



Department
for Education

Financial transparency of local authority maintained schools and academy trusts

Government consultation response

July 2020

Table of Contents

- Introduction 3**
 - Background 3
 - Detail on the consultation 3
 - Engagement in the consultation 4
- Executive summary 5**
- Question level analysis..... 7**
- Equalities Impact Assessment 29**
- Annex: list of organisations that responded to the consultation 32**

Introduction

Background

Since the start of the academies programme there has been significant focus on the financial transparency of the academy sector and the Department has introduced a number of measures that have improved the financial transparency and accountability of trusts. It has been reported by a number of trusts that they feel more accountable for their academies' financial position, now that they are in the academy sector, than they did previously as a local authority (LA) maintained school.

Transparency measures such as the requirement for them to publish independently audited accounts each year, with particular scrutiny on any related party transactions, provide public assurance of their financial health and probity.

Maintained schools, like academies, are funded by grant from the Department (the Dedicated Schools Grant). LAs are the accountable body for maintained schools and, in line with national frameworks and guidance set by the Department, monitor and intervene in these schools to reduce the risk of financial failure or misuse of funds. Each LA has a scheme for financing schools which sets out the financial relationship between it and its maintained schools, and the Department publishes guidance setting out what is required or permitted in schemes.

Current financial transparency arrangements for academies are generally stronger than those in place for maintained schools. We think that there is a strong case, where appropriate, for the current academy transparency measures to be adapted and implemented across the maintained school sector, in order to strengthen the arrangements for maintained schools.

Owing to Covid-19, the publication of this response and the implementation of some of the proposals was delayed so as not to conflict with other important work going on in the sector.

Detail on the consultation

The consultation on [Financial transparency of local authority maintained schools and academy trusts](#) ran from 17 July to 30 September 2019. It sought the views of LAs, maintained schools and other interested organisations or individuals.

The consultation outlined the current financial transparency arrangements for maintained schools and academy trusts, and put forward a number of proposed changes. As the current transparency measures used in academies are generally stronger than those in the maintained school sector, the consultation focused on using or adapting existing academy measures to help change and improve maintained schools' financial transparency and financial health.

The consultation recognised that new measures could create additional burdens on LAs and schools. It sought to ensure that the benefits of any new measures introduced would outweigh potential burdens on LAs and schools and that any new burdens are not more onerous than those placed upon academies. The consultation also encouraged LAs to outline whether the new measures would constitute a New Burden under the government’s [new burdens doctrine](#), and if so, what the cost would be.

Engagement in the consultation

In total there were 255 responses to the consultation. The majority of responses were from Mainstream schools or academies (97) and LAs (86).

	Number of responses	Percent of respondents
Mainstream school or academy	97	38%
Special school or academy	14	5%
Multi-academy trust	29	11%
Independent school	1	0%
Sector organisations	2	1%
Charity	2	1%
Local Authority	86	34%
Other	20	8%
Not Answered	4	2%

Although the greatest number of responses came from mainstream schools and academies, the most represented group as a proportion of its category was LAs, with nearly two thirds of all LAs in England taking part.

In addition to the written responses received, we also discussed the proposals with a range of stakeholders, including school leaders and representatives of local government.

All respondents answered questions relating to each individual proposal.

A list of organisations who responded to the consultation can be found in Annex 1.

Executive summary

Further to the consultation, we will implement the following proposals:

- Proposal 1: We will publish names of LAs on gov.uk if they fail to comply with deadlines for returns to the Department.
- Proposal 2a: We will collect the number of schools with suspended budgets and notices of financial concern through the existing DSG assurance statement signed by the LA Chief Financial Officer (CFO) at the end of the financial year.
- Proposal 2b: We will add a new section to the DSG assurance statement that captures the amounts that LAs have recovered from investigating fraud.
- Proposal 3: We will make a directed revision to LAs' schemes for financing schools to make it a requirement for maintained schools to provide LAs with three-year budget forecasts.
- Proposal 4a: We will make schools append a list of Related Party Transactions (RPTs) to their response to the question in the Schools Financial Value Standard (SFVS) about their arrangements for managing RPTs. In addition, we will insert additional columns into the CFO Assurance Statement, so that the number of RPTs and value for each can be disclosed.
- Proposal 6a: We will make a directed revision to LAs' schemes for financing schools, requiring schools to submit a recovery plan to their maintaining authority when their deficit rises above 5%.
- Proposal 6b: We will collect information on the number of recovery plans in each LA through the DSG annual assurance return from the CFO.
- Proposal 6c: We will formalise the approach to working with LAs and include a request for high level action plans from some LAs. This will be achieved by:
 - Sharing published data on the school balances in each LA.
 - Using this data and evidence-based requests from LAs to ensure support is focused where it is needed.
 - Requesting high level action plans from LAs in which the number or proportion of school revenue deficits over 5% is above a certain level.
- Proposal 7: We will require all LA maintained schools to publish annually on their websites the number of individuals (if any) earning over £100K in £10K bandings.

We will also implement proposal 8. However, in light of feedback from a number of respondents, we will require LA maintained schools to publish a link to [the schools financial benchmarking website](#), where the Consistent Financial Reporting (CFR) statement of income, expenditure and balances is already published, instead of requiring them to publish the CFR statement annually on their own website.

In light of issues raised by a number of respondents we will not implement proposal 5, imposing minimum requirements of a three-year audit cycle. Instead, we will continue to work with LAs to identify how audits can best be made both regular and targeted in the most effective way.

Timings and next steps

The changes will come into effect as follows:

- Proposal 1: The Department will publish names of LAs who have not complied, starting from when they have missed 3 deadlines from the start of 2020-21 (taking account of any postponement or relaxation of deadlines in 2020-21 on account of Covid-19).
- Proposals 2a, 2b and 6b: Changes to the DSG assurance statement return will apply for the return for the financial year 2020-21, which is due in September 2021.
- Proposal 3: Schools will be required to submit their forecasts between 1 May and 30 June of each year, starting in 2021-22.
- Proposal 4a: Changes to the Schools Financial Value Standard will be made for the 2021-22 return, which schools will submit to LAs by the end of the financial year 2021-22.
- Proposal 6a: The 5% deficit threshold will apply when deficits are measured as at 31 March 2021.
- Proposal 6c: LAs could be requested to submit high level action plans at any time during the year, as and when requested by the Department.
- Proposals 7 and 8: Requirements related to information schools publish on their website will come into force from 1 January 2021, when the amended regulations come into force.

Under the New Burdens policy, the Department will compensate LAs for the additional burden that these changes will impose. For 2021-22, this will be done through a direct grant to each LA, in proportion to the number of maintained schools they have. We will work with local government colleagues to finalise the overall amount and distribution.

Question level analysis

Issue 1: Making public where LAs are failing to comply with deadlines for completing assurance returns and financial collections

Proposal 1

We propose to publish the names of LAs on GOV.UK who fail to comply in any financial year with 3 or more deadlines from the following collections:

1. School Financial Value Standard (SFVS)
2. Dedicated Schools Grant CFO assurance statement
3. Consistent Financial Reporting
4. Section 251 Budget
5. Section 251 Outturn

Background

LAs, and maintained schools, are obliged to complete the following assurance returns and financial collections:

- Schools Financial Value Standard
- Dedicated Schools Grant

They are also obliged to submit statutory funding returns:

- Section 251 Budget
- Section 251 Outturn
- Consistent Financial Reporting

The proposal to publish the names of LAs who fail to comply with 3 or more deadlines from these collections closely mirrors the approach adopted by ESFA in publishing (on gov.uk) the names of trusts who are late in submitting more than 2 out of 4 annual returns.

The consultation proposed publishing compliance data at an LA rather than school level since LAs are the accountable body for maintained schools.

Summary of responses

Response	Overall		LAs	
	Number	Percentage	Number	Percentage
Agree	177	69%	39	45%
Disagree	35	14%	27	31%
Neither agree nor disagree	43	17%	20	23%
Not answered	0	0%	0	0%

A majority of respondents agreed with the proposal. Respondents who agreed felt that it was fair to treat LAs that fail to submit returns on time in the same way as academy trusts.

Respondents who disagreed with the proposal felt that it would be ineffective and that delays were symptomatic of pressures on LA finance departments and the unhelpful timing of returns.

A number of respondents from LAs argued that it would be unfair to penalise them for late submission of the Schools Financial Value Standard and Consistent Financial Reporting returns as they are dependent on schools completing these on time. Some authorities suggested it would be more helpful to publish the names of schools that failed to submit these returns on time, or to allow authorities to do so themselves.

Government response

In light of the strong support for the proposal, we will publish the names of LAs who fail to submit 3 or more returns on time. Doing so will act as an added incentive for LAs to meet their return deadlines; it will improve consistency in treatment for LAs and academy trusts; and it will improve financial transparency. There would be no additional burden on LAs from the proposal.

The suggestion put forward by some respondents to publish the names of schools that failed to submit returns on time is not a proposal that was considered as part of the consultation. We will therefore not implement that suggestion at this time. However, it is something we can return to in the future if delays become a consistent problem.

Timing of implementation

Missed deadlines will be counted from the start of 2020-21. Names will be published if 3 deadlines are missed during 2020-21 (taking account of any postponement or relaxation of deadlines due to Covid-19), and likewise in subsequent years.

Issue 2: Strengthening DSG annual assurance returns

Proposal 2a

We propose to collect the number of schools with suspended budgets and notices of financial concern through the existing DSG assurance statement signed by the LA CFO at the end of the financial year.

Background

LAs can withdraw delegation from schools for financial reasons or issue a notice of financial concern, but we do not currently collect this information.

The consultation proposed that we start collecting information on suspended budgets and notices of financial concern. Doing so would enable the Department to devote further support to authorities that report a high number of suspended delegations or notices of financial concern.

Summary of responses

Response	Overall		LAs	
	Number	Percentage	Number	Percentage
Agree	213	83%	66	77%
Disagree	12	5%	8	9%
Neither agree nor disagree	30	12%	12	14%
Not answered	0	0%	0	0%

The majority of respondents agreed with this proposal. Many felt that it would create consistency with the treatment of academy trusts and allow schools and LAs requiring additional support to be identified. Some respondents felt this measure would highlight the pressure on maintained school budgets. Most authorities did not think this would cause them an additional burden.

Respondents who disagreed with the proposal were unsure what purpose it would achieve and felt that LAs were already effectively managing their schools in financial difficulty. Some respondents argued that it might deter authorities from taking action if doing so was seen as evidence of them needing support.

Government response

In light of the significant support in favour, we will go ahead with this proposal. Doing so will enable the Department to devote further support to authorities that report a

high number of suspended delegations or notices of financial concern. LAs assessed the estimated additional administrative cost as negligible.

We agree that, in the majority of cases, LAs already effectively manage those schools that are in financial difficulty. However, it is important that the Department can provide support to those LAs that do need it, and this proposal will allow that.

The aim of identifying LAs with high numbers of suspended budgets and notices of financial concern is so that we can provide further support to these authorities – not to penalise them. LAs should therefore not have any reason to avoid taking action against schools as a result of this proposal. In contrast, we would challenge any LAs that did not take effective action where needed.

Timing of implementation

This will apply for the DSG assurance statement return for the financial year 2020-21, which is due in September 2021.

Proposal 2b

We propose to add a new section to the DSG assurance statement that captures the amounts that LAs have recovered from investigating fraud.

Background

Currently, LAs recover funds from fraud investigations but only publish the number and value of reported cases, not the value of money recovered.

As part of the consultation proposal the Department would analyse responses and request further details from LAs that reported the highest incidence/value of fraud. Further details would include the nature of the case, including the steps the LA has put in place to prevent further misuse of the DSG. We would also challenge any that we thought had not made sufficient efforts to recover the money.

Monies recovered from fraud reported in different financial years would be reflected in the statement.

Summary of responses

Response	Overall		LAs	
	Number	Percentage	Number	Percentage
Agree	206	81%	61	71%
Disagree	14	5%	9	10%
Neither agree nor disagree	35	14%	16	19%
Not answered	0	0%	0	0%

Respondents who agreed with the proposal stated that it is a very sensible approach and will allow the Department to identify the LAs that have a robust response to fraud – with transparency being a part of highlighting where potential fraud has occurred and best methods of recovery.

Some respondents commented that if this proposal was implemented, it would be helpful with some form of national guidance on how they should capture fraud related costs and data to ensure consistency of reporting.

Some of the respondents that disagreed with the proposal believed it would add additional burdens to LAs.

Government response

We will adopt this proposal as it would enable the Department to focus fraud prevention efforts on the areas with the highest value of fraud. Furthermore, a significant majority of respondents were in favour, and the additional administrative cost estimated by LAs was negligible.

As part of the DSG assurance statement we already collect information on the number and value of fraud cases reported in LA maintained schools. This proposal will just add an additional box with the amounts recovered.

In response to the feedback received, we will produce guidance setting out how fraud related costs should be captured to ensure consistency of reporting. We will work together with LAs to ensure the guidance is clear and fit for purpose.

Timing of implementation

This will apply for the DSG assurance statement return for the financial year 2020-21, which is due in September 2021.

Issue 3: Maintained schools are not required to provide LAs with three-year budget forecasts

Proposal 3

We are proposing a directed revision of the schemes for financing schools to make it a requirement for maintained schools to provide LAs with three-year budget forecasts.

Background

The consultation proposed to extend the existing requirement for academy trusts to send us three-year budget plans to maintained schools. For maintained schools, it

would take the form of sending a three-year budget plan to their maintaining authority.

The consultation recognised that it might take maintained schools slightly longer to complete a three-year forecast than a single year forecast. However, this was expected to be outweighed by enabling LAs to have early sight of emerging financial issues, enabling preventive action.

In regard to uncertainties around future levels of funding, the consultation proposed that schools might wish to plan on a range of scenarios.

Summary of responses

Response	Overall		LAs	
	Number	Percentage	Number	Percentage
Agree	195	76%	70	81%
Disagree	30	12%	5	6%
Neither agree nor disagree	30	12%	11	13%
Not answered	0	0%	0	0%

The majority of respondents (76%) agreed with the proposal for a directed revision of the schemes for financing schools to make it a requirement for maintained schools to provide LAs with three-year budget forecasts.

Respondents commented that it was good practice and would help schools and LAs identify potential issues early and take appropriate action to mitigate them. It was stated that although future funding arrangements may not be fully known, there are certain assumptions that schools can make which will provide some level of assurances of financial balances. Many responses stated that it is already a requirement to produce a three-year forecast in their LA.

The majority of respondents who disagreed with the proposal commented about the difficulty in producing a three-year forecast given uncertainties with regard to future funding and policy. There was concern over how accurate or useful forecasts would be given the uncertainty and the widely varying assumptions that schools might make.

Many of the respondents who agreed with the proposal also raised concerns around uncertainty of future funding; a large number suggested the Department needs to commit to a longer-term spending settlement to enable schools to predict with greater accuracy. It was also suggested that the Department should issue assumptions, for example regarding teacher pay awards or MFG, so there is consistency across all LA and school projections.

There were some concerns in a lot of the respondents' comments regarding school and LA resources and costs associated with introducing three-year budget forecasts.

There were also queries in the responses regarding the timescales of producing the forecasts and what would be expected.

Government response

We will be implementing this proposal, by making a direct revision to the schemes for financing schools to make it a requirement for maintained schools to provide LAs with three-year budget forecasts.

Schools should already be producing three-year forecasts as it is fundamental to proper financial planning. It is also already specified in the Schools Financial Value Standard (SFVS) as something that maintained schools should do. As such, the additional burden for schools of this proposal will stem from them having to submit the forecasts to their LAs where this is not already required by the authority. The cost of that is estimated to be negligible to schools.

While LAs can already request multi-year forecasts, and many do, the revision to the schemes will still constitute a change for LAs. We envisage that the LA's role would be similar to ESFA's role in respect of academies when it comes to providing information to help schools complete and submit the forecasts, and verifying that the forecasts submitted are complete. We recognise that this will constitute a New Burden, which we will pay for.

Beyond the collection and processing of the forecast returns, we do not wish to add to LAs' burdens by specifying exactly what they should do with the forecasts they have received. Access to the forecasts will allow LAs to make better financial assessments of their schools' financial positions, but how they choose to do that will be up to each LA.

We will work with LAs to consider any guidance that might be helpful for the completion of the forecasts, while remaining conscious of the importance of letting LAs specify format in which they wish to receive the forecasts, so that it best fits in with their respective working practices.

We do recognise the constraints schools face in producing forecasts without complete information on future levels of funding. However, that is no different to other parts of the public sector. And while there will always be uncertainties relating to future forecasts, they can still provide important insight into any emerging financial issues, allowing schools and LAs to take appropriate mitigating action.

Timing of implementation

Consistent with the current deadline for schools to submit their budget plans to LAs, schools will be required to submit their forecasts between 1 May and 30 June of each year. The requirement will first apply in 2021-22.

Issue 4: Strengthening Related Party Transaction arrangements in maintained schools

The arrangements for reporting Related Party Transactions (RPTs) in maintained schools are not as stringent as those in academy trusts. In particular, since April 2019, all academy trusts have had to seek approval from the ESFA for RPT payments of more than £20,000 and all transactions below £20,000 must be declared.

The consultation put forward 3 alternative proposals (4a, b, c) for strengthening arrangements for reporting RPTs in maintained schools.

Proposal 4a

We propose to make schools append a list of RPTs to their response to the new question in the Schools Financial Value Standard (SFVS) about their arrangements for managing RPTs. In addition, we would insert additional columns into the CFO Assurance Statement, to request the number of RPTs and value for each to be disclosed.

Background

Out of the 3 options put forward in the consultation on RPTs, this would be the least resource intensive for both schools and authorities. As the SFVS must be discussed and agreed by the Governing Body, there should be little additional burden if a list of RPTs was attached to the completed SFVS. The LA would then be in a position to analyse the RPTs submitted across all maintained schools, using this information to determine audit requirements.

Summary of responses

Response	Overall		LAs	
	Number	Percentage	Number	Percentage
Agree	177	70%	58	67%
Disagree	29	11%	15	17%
Neither agree nor disagree	49	19%	13	15%
Not answered	0	0%	0	0%

A significant majority of respondents agreed with this proposal.

Respondents who agreed with the proposal felt that it would increase transparency within maintained schools. Some respondents were wary of the additional burden this would place on authorities, depending on how it was implemented.

Respondents who disagreed with the proposal felt that it would create an additional burden for schools and authorities, particularly if authorities were expected to check the list of RPTs. Some respondents didn't see what value there would be in including numbers/value of RPTs on the CFO Assurance Statement and didn't feel that there was a problem with RPTs within the maintained schools sector.

Both respondents who agreed and disagreed, asked how the proposal would be implemented in practice, and in particular what LAs would be expected to do with the information they receive on the RPTs. Some respondents also noted the importance of clarity around what is classified as an RPT.

Government response

Oversight of RPTs is important for financial management and transparency, and at present maintained schools have no duties to report on RPTs to their LAs, and LAs do not report on RPTs to the Department. We will implement this proposal, and not implement proposals 4b and 4c, in light of the significant level of support in favour and the smaller administrative burdens associated with this proposal, compared to 4b and 4c.

Regarding the questions on how the proposal would be implemented in practice, we believe that LAs themselves are best placed to decide how to use the information they receive on RPTs in their role as accountable body. Information on RPTs could in particular be helpful in informing audit deployments, but we do not propose to dictate what LAs should do, or how they should do it. Our administrative cost estimates for New Burdens purposes are based on the assumption that LAs will take a more active role in respect of RPTs worth more than £20,000, than for RPTs worth less than £20,000. This is consistent with what ESFA currently do for academies.

We will work with LAs to provide appropriate guidance on how to define RPTs.

Timing of implementation

The list of RPTs will be first attached to the SFVS for 2021-22, which is due to be submitted to local authorities by the end of March 2022. LAs will first report on this to the Department in the CFO statement for 2021-22, due in September 2022.

Proposal 4b

We propose to amend the scheme for financing schools to require schools to report all RPTs, or RPTs above a certain threshold, directly to the LA.

Background

The second proposal put forward in the consultation, to require schools to report RPTs directly to the LA, would give LAs immediate visibility of the RPTs as soon as

they had been agreed. However, it could be more difficult for authorities to police than if it was in the SFVS, which is an annual return with a set reporting deadline.

Summary of responses

Response	Overall		LAs	
	Number	Percentage	Number	Percentage
Agree	161	63%	42	49%
Disagree	40	16%	25	29%
Neither agree nor disagree	54	21%	19	22%
Not answered	0	0%	0	0%

While the majority of respondents (63%) agreed with this proposal, the proportion of respondents in favour was significantly smaller than those in favour of proposal 4a. The difference was particularly large among LAs.

The most common argument in favour of the proposal was similar to the argument in favour of option 4a – centring around ensuring that the same expectations for regularity and propriety are placed on LA maintained schools as they are currently on academies.

Some of those who disagreed with this proposal argued that Proposal 4a would be sufficient. They argued that this proposal would be impractical and ineffective, placing an additional burden on LAs in collecting the additional information.

Responses neither agreeing or disagreeing advised that there may be some difficulties with ‘policing’ this proposal in practice. They also questioned what mechanism would need to be in place for reporting and recording the RPTs.

Government response

We will not be taking forward this proposal since the responses indicate that, compared to proposal 4a, it would increase administrative burdens without any clear added value.

The key difference between options 4a and 4b is that in option 4b, schools would need to inform LAs as soon as an RPT has been agreed, whereas under proposal 4a, they would report all the RPTs together on an annual basis – as part of an existing annual return.

While many respondents were in favour of this proposal, the responses did not identify any clear additional benefit from this proposal compared to proposal 4a. Under both proposals, schools would report the RPTs to LAs after they have been agreed. This means that the action LAs could take in light of the RPT information, such as using it to determine auditing deployments, would be similar under both proposals.

In contrast, the additional burden would be higher from this proposal than from proposal 4a. Bespoke processes would need to be put in place, both among schools and LAs, to report and monitor RPTs on an ongoing basis. This would be more costly than proposal 4a which uses existing reporting routes.

Proposal 4c

We propose to amend schemes to require schools to seek permission from the authority to enter RPTs above a threshold.

Background

Academies now have to gain approval from the Department for RPTs above £20,000. To mirror this for maintained schools, we would amend schemes to require schools to seek permission from the authority to enter into RPTs above a threshold.

Summary of responses

Response	Overall		LAs	
	Number	Percentage	Number	Percentage
Agree	145	57%	42	49%
Disagree	57	22%	21	24%
Neither agree nor disagree	53	21%	23	27%
Not answered	0	0%	0	0%

Respondents in favour of the proposal raised similar arguments to those in favour of proposals 4a and 4b; that it would improve transparency, strengthen governance arrangements and improve consistency with requirements for academies.

The majority of respondents who agreed with the proposal did so with a proviso that the threshold should be reasonable and that LAs would need the capacity to handle the requests in a timely manner. They stated that the scope would need to be clearly identified with clear guidance criteria for approval and a process for managing disputes with schools where permission was not granted. Most respondents thought that the limit of £20,000 was reasonable, bringing consistency between maintained schools and academies.

Respondents who disagreed with the proposal argued that proposal 4a would be sufficient. They thought that this proposal would take away autonomy from the Schools and authority from the Governing Body – as well as appearing to remove governor responsibility and accountability.

A number of respondents from LAs believed that they would need additional resources to approve the RPT's, placing an additional burden on the LA. They did not think the proposal would be cost effective if implemented.

Some respondents that neither agreed or disagreed believed that clear guidance on what constitutes an RPT and what the appropriate processes should be prior to entering into a transaction with a related party would be more likely to achieve the desired outcomes.

Government response

We will not implement proposal 4c since it did not garner as much support among the respondents as proposal 4a, and since it would impose additional administrative burdens. However, if, with time, concerns are raised around the operation of RPTs in the maintained sector, we could return to this proposal in the future as a possible addition to 4a.

Issue 5: Maintained Schools internal audit is too infrequent

Proposal 5

We propose to make a directed revision to the scheme guidance to require that every maintained school be subject to internal audit at least every 3 years.

Background

The consultation proposed to prescribe a minimum frequency of audit visits by making a directed revision to the scheme guidance. The proposal was put forward as discussions with LAs made clear that the cycles for auditing maintained schools vary a great deal and, in some cases, have fallen into disuse.

Summary of responses

Response	Overall		LAs	
	Number	Percentage	Number	Percentage
Agree	160	63%	37	43%
Disagree	55	21%	30	35%
Neither agree nor disagree	40	16%	19	22%
Not answered	0	0%	0	0%

While the majority of all respondents agreed with this proposal, only 43% of LAs did. Additional feedback from stakeholder groups made clear that a number of LAs had significant concerns regarding this proposal.

Respondents who agreed with the proposal argued that it would ensure a greater degree of consistency with the requirements placed on academies. They also thought it would help reduce the significant variation in the cycles LAs use for auditing maintained schools.

The most common point raised amongst respondents opposed to the proposal was a concern over LAs' ability to provide resources for internal audits every 3 years in maintained schools. Respondents commented that this proposal would not be feasible without additional resource being provided.

A number of respondents also noted that imposing a regular cycle for all schools could prevent LAs from undertaking more frequent audits of high risk schools, based on LAs' risk based assessment.

A number of respondents also asked questions on how the proposal would be implemented, for example with regard to what would be contained in the proposed additional audits.

Government response

We accept that this proposal would constitute a significant New Burden for LAs and would also imply additional costs for schools. Furthermore, the responses suggest that the proposal could, in its current form, offer low value for money. That is because enforcing regular audits for all schools could cause LAs to undertake fewer audits of high-risk schools. This would be counterproductive, as the best use of audit resource is to concentrate on the most vulnerable schools. We will therefore not implement this proposal.

We will however continue to look at how to improve both the regularity and the targeting of LA audits and will consider issuing guidance accordingly. We will invite views from LAs in pursuing this work.

Issue 6: Strengthening arrangements to help schools that are in financial difficulty

Background

The statutory guidance on LAs' schemes for financing schools includes a requirement for schools to manage their resources effectively to maximise pupil outcomes. LAs are also required to have a deficit and a surplus policy within their scheme for financing schools and monitor their schools' compliance with these. Across LAs' schemes, there is a variance in the levels of deficit that trigger the submission of a recovery plan to LAs. There is currently no requirement for LAs to

report to the Department their actions to address financial difficulty and effective resource management in specific schools.

The Department’s monitoring of schools’ financial health to date has included approaching LAs directly to find out more about their approach to managing schools’ financial health. Since the end of 2018 we have also offered LAs the support of a school resource management adviser where they agree that this would help them to support or challenge schools. We have not specified thresholds of deficit that would lead to contact with the Department.

To strengthen the arrangements to help schools in financial difficulty, and ensure we work consistently with LAs, the consultation proposed 3 separate measures (6a,b,c) to be introduced either separately or in combination.

Proposal 6a

We propose to make a directed revision to the scheme for financing schools requiring schools to submit a recovery plan to their maintaining authority when their deficit rises above 5%.

Summary of responses

Response	Overall		LAs	
	Number	Percentage	Number	Percentage
Agree	188	74%	54	63%
Disagree	36	14%	23	27%
Neither agree nor disagree	31	12%	9	10%
Not answered	0	0%	0	0%

A significant majority of respondents agreed with the proposal (74%).

Respondents that agreed with the proposal said it would make schools more accountable, would give LAs’ requests for accurate financial information more weight, would enable alignment with the academy sector, would mean consistency across LAs and would ensure schools are provided with support promptly to prevent deficits increasing.

However, those who agreed did raise concerns, mainly around the additional burden this would place on schools and the LAs. They referred to the additional time and resource it would take LAs to establish, monitor and review recovery plans, and thought this needed to be recognised with extra funding. It was thought schools would need support to establish a recovery plan - more professional help to understand areas where recovery can be made.

Of those that disagreed (14%), a large majority did agree with the proposal that a recovery plan should be submitted, but did not agree with the threshold of 5%, with most stating that a recovery plan should be required from all schools with any level of deficit and some suggesting that plans could be requested for schools who have forecast a deficit. Reasons cited for this centred around it being too late to recover a deficit once it reaches 5%, that lower deficits are much easier to recover or that preventing a deficit is better than trying to recover it. It was also suggested that it may appear to give schools permission to go into deficit or send an incorrect message to schools to delay addressing deficits and declining reserves.

Many LA responses stated that they already have procedures in place to address schools in deficit. The procedures mentioned varied somewhat, with some respondents stating that a recovery plan was required for any level of deficit or that in-year deficits were monitored to avoid deficit budgets. Concern was raised that setting a 5% threshold would dilute what some LAs are currently doing. It was suggested by some respondents that LAs should be given the discretion to set the level at which a recovery plan is required, or that a cash figure may be more appropriate than a % threshold – year on year pupil fluctuations or exceptional circumstances may cause variations, particularly for smaller settings. Some thought that the level of detail required for a recovery plan should depend on the size of the deficit. It was suggested there needs to be guidance on what is an acceptable recovery plan, for example use of reserves and timescales.

It was suggested that where financial support is provided to a school by their LA, this is recovered as part of the recovery plan in line with how the ESFA insist on a repayment period being incorporated into a recovery plan when they provide funding to an academy trust.

There were a few queries around what the 5% referred to – whether it is in year deficit or cumulative deficit, based on DSG income or total income, based on actual or forecast. It was stated that there needs to be a clear definition of how the deficit percentage should be calculated.

Government response

We will implement this proposal, as having recovery plans in place for schools with large deficits is fundamental to proper financial management.

The 5% threshold should not be seen as in any way giving “permission” for schools to have deficits up to that level, and we fully support LAs who require all schools with any level of deficit to submit recovery plans. The 5% threshold will operate as an absolute minimum requirement for when a recovery plan is needed. In most cases we would expect LAs to request recovery plans from schools where deficits are much lower. As long as they meet the 5% minimum requirement, LAs will have the discretion to set their own levels at which a recovery plan is required.

We will work with LAs to ensure implementation of this proposal is done in an efficient and effective way. This will include the requirements set for the recovery plans, as well as clarity around what exactly the 5% refers to.

Timing of implementation

The 5% trigger will apply when deficits are measured as at 31 March 2021.

Proposal 6b

We propose to collect information on the number of recovery plans in each LA through the DSG annual assurance return from the CFO

Summary of responses

Response	Overall		LAs	
	Number	Percentage	Number	Percentage
Agree	204	80%	63	73%
Disagree	15	6%	12	14%
Neither agree nor disagree	36	14%	11	13%
Not answered	0	0%	0	0%

A significant majority (80%) of respondents agreed with this proposal.

Respondents who agreed with the proposal commented that this proposal would be a straightforward process and would add value to the Department's analysis as to the ability of schools to operate with their current funding. Responses also said that the information would be reasonable for the Department to collect in pursuit of financial transparency and accountability.

6% of respondents disagreed with this proposal. Respondents who disagreed commented that this would add a burden to LAs. Some also commented that LAs alone should be accountable for managing maintained schools' finances.

There were a small number of comments within the responses that asked for further context and clarity regarding what the Department would use the information on the number of recovery plans for.

Some respondents raised concern that it could discourage LAs from requesting recovery plans if they were penalised or judged by the number of plans they had requested.

Government response

We will implement this proposal as it will help us increase visibility of best practice across the whole schools sector, highlight any inconsistencies in LAs' approach and target additional support from the Department. Furthermore, a significant majority of respondents are in favour, and the administrative burden is expected to be negligible.

LAs will not be penalised in any way for having requested recovery plans. We encourage LAs to have robust procedures in play for dealing with deficits, and for requesting recovery plans for deficit levels below 5%. We would be much more concerned about LAs that had schools in deficit but did not request recovery plans from schools.

We will work with LAs on the implementation of this proposal, to ensure that the way it is implemented does not discourage LAs from requesting recovery plans from schools.

Timing of implementation

This will apply for the DSG assurance statement return for the financial year 2021-22, which is due in September 2022.

Proposal 6C

We propose to formalise the approach to working with LAs and include a request for high level action plans from some LAs:

- Data-sharing and monitoring: share published data on the school balances in each LA - highlighting the number and proportion with a revenue deficit of over 5% - and the available support from the Department. Share published data with LAs on their schools' financial, educational performance and pupil/school characteristics.

Timing: after publication of the next Consistent Financial Reporting (CFR) data

- Targeted monitoring and support: use of the above data and evidence-based requests from LAs for school resource management advice and challenge from the Department. We will ensure support is focused where it is most needed.

Timing: at any time during the year

- Action plan and increased monitoring: Request high level action plans from LAs in which the number or proportion of school revenue deficits over 5% is above a certain level. We would review the thresholds each year, but an example might be LAs that had more than 10 schools or more than 10% of their schools with revenue deficits of over 5% in the previous year. We would consider contextual information - such as the school balances in the LA in previous years - when deciding the LA action plans required.

Timing: at any time during 2021 after the publication of the CFR data

Summary of responses

Response	Overall		LAs	
	Number	Percentage	Number	Percentage
Agree	170	67%	44	51%
Disagree	30	12%	18	21%
Neither agree nor disagree	55	22%	24	28%
Not answered	0	0%	0	0%

The majority of the respondents supported the proposal.

Respondents who agreed with the proposal raised similar issues to those who disagreed. The most common concern was the additional burden it would create for LAs. Many also felt the proposal needed to outline exactly what the Department wanted LAs to include in their plan and the detailed support that would be offered to LAs.

Respondents that disagreed with the proposal cited the resourcing burden as the main reason. Many also felt the Department should trust the LA to fulfil their role as they were best placed to understand local issues. Some respondents suggested that the funding required to monitor deficits would be better spent on funding schools. There were many respondents that felt that the same should be requested from academies as well as maintained schools to make the sector comparable.

Government response

We will adopt this proposal as it will be important for strengthening arrangements to help schools in financial difficulty.

We recognise that the proposal will impose an additional burden for the LAs that will be required to submit action plans to the Department. However, all LAs should have sound financial management practices in place, including robust plans for recovering from financial difficulties. As such, the additional cost of this proposal stems from LAs having to submit a plan to the Department, not from formulating the plan in the first place. Furthermore, the Department would only envisage requiring action plans from a small minority of LAs which have several schools with significant financial deficits.

We will continue to consult with LAs to ensure that this proposal is implemented in a helpful and effective way. We will collaborate with colleagues in the sector by providing guidance on the information that we require. In cases where action plans do not already exist, we will provide templates and support to reduce the overall administrative burden of the request. We will seek to allow LAs to merge and consolidate returns where it is appropriate and feasible to do so.

Regarding the comment that similar information should also be requested from academies, that is already done by the ESFA.

Timing of implementation

The timing for each aspect of the proposal is set out above.

Issue 7: There is not enough transparency when it comes to reporting high pay for school staff

Proposal 7

We propose that all LA maintained schools should be required to publish annually on their websites the number of individuals earning over £100K in £10K bandings.

Background

The consultation put forward this proposal in order to decrease the disparity in public access to information on high salaries between maintained schools and academy trusts.

Academy trusts disclose in their account returns information about each individual earning over £100k - specifically (i) their total FTE salary in £10k bandings, e.g. £100k - £110k, (ii) their job role and description and (iii) whether they are predominantly focused on curriculum and education leadership or school business management leadership. Additionally, academies must publish on their websites staff salaries over £60k in £10k bandings.

Summary of responses

Response	Overall		LAs	
	Number	Percentage	Number	Percentage
Agree	188	74%	60	70%
Disagree	38	15%	13	15%
Neither agree nor disagree	29	11%	13	15%
Not answered	0	0%	0	0%

The majority of respondents agreed with this proposal. The most common arguments raised in favour of the proposal were that the use of public money should be transparent, and that the arrangements for maintained schools should align with those for academies.

Some respondents suggested that additional contextual information should be published alongside the salaries, such as the job description and any London weighting applied to the salary. Some also suggested that there should be different thresholds for primary and secondary.

A small number of respondents opposed the proposal, arguing that salary information should be managed by, and remain within, schools. They raised concern that in some cases, it would be easy to identify individuals, since not many people are paid over £100K. They noted that this would be more of a problem among maintained schools than academies, since academies disclosed their salary information at MAT level. A couple of respondents questioned whether this proposal could breach GDPR legislation.

Around 20% of respondents stated that salary information is already provided to LA's via the statement of accounts (starting at £50k at £5k intervals), and as such this proposal would create an unnecessary additional burden for schools.

Government response

We will adopt this proposal as it will improve financial transparency, as a significant majority of respondents were in favour of the proposal, and as the administrative costs are small. The proposal would only affect a minority of maintained schools with staff on salaries above £100,000, and for those it would increase transparency and scrutiny.

While schools do submit salary information to LAs, publishing salary information on websites would improve financial transparency further. We believe this would add value compared to the current system of reporting to LAs, and the majority of respondents agreed.

We considered the suggestion that schools should provide contextual information alongside the salary. On balance, we thought that making further additional information compulsory would complicate the proposal and add an additional burden without any clear value added. Of course, schools will be welcome to provide contextual information if they wish to do so, but we will not mandate it.

The suggestion by some respondents that different thresholds should apply for primary and secondary schools would add further complication to the proposal. It would be difficult to find objective ways to justify the different salary thresholds. For example, should large primary schools with more pupils than small secondary schools have higher salary thresholds, or should the threshold be purely linked to phase? And what would be appropriate thresholds for middle school and all through schools? For simplicity, we have decided to keep to one single £100,000 threshold.

Regarding the privacy concerns raised by those quoting the GDPR legislation, this proposal essentially requires maintained schools to provide a similar degree of transparency as has been required of academies for many years. While it is correct that academies publish salary information at MAT level, many academies are in

single academy trusts (SATs) where salaries will be published at individual school-level.

Timing of implementation

Originally it was intended that this information requirement would come into force at the start of the school year in September 2020 as is customary for requirements on schools. However, due to delays caused by Covid-19 and in order to provide schools with a term's notice to comply with the incoming regulations, the requirement will be included in amending regulations to come into force on 1 January 2021.

Issue 8: There is not enough transparency when it comes to reporting income and expenditure

Proposal 8

We propose that all LA maintained schools should be required to publish annually on their websites their latest Consistent Financial Reporting statement of income, expenditure and balances.

Background

LA school accounts are part of the LA statements of accounts that are published at a gross level for income and expenditure.

While details of individual schools' income and expenditure are not published in the LA's accounts, individual maintained schools are required to produce annual income and expenditure statements, known as Consistent Financial Reporting (CFR), or else LAs produce them on the schools' behalf. The Department publishes all the information from CFR in a spreadsheet, but we believe it would add significantly to transparency if there were a requirement for individual schools to publish annually on their websites their latest CFR statements.

Summary of responses

Response	Overall		LAs	
	Number	Percentage	Number	Percentage
Agree	149	59%	52	60%
Disagree	59	23%	16	19%
Neither agree nor disagree	47	18%	18	21%
Not answered	0	0%	0	0%

A majority of respondents agreed with the proposal. Respondents in favour argued that it would increase financial transparency of how schools deploy their resources and allow parents and other stakeholders to raise legitimate challenges in a more straightforward and helpful way. It would also make it easier to compare financial performance of one school against another. One respondent also noted that it would help school staff to understand the finances of the sector better and get them more engaged.

Respondents who argued against the proposal thought that it would create additional burdens for schools without adding any value, since the information is already publicly available. Others argued that there would be a significant risk of parents and other stakeholders misinterpreting the data since the accounts are difficult for lay people to understand. This could increase school workloads as they would need to provide additional information to explain and contextualise the data, and spend time answering unnecessary questions from parents. A couple of respondents also thought it could negatively impact on recruitment of staff and pupils in some schools.

Several respondents, both among those that agreed and disagreed with the proposal, suggested that it would be more onerous for maintained schools than for academies, since academy trust accounts represent the combined position across all academies within the trust. They thought that if maintained schools were asked to publish information at school-level, then so should academies.

Some respondents commented on how the proposal would work in practice. A few respondents raised concerns around data protection in small schools, and that publication of the CFR would allow members of the public to work out individual staff salaries. Others suggested that schools could publish high-level summary information based on a standard template provided by the Department, rather than the CFR itself. Many respondents thought that the simplest option would be for schools to publish a link to [the schools financial benchmarking website](#) where the CFR is already published, and that the Department could also produce a weblink to a page explaining the types of income and expenditure that can be found within each CFR code.

A few respondents also asked questions around who would be responsible for monitoring and enforcing compliance, with LAs noting that there would be an additional burden for them if they were to be involved in this.

Government response

Consistent with the majority of respondents, we believe that the publication of financial information on schools' own websites would improve financial transparency, as many parents and other stakeholders are not aware that the benchmarking website exists. However, we also recognise the points raised around the difficulty some stakeholders would have in accessing and interpreting the CFR statements without any additional information to explain and contextualise the data.

We will therefore implement an amended proposal 8, as suggested by a number of respondents, whereby schools will be required to publish a link from their own

websites to the benchmarking website, where the CFR is already published. The benchmarking website already has explanatory information surrounding the accounts, and it also makes comparisons across schools easier. A link to the benchmarking website will therefore both minimise the burdens for schools, and also make the information more accessible and useful to parents and other stakeholders looking at it.

Equivalent data for academies is published on the same website. While academy accounts are at trust level, trusts have to make annual returns of the income and expenditure for each academy in a form very close to the CFR.

Adding a link to the benchmarking website will not raise any concerns around data protection. The information is already in the public domain. Furthermore, the reported figures in the CFR relate to financial years which span 2 academic years. This makes the figures less likely to reveal actual staff salaries.

Timing of implementation

Originally it was intended that this information requirement would come into force at the start of the school year in September 2020 as is customary for requirements on schools. However, due to delays caused by Covid-19 and in order to provide schools with a term's notice to comply with the incoming regulations, the requirement will be included in amending regulations to come into force on 1 January 2021.

Equalities Impact Assessment

Equalities context

This section assesses the equalities impact of the proposals that will be implemented following the consultation. It considers how the changes may impact different groups of pupils with protected characteristics defined in the Equality Act 2010.

The Equality Act 2010 identifies the following as protected characteristics for the public sector equality duty:

- Age
- Disability
- Gender reassignment
- Marriage and civil partnership
- Pregnancy and maternity
- Race (including ethnicity)
- Religion or belief
- Sex
- Sexual orientation

Under Section 149 of the Equality Act 2010, the Secretary of State is under a duty to have due regard to the need to:

- a. eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
- b. advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it, in particular the need to:
 - remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
 - take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;
 - encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
- c. foster good relations between persons who share a relevant protected characteristic and persons who do not share it, in particular the need to:
 - tackle prejudice, and
 - promote understanding.

The relevant protected characteristics under consideration are disability, race, and religion or belief. Other characteristics such as age, sexual orientation, gender reassignment, marital status, pregnancy and maternity are not considered relevant to this policy.

Equalities analysis

Our assessment is that the proposals outlined in this consultation will not have any adverse impact on groups with protected characteristics.

All proposals will apply equally to all maintained schools and LAs. The additional administrative burdens stemming from each proposal will vary depending on schools' and LAs' current arrangements.

Pupils will not be directly affected by the proposals.

Proposal 7 is the only proposal which directly affects individuals. We will not be publishing the names of individuals earning above £100K, but the earnings bands will be published. While some individuals above this earnings threshold may be more likely to share certain protected characteristics (e.g. gender or age), the policy would not disproportionately adversely impact such individuals.

Annex: list of organisations that responded to the consultation

This list of stakeholder organisations was drawn from the online form submitted. The list may not be exhaustive as other organisations may have engaged and contributed to the consultation response through other channels such as meetings and other forms of correspondence. Some correspondents also chose to keep their responses confidential and thus are not listed here.

LAs

Bath and North East Somerset
Bolton Metropolitan Borough Council
Bradford Metropolitan District Council
Brighton and Hove City Council
Buckinghamshire County Council
Bury Metropolitan Borough Council
Central Bedfordshire Council
Cheshire East Council
Wolverhampton City Council
Cornwall Council (Unitary)
Coventry City Council
Cumbria County Council
Devon County Council
Doncaster Metropolitan Borough Council
Dorset County Council
Dudley Metropolitan Borough Council
East Riding of Yorkshire Council
East Sussex County Council
Essex County Council

Gateshead Metropolitan Borough Council
Hampshire County Council
Hertfordshire County Council
Kent County Council
Lancashire County Council
Leicestershire County Council
Lincolnshire County Council
Liverpool City Council
Ealing, London Borough of
Enfield, London Borough of
Haringey, London Borough of
Havering, London Borough of
Hillingdon, London Borough of
Hounslow, London Borough of
Islington, London Borough of
Lewisham, London Borough of
Newham, London Borough of
Richmond upon Thames, London Borough of
Southwark, London Borough of
Tower Hamlets, London Borough of
Waltham Forest, London Borough of
Milton Keynes
Newcastle-upon-Tyne City Council
North Lincolnshire Council
North Somerset Council
Nottinghamshire County Council
Oxfordshire County Council

Plymouth City Council
Royal Borough of Kingston upon Thames
Salford City Council
Sandwell Metropolitan Borough Council
Shropshire Council (Unitary)
South Gloucestershire Council
St Helens Metropolitan Borough Council
Stockton-on-Tees Borough Council
Suffolk County Council
Surrey County Council
Wakefield Metropolitan District Council
Warrington Borough Council
Warwickshire County Council
West Sussex County Council
Wigan Metropolitan Borough Council
Wiltshire Council
Worcestershire County Council

Mainstream schools or academies

All Saints C.E. (Aided) Primary School
Anchorsholme Academy
Ashbury Primary School
Ashton-under-Hill First School
Aston & Cote Primary School
Beaminster School
Birch Hill Primary School
Bures CEVC Primary School

Buttsbury Infant School
Cabot Primary School
Carisbrooke College
Chalfont St Giles Village School
Coombe Road Primary School
Crosthwaite C E Primary School
Dorothy Barley Infant School
Fairlands Primary School
Gatten & Lake Primary School
Gosbecks Primary School
Grandpont Nursery School
Harwell Primary School
Hawkesbury CE Primary School
Heather Ridge Infant School
Helsby Hillside Primary School
Hetton School
Highcliffe School
J H Godwin Primary School
La Retraite RC Girls School
Maple Infants' School
Marple Hall School
Mayesbrook Park School
Maytree Nursery School
Medina College
Newton Farm Nursery, Infant and Junior school
Park Road Academy Primary School
Plympton Academy

Priestnall School
Prior Heath Infant School
Rivacre Valley Primary School
Rogate Primary
Rossmore School
Shere CoE Infant School
Shotton Hall Primary School
St Anthony's Catholic Primary School
St Bernard's Catholic High School
Stretham Community Primary
Stroud Green Primary School
Suffield Park Infant and Nursery School
Swanlea School
The Grange School
The North school
Thrive Federation of Special Schools
Trinity Primary Academy & Noel Park Primary School
Wennington Hall School
Woodhouse Primary School

Multi-academy trusts

Academies Enterprise Trust
Advantage Schools
Balmoral Learning Trust
Bradford Diocesan Academies Trust
Childer Thornton Primary School
Delta Academies Trust

Excalibur Academies Trust

Leodis Academies Trust

Northern Lights Learning Trust

Oval Learning Trust

Spencer Academies Trust

Summit Learning Trust

The Laurus Trust

The MFG Academies Trust

Sector Organisations

Institute of School Business Leadership

Local Government Association

NASUWT The Teachers' Union

Society of London Treasurers

The Confederation of School Trusts

Special school or academy

Beaucroft Foundation School

Fred Nicholson School

Sandgate School

Tettenhall Wood School

The Cedars Primary School



Department
for Education

© Crown copyright 2020

This document/publication (not including logos) is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

To view this licence:

visit www.nationalarchives.gov.uk/doc/open-government-licence/version/3

email psi@nationalarchives.gsi.gov.uk

write to: Information Policy Team, The National Archives, Kew, London, TW9 4DU

About this publication:

enquiries www.education.gov.uk/contactus

download www.gov.uk/government/consultations

Reference: DfE-00123-2020



Follow us on Twitter:
[@educationgovuk](https://twitter.com/educationgovuk)



Like us on Facebook:
facebook.com/educationgovuk