deciding when to do this, but considers performance on a case-by-case basis. In August 2014, the Department told us that there were 18 sponsors whose growth it had paused.

²² The Sutton Trust, *Chain Effects*, July 2014.

4.8 The accountable body for each academy is the relevant academy trust. The sponsor provides additional support and challenge, but the Department does not require sponsors to sign an agreement with it. This means it has no formal mechanism to intervene with them or hold them to account. The Department has invested in developing a sponsor relationship function that works with senior officials, as well as with one of the Department's non-executive directors, to liaise with sponsors about the performance of their schools. The Department relies on these relationships to exert influence over sponsors and to collect information about their involvement with schools. The legal process to remove a sponsor from a school would involve terminating the funding agreement with the trust, as described in Part Two. In practice, the Department works to replace sponsors by agreement when it deems it necessary ('re-brokerage'). By August 2014, this had occurred for 15 academies, with a further 30 due to be taken on by new sponsors from September 2014.

4.9 The Department's assessment of sponsor capacity is based on information from a wide range of sources. Much of the data is about individual schools, such as Ofsted judgements or pupil attainment. However, it also draws on the ad hoc information gathered by officials from across the Department and Agency, including teams working on free schools, converter projects and underperforming maintained schools. It has identified 4 circumstances in which information it received would cause it to review a sponsor's capacity to take on new schools. These are:

- exam results differing significantly from the sponsor's predictions, or predictions that look weak;
- the Agency identifying financial issues;
- significant structural changes to governance, or changes in key personnel; or
- sudden changes in business and growth plans.

4.10 In April 2014, the Department identified 12 sponsors that it considered to be system leaders, and reviewed their practices to develop its understanding of what makes a good sponsor. It selected the 12 on the basis of educational performance and Ofsted ratings. The review identified some characteristics that were common to good sponsors. These included clear governance arrangements; protocols for taking firm control of failing schools and a mixed portfolio of sponsored and converter academies. The review found no clear relationship between the following characteristics and overall sponsor performance: pace of growth; and whether or not the sponsor's schools were widely spread across the country. Recent Ofsted reports on sponsored multi-academy trusts²³ have suggested that growing too quickly or over too wide an area may adversely impact the quality of a sponsor's work. This suggests that the Department needs to do more to identify the characteristics of an effective sponsor.

²³ Ofsted inspection outcome letters: E-ACT Multi-Academy Trust (March 2014), Kemnal Academies Trust (July 2014), Academies Enterprise Trust (September 2014).

Ofsted's role

4.11 The Department places great weight on Ofsted's independent inspection of schools, but does not have the same independent inspection information about other bodies. Ofsted has powers to inspect local authority children's services. Historically, this involved inspecting all aspects of children's services, including children's social care and school improvement services. Ofsted stopped these joint inspections in 2006. In 2013, Ofsted began to inspect local authorities' school improvement services under a newly designed framework. This looks at how effectively the authority is meeting its duty to secure high standards of education for all children attending schools in the area, including how they use their intervention powers. Ofsted judges provision as either 'effective' or 'ineffective'.

4.12 By August 2014, Ofsted had inspected 11 local authorities (7% of all authorities) under this framework. Of those, 9 were judged 'ineffective'. Ofsted does not plan to inspect all local authorities. It identifies and schedules inspections based on findings from recent inspections of schools in different areas, aiming to conduct around 4 inspections of local authorities each year.

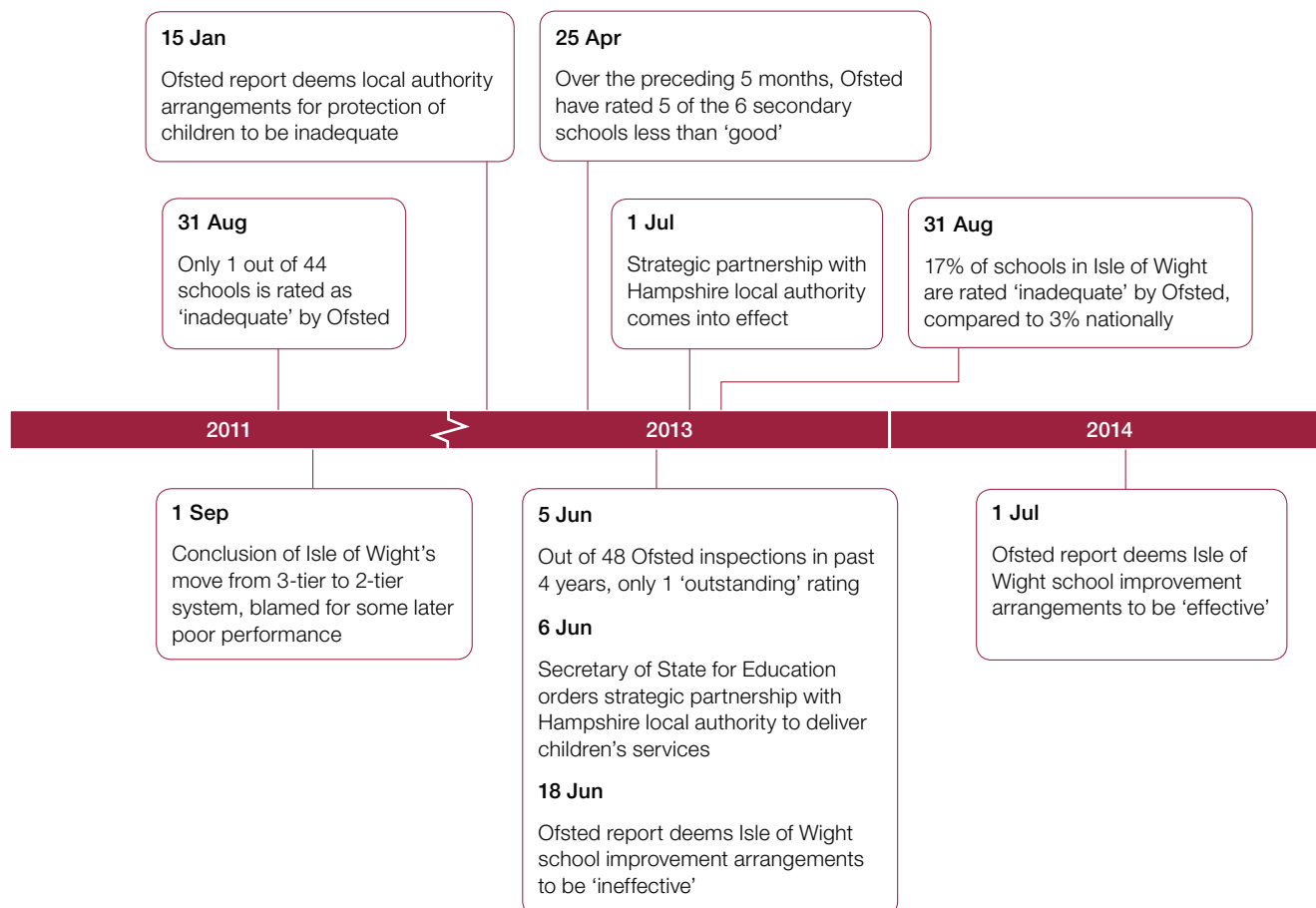
4.13 Where an authority has been rated 'ineffective' by Ofsted, the Department considers the need for structural change within the authority. By August 2014, the Department had formally intervened in 1 local authority (the Isle of Wight). The Department transferred responsibility for school improvement on the Isle of Wight to a neighbouring authority, Hampshire (**Figure 12** overleaf). Another authority (Norfolk) has been informally told to work with external bodies to strengthen its school improvement function. Ofsted had judged both authorities' school improvement services to be 'ineffective' in 2013. Both authorities have since been re-inspected in 2014 and judged to be 'effective'.

4.14 Ofsted does not have the same power to inspect multi-academy trusts or sponsors. In 2013/14, it developed an approach whereby it uses 'focused inspections' to gather information about the trust's and sponsor's work with their schools. This means that it inspects several schools overseen by the same trust in a short space of time. To date, Ofsted has published findings relating to 3 academy trusts. Ofsted does not provide an overall rating or judgement for trusts, but letters highlight strengths and areas for development.

Figure 12

Case example of the Department’s intervention in local authority school improvement services

The Department instructed Hampshire children’s services to take over the running of the Isle of Wight’s children’s services



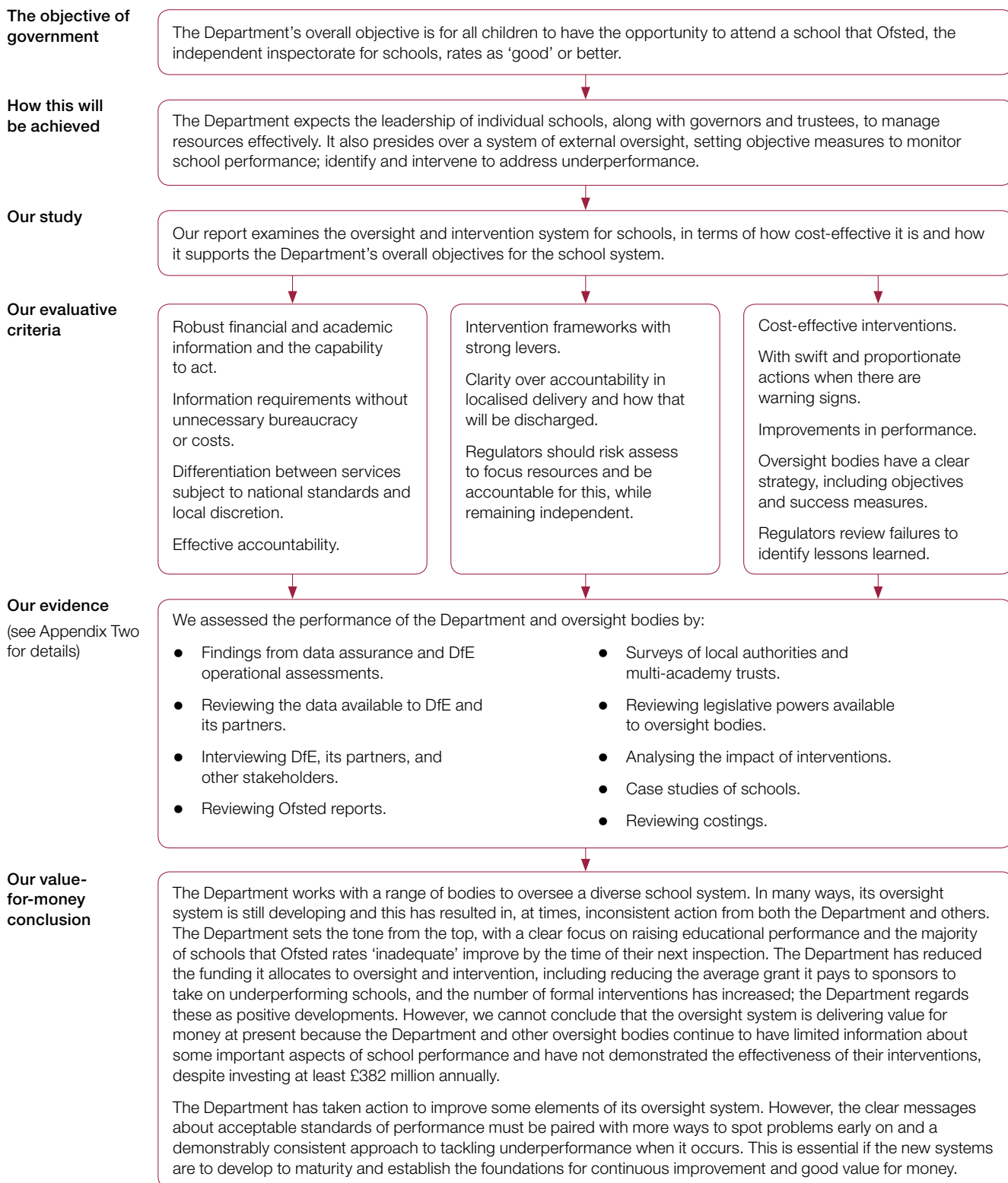
Source: Department for Education

Appendix One

Our audit approach

- 1 This report examines:
 - whether the roles and responsibilities of external oversight bodies are clear;
 - whether the bodies have enough information to identify underperformance;
 - whether the bodies intervene to address underperformance consistently; and
 - how much the Department knows about the cost-effectiveness of interventions.
- 2 We applied a set of evaluative criteria to identify the characteristics of a robust information system to identify underperformance; an appropriate intervention framework to support school improvement and cost-effective interventions.
- 3 Our audit approach is summarised in **Figure 13** overleaf. Our evidence base is described in Appendix Two.

Figure 13
Our audit approach



Appendix Two

Our evidence base

1 We reached our conclusion on value for money after analysing evidence we collected between January and August 2014.

2 We drew on our previous work on government oversight to develop our evaluative criteria:

- We looked at findings from previous National Audit Office and Committee of Public Accounts reports to identify common themes.

3 We reviewed school oversight and intervention in the context of the Department's aims and own evidence base:

- We held workshops with the Department, the Agency and Ofsted officials to produce a map of the school oversight system, including responsibilities and accountabilities of the bodies involved.
- The Department and the Agency provided an initial evidence pack in response to our study questions, including guidance and performance data.
- To understand the way the system works in practice:
 - we interviewed: Department, Agency and Ofsted officials; and a sample of local authorities (14) and academy trusts with responsibility for four or more schools (11), including some of their sponsors where applicable; and
 - we surveyed: local authorities (response rate: 60%) and multi-academy trusts with responsibility for four or more schools (response rate: 59%).

4 We reviewed the processes for identifying and intervening in underperforming schools using the Department's and the Agency's criteria:

- Using the criteria set out in the Department and Agency's guidance, we looked at the consistency with which academies and maintained schools had been identified as candidates for formal intervention.
- Where academies and maintained schools were identified as candidates for formal intervention, we reviewed whether formal interventions had been used consistently, and how the Department and Agency had reached its decisions:
 - For maintained schools, we looked at interventions for maintained schools rated 'inadequate' for more than a term in August 2013.
 - For open academies, we looked at educational performance in 2012/13 assessments, and the Agency's monthly management reports on academies of concern (financial management).
- To understand the factors that contribute to declines in school performance, we:
 - visited 7 case study schools where performance had been a concern; and
 - analysed Ofsted data to identify schools where performance declined from 'outstanding' to 'inadequate', and reviewed their inspection reports.

5 We reviewed the information available on the cost and impact of formal interventions:

- We reviewed data from the Department, Agency and Ofsted to identify the number and type of different formal interventions.
- We reviewed reports from the Department and the Sutton Trust on the impact of academisation on pupils' educational performance.
- We identified 129 underperforming maintained schools that received formal interventions (warning notice, interim executive board or sponsored academisation) and compared their Ofsted outcomes before and after the time of intervention:
 - These schools were all inspected by Ofsted in 2012/13, having received a rating of 'satisfactory' or 'inadequate' at their most recent inspection before that.
 - For sponsored academies, we looked at the most recent previous inspection of the predecessor school.
 - We compared the 2012/13 outcome to the most recent previous inspection outcome to determine how much they had improved or deteriorated in the intervening period.
 - We also looked at 3,696 schools that had received an inspection in 2012/13, following a previous inspection rating of 'satisfactory' or 'inadequate', but had received no formal interventions.

- To understand the costs involved in oversight and intervention:
 - we interviewed Department and Agency officials, and representatives from the sector (local authorities and multi-academy trusts as above);
 - the Department provided data on its own staff costs, grants to academy sponsors and funding to local authorities; and
 - we also reviewed local authority and academy trusts' financial returns.

This report has been printed on Evolution Digital Satin and contains material sourced from responsibly managed and sustainable forests certified in accordance with the FSC (Forest Stewardship Council).

The wood pulp is totally recyclable and acid-free. Our printers also have full ISO 14001 environmental accreditation, which ensures that they have effective procedures in place to manage waste and practices that may affect the environment.



National Audit Office

Design and Production by NAO Communications
DP Ref: 10544-001

£10.00

ISBN 978-1-904219-44-6



9 781904 219446
