School Business: the Academies Programme

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Abstract

Internationally there is growing private involvement in the delivery of state-funded education which raises concerns about public accountability of taxpayers' money. English schools are part of this process of change, which is driven by central government and is intended to reduce the power of Local Government (LG) over education. This paper focuses on the recent Academies programme which forms part of this agenda for change. While its objective has varied over time, essentially it fragments the organisation and funding of and control over state-funded schools.

As the potentially significant impacts on education may not be clear to stakeholders, we take a political economy perspective, drawing on a blend of agency and stakeholder theory to examine these changes and their impact on public accountability. The purpose of this paper is (i) to identify the scale of the programme and the changes it brings to the organisation of education and (ii) to investigate the resulting impacts on public accountability for revenue expenditure on schools.

The research methods include documentary analysis of information in the public domain or available through Freedom of Information requests. In particular we have used information made available in speeches and by follow up discussions with participants at the Academies Show, a promotional conference for the programme.

The paper shows that as schools have become businesses, monitoring, governance and accountability processes have changed. The role of key individuals has become substantially redefined as head teachers become accounting officers directly responsible to parliament and school governors become non-executive directors. The loss of control over revenue spending in schools by LG means that the traditionally close and personalised monitoring of schools has disappeared. Possible outcomes include loss of public accountability, a downgrading of governance expertise, schools with serious deficits, as has already become evident in the health sector where hospitals gained similar autonomy, or even scandal. But most significantly these reforms pave the way for more private sector involvement in education.

Key words: public accountability, agency and stakeholder theory, Academies, governance

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Introduction

This paper examines the changes that are currently taking place in the funding and governance of state-funded schools, which more than 90 per cent of English children attend, and examines the related impacts on monitoring of and accountability for public expenditure.

Such changes have international significance as government funded, privately provided schools are growing in size and influence around the world (Lewis and de Botton, 2011). Well known examples are Swedish free schools and American charter schools, new schools set up with state funding in competition to existing schools, with the aim of improving pupil performance. Other countries which have introduced this type of school include Canada, Chile and New Zealand. Developing countries have also implemented variations of this model, such as Colombia's concession model where private schools enter into contracts with the state to provide education for low-income pupils. Significant money is involved, with net current expenditure on English schools totalling £30.4bn for 2011/12, representing around 9% of government managed spending. As such this spending is an attractive target for increased outsourcing to private companies. All these examples demonstrate the growth of private interest in schools, whilst raising important questions about public accountability due to increasing private sector control of state funds.

Traditionally, Local Government organisations, known as Local Authorities (LAs), ran the public school system in England, with little direction from central government, even though it provided the overwhelming majority of funds for both revenue and capital expenditure. LAs managed and spent the vast majority of these funds, for example they paid teachers and all running and maintenance costs, and they provided central services such as specialist education and legal advice and human relations services.

This changed in the mid-1980s with the Conservative government's move to the outsourcing of manual services and later the introduction of the Local Management of Schools (LMS) in 1990, which gave schools autonomy over their own budgets. As a result, the LAs channelled the centrally provided, plus any additional local, revenue funding to over 25,000 publicly maintained schools. LAs allocated resources to schools based on a formula essentially driven by pupil numbers, thus reducing the LAs' discretion over resource allocation. The LAs were only permitted to hold back a small proportion of such funds to provide central education services, which schools might choose to purchase from their LA or elsewhere. The government's intention was to change the power relationships between the LA, schools, governors and parents, so that education providers would have less, and parents and governors more, control over schools.

Whether expressed as hopeful expectations or predictions of doom, some argued that these changes threatened the demise of the LA in education. But in practice such expectations or predictions over-stated the impact on LAs, which were able to build alliances with 'their family' of schools (Edwards *et al.*, 2000). In many cases these alliances enabled the LA to continue to provide central services and to retain a significant, if altered, relationship with most schools. Moreover, LAs remained responsible for monitoring schools and, for example, for ensuring financial probity and good quality internal control systems at schools. Many schools had LA representatives on the governing body and purchased clerical services to the board from the LA. The result was a loosening of the power of the LA but by no means its demise, and head teachers, rather than the parents or even governors, gained power (Edwards *et al.*, 1995). Arguably therefore control remained with the providers of education although head teachers were now in effect operating in competition with other schools.

The incoming Conservative-Liberal Democrat coalition government has since 2010 instituted further changes again aimed at reducing the LAs' power over education. While this round of reform began with the Labour Government's small scale Academies programme, which in turn built upon the previous Conservative government's failed City Technology Colleges programme, it really began to take effect with the Coalition Government's extended Academies programme. In a complete break from tradition, Academies are funded directly from, report to and are monitored by a central government agency, thereby by-passing LAs and removing their oversight role. This means that LAs no longer hold any of the revenue budget to provide central support services, and hence are unable to maintain the alliances that fortified their position in the face of previous reforms.

Although it would be premature to write off the LAs, some of which are currently actively lobbying for the return of their oversight role, the Academies programme portends massive changes to the control and management of schools, and ultimately the content of education, which may not be apparent to all stakeholders, especially parents and taxpayers, although the teachers' unions and Local Government Associations have raised some concerns. As a result, the changes have been implemented with only very limited challenges from stakeholders.

The situation is changing very fast. In 2010, there were just over 200 Academies compared to a total of some 25,340 state funded schools. As of 1st January 2013, there were 2,619 schools with Academy status (DfE, 2013) and the Coalition Government's expectations are that eventually all primary and secondary schools will become Academies. The purpose of this paper is therefore to examine (i) the scale of the programme and the changes it brings to the funding, management, control and organisation of schools and (ii) the impact on public accountability for revenue expenditure on schools. We take a political economy perspective and use a blend of agency and stakeholder theory to examine these changes and their impact on public accountability. The paper takes the form of an exploratory case study. We use (i) documentary sources in the public domain or available through Freedom of Information requests and (ii) presentations made by delegates at the Academies Show in May 2012, a promotional conference, with follow-up discussions with speakers and presenters.

The paper shows that as schools have become businesses, governance, monitoring and accountability processes have changed, and there has been substantial redefining of the role of key individuals and organisations. For example, the head teacher has now become Chief Executive Officer and school governors have become non-executive directors with expanded responsibilities, including financial responsibilities. LAs have lost control over revenue spending in schools and thus the traditionally close and personalised monitoring of schools they provided is set to disappear. Possible outcomes include: loss of public accountability; a diminishing of governance expertise; schools with serious financial deficits, as has already become evident in the health sector where hospitals gained similar autonomy; or even mismanagement and scandal. Even more importantly, this is a significant step towards greater private sector control of school revenues and ultimately greater control over staffing and educational content.

The remainder of the paper is organised as follows. The next section provides background information about the new funding arrangements for Academies and explains how the policy has changed over time. The third section introduces our framework for analysis based on agency and stakeholder theory. The fourth section examines how governance of schools is changing, focusing on the roles of Academies' sponsors, the governing bodies and the head teacher. The fifth section examines the new monitoring regime, and the sixth considers the role of multi-academy trusts or federations of schools in terms of their impacts on local accountability and the public availability of financial and other information. This is followed by a discussion section considering the impact on accountability and some policy issues including the LAs' future role, and the final section offering our conclusions.

Background to the Academies Programme

Initially, when the first Academies were opened under the Labour government in 2002, a small number of schools in special measures[1] seen as under-achieving were removed from Local Authority control and placed in the hands of sponsors, usually a philanthropist or business partner, which would provide significant funding, although remaining as state funded schools. The expectation was that educational outcomes would be improved in deprived areas by allowing these sponsors the flexibility to pursue innovative school policies and curricula in significantly improved or new buildings. As the programme was rolled out in the next eight years to 2010, the model shifted. A wider range of organisations became sponsors, including universities, charities and some schools and LAs, there was less investment in new buildings and funding agreements between the Department for Education (DfE) and the school, which set out the financial arrangements, specified more strenuous conditions (Academies Commission, 2013). The Academies Act 2010 further expanded the programme and changed the model as discussed below.

Funded directly by central government, by-passing local government, Academies' funding has since April 2012 been channelled through a new executive agency of the DfE known as the Education Funding Agency (EFA), which took over a range of responsibilities from several predecessor organisations. The EFA has a budget of £52bn, and 750 staff, all departmental staff of the DfE. The underlying principle is that Academies are funded on the same basis as maintained schools in the same LA area. So, at present, the schools' core funding is calculated according to the same funding formula as pertains to maintained schools in the relevant LA. How this will change if all schools in a LA become Academies is as yet

[1] 'Special measures' represents a status applied by the schools' inspection agency to schools that are deemed to be failing to provide pupils with an acceptable standard of education and where the school leaders are not demonstrating the capacity to drive improvement.

unclear, although in some LAs a very large proportion of schools, especially secondary schools, are now Academies (NAO, 2012). But in addition, Academies each receive an additional grant, known as the Local Authority Central Spend Equivalent Grant (LACSEG), to cover education services that the LA provides for maintained schools but which the Academy can now buy elsewhere.

This additional cost, which is estimated at £1bn for the period April 2010 to March 2012 (NAO, 2012), has been controversial. On the one hand it is claimed that it is insufficient to cover the replacement for all the services that the LAs no longer provide, on the other hand it is claimed that it is overly generous and acts as an incentive for schools to leave LA control. In any event, cutbacks have followed. According to the NAO (2012), between 2010-11 and 2011-12 the DfE reduced its transition funding for sponsored Academies and the additional recurrent cost per open Academy fell by 53 per cent. It planned to reduce this further during 2012/13, and noted that the DfE expected that planned changes to the funding system in 2013/14 and ongoing improvements in forecasting Academy numbers would support further cost reductions and improved cost forecasting (NAO, 2012).

Several new features of the model should be noted. First, although the name 'Academies' was retained by the Coalition government, as the numbers of Academies has grown and some business sponsors have reneged on agreements to provide financial support sponsorship was no longer a requirement. So although one intention was that the sponsor's vision and leadership would challenge traditional thinking about how schools should be run and especially in relation to poorly performing schools would 'make a complete break with cultures of low aspiration and achievement[2], in practice just 604 of the 2,619 open Academies are sponsored. The 2,015 schools without sponsors are described as convertor Academies. Conversion is intended to be attractive and straightforward. It is described by EFA as a light-touch process with minimal support from the EFA required.

Second, the focus on poor performance disappeared as a criterion for Academy status, which is significant for the management of the risks associated with increasing the autonomy of schools. From 2010, the DfE adopted a risk-based approach to the approval of applications for Academy status. To obtain approval applicants must provide performance data, including data about examination results' trajectory, which must show a stable or improving performance, and an OFSTED[3] report, showing good school leadership and a capacity to improve. Quality of financial management may also be considered. Thus, from 2010 the criteria apparently excluded applications from poorly performing schools. Instead, Academy status was opened to schools judged to be outstanding and to some judged to be performing well. The emphasis on good performers enabled the DfE to manage the risks associated with schools conversion as few of the 1,808 converters open by September 2012 were experiencing academic or financial decline (NAO 2012). This process parallels the way in which in 2003 the Department of Health began the process of converting high performing

[2] http://www.education.gov.uk/schools/leadership/typesofschools/academies/b00205692/whatisanacademy [accessed 29/01/2013]

[3] OFSTED is the Office for Standards in Education, Children's Services and Skills, its roles include the inspection and regulation of schools.

NHS Trusts into independent Foundation Trusts with responsibility for managing their own budgets and healthcare in their own local region.

Third, tougher challenges lie ahead as future applications may involve more complex financial, governance and performance issues (NAO, 2012). As the policy has developed, the conversion criteria have been widened so that the proportion of applicants rated only 'satisfactory' (a grade now replaced by 'requires improvement') has risen from under 5 per cent in 2010 to 22 per cent in 2012 (NAO, 2012). Furthermore, some schools identified as under-performing have been *forced* to become Academies with the support of a sponsor (Academies Commission, 2013), despite local opposition, including from governing bodies[4].

Fourth, many of the early high performing convertor schools without sponsors operate as stand-alone Academies, but this status could be isolating. Therefore Academies, and in particular primary school Academies, may consider joining with other Academies in groups that are variously known as federations, chains or multi-Academy trusts (MATs). The operating practices of these groups have significant implications for accountability that are discussed later in the paper.

This programme[5] has been introduced in the name of providing greater autonomy from Local Government to state funded schools. Academies are described as independent schools, free to adapt the national curriculum introduced in 1990 and hitherto sacrosanct, vary the length of the school day, week or year, and vary teachers' pay and conditions. The rhetoric from supporters of the programme is that autonomy will drive up standards, although the ability to vary teacher's pay and conditions from the national bargaining structure suggests a cost cutting initiative especially in poorer regions of the country. Furthermore, since other initiatives by the Coalition government will provide similar freedoms over the curriculum for all state maintained schools, the 'freedom premium' for Academies may soon be greatly reduced (Baker, 2010).

Examining the agency/stakeholder relationships and governance mechanisms

The paper takes a critical approach to examine the changes in the agency/stakeholder relationships created by the move from maintained schools to the new organisational structure of Academies. It draws on a blend of agency and stakeholder theory to build models of the principal-agent relationships, which the paper then uses to explore the impact of the changes in organisation, monitoring and funding on accountability and governance of schools caused by the Academies Programme.

Traditional agency theory is concerned with the relationship between the shareholder as principal and the manager as agent, however Cuevas-Rodriguez *et al.* (2012) suggest that

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[4] For example a statement issued by the Coleraine Park School Governors on 12th February 2012 indicates that this Haringey school believes it has been bullied into changing status and was given no real choice of sponsor. Available at: < www.hcaa.org.uk/wp.../**ColerainePark**_PressRelease13February.doc> [accessed 29/01/2013]

[5] Along with the Free School programme which encourages parents to create new schools to increase capacity and therefore competition for pupils in a local area

drawing on stakeholder theory gives the opportunity to expand the shareholder frame to include a wider range of stakeholders, and necessarily therefore a more complex set of inter-related principal-agent relationships. Cuevas-Rodriguez *et al.* (2012:533) describe this as a recognition that 'agents sit at the center of a nexus of stakeholder relations'.

The paper defines stakeholders in the widest sense, following Clarkson's (1995) broad interpretation that stakeholders consist of anyone assuming risk in relation to the entity, whether this is on a voluntary or involuntary basis. This is appropriate given the wide range of stakeholders with which a school interacts, both directly and indirectly, including central government in the form of the DfE and the EFA, LA, governors and sponsors, parents and pupils, other members of the local community, taxpayers and citizens. Cuevas-Rodriguez *et al*. (2012) further note that several authors suggest that the division of control between a number of stakeholders acting as principals, whilst unusual in corporate practice in jurisdictions including the UK and US, can be found in other jurisdictions, including for example, Germany and Arab countries (Dixit, 1997; Tirole, 2001; Bruce *et al.,* 2005; Abdulrahman *et al.,* 2002; Rice, 2003). Dixit (1997) argues that such a requirement for managers to be responsible to a number of different stakeholders leads to a politicization of corporate governance.

Proponents of stakeholder theory (cf. Freeman *et al.*, 2010) further explain stakeholder theory as being about the creation of value for the various stakeholders which is compatible with their different needs, in effect, meaning the extraction of financial value from an organisation. They describe stakeholder needs as being 'joint, inherently tied together' (2010:27), thus meaning it is not easy to accommodate them all. This leads to a need for trade-offs as agents try to maximise financial value as much as possible for *all* stakeholders. This is of course impossible to achieve in practice, as one stakeholder's gains must necessarily be at the expense of another group (Shaoul, 1998). Moreover it is an incomplete explanation as the implicit emphasis is on the expropriation of value, whereas Shaoul's definition of the stakeholder in accounting terms as one who has a claim on the distribution of revenues (Shaoul, 1998:241) enables a clearer view of the task facing the agent in terms of trying to resolve the resulting conflict between the numerous principals. The agent cannot meet everyone's needs, instead having to make choices (or have a choice imposed upon them) about the needs of which principal(s) to privilege over others. This type of analysis therefore attempts to engage with practice and methodology in the way called for by Chapman *et al.* (2009).

The above points are applicable to this paper for the following reasons. First, although there is little literature examining corporate governance in the public sector, one clear imperative is how agents respond to multiple principals in situations where there are conflicting claims upon them.

Second, the organisation of private and public sector entities is more complex than is usually recognised in traditional agency theory. Tricker (2012) notes that, in reality companies are made up of complex networks of subsidiaries and related companies, and enter into strategic alliances with other companies. Such complexities are far removed from the simple principal-agent relationship envisaged by agency theory, and result in complicated sets of principal-agent relationships. So an agent in one principal-agent relationship may not only be the principal in another relationship, but may also be a co-agent alongside other agents. Moreover one agent may be in relationships with many principals. This is much more akin to the nature of the multiple principal-agent relationships visible in schools.

Third, as a school moves from maintained to Academy status there are some significant shifts in how its agency is constituted, with concomitant changes to its agency relationships. These issues matter because changes in agency relationships may lead to changes in the relative power of some stakeholders compared to others. This raises questions as to what governance mechanisms exist to protect weaker stakeholders and how such mechanisms are being maintained given the competing pressures on the various agents from powerful stakeholders.

In simple terms, in schools, the agents are accountable upwards to executive government, parliament and voters, and downwards to employees, parents and pupils as service users. However the roles of the LA, head teacher and governing body change significantly across the different organisational structures of maintained schools, Academies and groups of Academies. The paper has therefore used the theoretical approach outlined above to develop models showing the principal-agent relationships and flows of accountability in each of the above organisational structures.

Figure 1 shows the model for maintained schools where the main focus of the principal-agent relationship is the LA, which acts in effect as a parent organisation or holding company, as maintained schools do not exist as separate legal entities in their own right. The LA acts as the main agent in relation to upward accountability to central government, and is responsible for providing the Accounting Officer (AO). The AO is a formal role holder with personal responsibility for ensuring that public money is spent for the purposes intended by parliament (known as regularity of spending) and that proper standards of corporate governance are maintained. In this model it is the LA's AO who is personally responsible to parliament for the regularity and probity with which public funds are applied. The LA and the head teachers of the individual schools act as co-agents in terms of downwards accountability to parents, children and the local community. The governing bodies of individual schools have oversight responsibilities upwards in relation to the LA and downwards in relation to parents, children and the local community.

INSERT FIGURE 1 ABOUT HERE

As a school moves from maintained to Academy status, there are some substantial changes in the principal-agency relationships and related accountability flows (see Figure 2). Academies are structured as independent state schools run by charitable trusts (NAO 2012:5) and their agency relations have shifted from those of maintained schools towards those of private companies. Five points flow from this. First, as independent entities, Academies are in effect equivalent to stand-alone businesses in a regulated environment. In particular their legal standing is very different as they have their own legal identity, therefore the Academy is the focus for the relationships, not the LA.

INSERT FIGURE 2 ABOUT HERE

Second, the nature of the head teachers as agents has also changed as they are no longer responsible to the LA, instead taking over full responsibility for the school themselves and becoming the equivalent of the Chief Executive Officer. In addition, the head teacher is designated as the AO, implying that the head teacher is personally accountable in principle to parliament, although in practice to EFA, for financial management of the Academy. This raises questions about whether head teachers have the necessary expertise to run their school and manage the finances competently, or sufficient budget to delegate these tasks to appropriately qualified staff without diverting resource from education of children, and as was the case with LMS (Edwards *et al.*, 1995), whether this shift will further increase the power of the head teacher.

Third, the governing body of an Academy, like the Board of Directors of a company, is independent. This gives the governors more freedom as their tie to the state is diminished, thereby permitting more 'creative' decision-making to achieve Academy objectives. Such decision-making is the same as that taken by private sector boards operating in traditional principal-agent relationships and seeking to minimise agency costs. This independence may therefore change how the governing body views and balances the various stakeholder relationships. In part because it has a presence on the governing body of maintained schools, the LA has considerable control over the way in which stakeholder relationships are sustained, but Academies are not subject to such oversight and can choose to vary the way they balance the needs of different stakeholders. An additional complexity occurs when Academies are sponsored, as the sponsor will have a presence on the governing body, creating a further stakeholder relationship.

Fourth, while the requirements for governor oversight of Academies' financial arrangements have changed over time, governors now need to have the necessary skills and expertise to deliver what previously was carried out under the umbrella of the LA. Prior to September 2012, governors were required to nominate a Responsible Officer (RO), who was not an Academy staff employee, to provide independent oversight of the Academy's financial affairs, reporting on an agreed programme of internal control checks to the finance committee in an advisory capacity. The main duties of the RO were to provide the governing body with ongoing independent assurance that: the financial responsibilities of the governing body are being properly discharged; resources are being managed in an efficient, economical and effective manner; and sound systems of internal financial control are being maintained (YPLA, 2011).

From September 2012, Academies are required to have a process in place for the independent checking of financial controls, systems, transactions and risks (EFA, 2012). The Responsible Officer is one of four options offered by the EFA to address this. These are:

1. A Responsible Officer *who neither charges nor is paid* for the work
2. Internal audit service (in-house, bought-in or provided by a sponsor)
3. A supplementary programme of work by the Academy's external auditors

4. Peer review (work performed by another Academy's finance team member) (italics in the original) (Carter and Coley, 2012)

An Academy may choose to combine one or more of the options above; for example, it could nominate a Responsible Officer who then delegates some of the work to the external auditors.

Fifth, the Academy has downward accountability in relation to the parents, children and its local community (although it is unclear how broadly the latter is defined). It also has some form of horizontal accountability across to the LA. Given that the LA remains accountable to parents, children and the local community, the LA in effect has a principal-agent relationship with the Academy, at the very least in terms of the Academy, as agent, ensuring that school places are available so that the LA can accommodate all children in the LA area.

Sixth, while many Academies operate on a stand-alone basis, some have come together in small local or larger national groups that are similar in terms of operation to corporate groups. They consist of a number of Academies who cede control of their governing bodies to an executive and governing body who have overall authority and who take over the responsibility for the reporting and financial management of the whole group (see Figure 3). As for corporate groups, the upwards accountability to the EFA takes the form of consolidated returns. In addition, there is a change in the role of the head teacher, who becomes an agent responsible to the executive officers of the group.

INSERT FIGURE 3 ABOUT HERE

The examination of the way in which agency and stakeholder relationships have changed with the move from LA maintained schools to Academies and groups of Academies leads on to an analysis of how governance and monitoring mechanisms have changed in practice and what the implications may be for public accountability for revenue expenditure. The next section examines these issues drawing on the available empirical material.

Governance changes in practice

As the Chief Executive of the EFA described it, Academies are guardians of both children and the public purse. In this section we examine the role of sponsors, school governors and the head teacher in the governance of stand-alone Academies. A later section will examine governance in groups of Academies.

The role of sponsors

Although only a minority of Academies now have sponsors, the practices for appointing and removing sponsors have been questioned. For example, the Academies Commission (2013 p 9), a strong supporter of the Academies programme, calls for the DfE to design a selection process that is 'open, fair, rigorous, and supported by clear criteria', implying that previously this was not the case.   Early funding agreements, which were subsequently revised, did not give the DfE power to remove sponsors, only to appoint their own governors.

Sponsorship creates further complexity. Some Academies have multiple sponsors, for example, Bristol Brunel Academy is sponsored by both the University of the West of England and Rolls Royce plc while The Oxford Academy is sponsored by the Diocese of Oxford, Oxford Brookes University and the Beecroft Trust. A further complication is that we have identified ten LAs which act as sponsor for Academies in their area. From the LAs' perspective this provides a means of retaining influence over Academy policies, as sponsors are *de facto* members of the governing body and can also appoint further governors to represent them.

The role of school governors

It is broadly accepted that governors are central to school leadership but the Academies programme changes the nature and role of the school governor. The traditional model of a school governing body was of volunteer parents whose interest lay in just one school probably for the duration of their own child's stay at the school. Governors provided support for the head teacher. With the introduction of LMS, the governor's role expanded. Now the increased autonomy given to Academies means that oversight by governors is even more important. They have a greater responsibility for accounting to parents, other partners and local communities and should take greater ownership of accountability (Academies Commission, 2013).

School governors of Academies have legal responsibilities as directors of charitable bodies, so that the Academies model of governor is now more akin to a non-executive director of a limited company. Governors will potentially operate in a multi-school framework. Therefore Tom Clark, Chair of FASNA[6], argued governors need more sophistication and the confidence to act independently of the LA and to collaborate with other schools. They also need to understand the 'education landscape', including both strategic and operational matters, and the ability to performance-manage head teachers. Thus governance needs to be more professional and in particular chairs of governors need to be appointed in a far more professional and rigorous manner (Academies Commission, 2013). By way of support for this perspective it is noteworthy that the Institute of Directors is now offering training courses for governors in their new role, in the same way that they do for the Directors of NHS Foundation Trusts.

Given both the technical expertise required and the onerous nature of the on-going monitoring checks, this has been an area of expansion for professional audit firms, who, if appointed as auditor, can offer to assist with the monitoring checks. This of course increases costs for an Academy compared to a maintained school.

The head teacher

Head teachers, whose role is now akin to that of a chief executive of a small business, have become not only school entrepreneurs, but also Accounting Officers (AOs), having personal responsibility for ensuring public funds are properly used and deliver value for money, and

[6] FASNA (Freedom and Autonomy for Schools – National Association), an apolitical forum which seeks greater autonomy for schools in order to improve standards.

for assuring Parliament and the public of high standards of probity in the management of public funds (Treasury, 2012). The AO is responsible for all day-to-day financial matters, and is responsible to the governing body for ensuring propriety, as well as efficient and effective use of available resources. Responsibilities cover the organisation's governance statement; decision-making and financial management assurances when considering, promoting and safeguarding regularity, propriety, affordability, sustainability, risk, and value for money across the public sector; and accounting accurately, and transparently, for the organisation's financial position and transactions (Treasury, 2012). Although it is unlikely that Academy AOs would be routinely called to appear before the Committee of Public Accounts (PAC) to give evidence on their school's performance, this is in principle possible.

In practice, the head teacher may delegate these responsibilities to a director of finance. While the EFA's predecessor organisation the Young Persons Learning Agency (YPLA) (2011) suggested this would be a key appointment and should ideally be filled by a fully qualified accountant with relevant experience, this guidance has been relaxed. The revised DfE guidance no longer recommends that all Academies should have qualified Finance Directors, but does require managers to have the skills, knowledge and experience to run the Academy Trust. Since 2010, the proportion of Academy Finance Directors with recognised accountancy qualifications has fallen from 61 per cent to 34 per cent (NAO, 2012).

Monitoring and Auditing

In addition to allocating and paying the budget received from the DfE to Academies, the EFA is also responsible for financial assurance. To manage its relationship with the Academies, the EFA has allocated each Academy to one of four geographical regions each with a dedicated service team and an enquiries telephone line. Initially, the EFA required five annual returns from Academies as follows:

- General Annual Grant (GAG 2) - the budget projection by 31st July each year
- Financial statements by 31st December
- Abbreviated account return by 31st December
- Financial Management and Governance Evaluation Return (FMGE) by 31st December
- Whole of Government Accounts Return on request from EFA.

The FMGE, a detailed self-assessment *document*, was introduced in February 2011 by one of EFA's predecessor organisations[7], replacing Financial Monitoring Review *visits*. The information therein is greater for Academies than maintained schools, reflecting their greater responsibilities. An EFA representative spoke at the Academies Show May 2012 to explain that the EFA used the FMGE to examine the processes of financial oversight, financial planning, internal control, and financial monitoring at Academies, and to consider whether proper use of public funds and value for money have occurred. However, in September 2012, the FMGE was in turn replaced by a *much shorter document*, the Financial Management and

[7] The Young Persons Learning Agency

Governance Self-Assessment (FMGS). The FMGS only applies to Academies in their first year of operation before audited annual accounts have been received. Thus the information available to EFA has been reduced.

Scrutiny of the Academies begins with a desk top review by EFA officers. While FMGE / FMGS responses must include a citation of auditable supporting evidence, such evidence would only be checked if a school is sampled for a validation visit. The Head of External Assurance at EFA indicated in a seminar at the Academies Show that such visits are made to a sample of about 5% of Academies. Sampling is both random and risk based. Schools will be chosen in the risk based sample if either the school itself or the desk top review flags that there are issues at the school.

These changes mean that EFA's oversight of schools is necessarily remote, being largely based on written returns from the school and its annual financial statements. The relationship between the EFA and Academies is described as one of balancing the schools' independence, freedom and flexibility with the need for accountability for public money. Perhaps as a consequence the EFA (and its predecessor) do not overturn many self -assessments and when they do it is only a small down grade (EFA representative in seminar at Academies Show). Nevertheless, some issues have come to light in the FMGEs. For example, there were Academies with no Responsible Officer in place at a time when this was a requirement, a lack of cash monitoring, no plan for spending surpluses, no business continuity plan and failure of risk management (EFA Auditor in seminar at Academies Show).

Acknowledging that EFA's approach is hands off, its chief executive spoke of the significance of whistle blowing as a means for EFA to pick up signals about problems. However, as there are over 25,000 schools in England, all of which are being encouraged to seek Academy status, dependence on whistleblowing is unlikely to be a robust system.

In summary, this new monitoring regime represents a significant change from the more personalised relationship between the LAs and 'their family' of schools. At the time of writing, this new remote monitoring approach relates to about 10% of English schools although in some 86 LAs 50% of all state funded schools are now outside LA control (Johnstone, 2012). While the number of Academies is set to increase further, the chief executive of one large national group of Academies has suggested that scrutinising the existing Academies is a 'serious stretch' for EFA and that it may not be a sensible job for one organisation to hold so many schools to account.

EFA accepts that the rapid increase in the numbers of Academies creates both huge challenges and opportunities, and that accountability will be monitored largely through the financial statements and the FMGE/ FMGS. This raises questions about whether the financial statements are suitable for this purpose. An EFA auditor acknowledged in a seminar at the Academies Show that timeliness of monitoring is an issue and therefore EFA is looking to rely more on external auditors. Since then the Academies Accounts Direction introduces what it describes as greater simplification and autonomy for Academies. But significantly it introduces requirements for the AO to make a statement about regularity, propriety and compliance and for the external auditors to give an enhanced audit opinion. This enhanced opinion covers regularity to provide governing bodies and the Secretary of State, through EFA, with assurance so that EFA can reduce the number of assurance visits it makes and the returns it receives from Academies (DfE, 2012b).

This additional reliance on Academy audits unfortunately coincides with significant changes to the audit arrangements for local public bodies in England. Following the Local Government Act of 1999, the Audit Commission (AC) began carrying out inspections of local government services. The AC either appointed external auditors or conducted the audit itself, and its role was to provide assurance and promote value for money for taxpayers. But by November 2012 its own Audit Practice was closed and some 700 audit staff transferred to private sector employers. While the AC remains in place, its significantly reduced role now only includes oversight of audit contracts and a number of statutory functions. In relation to the future, the AC has argued that it would be preferable for an independent body to appoint the auditors for local public bodies, but as this responsibility now rests with the local body itself, the AC describes as a next best option the creation of audit committees in local bodies (Audit Commission, 2012). Whereas audit committees are common in central government and at, for example hospital trusts, only 50% of Academies currently have an audit committee (NAO, 2012). This raises questions about whether leaders in schools without an audit committee have the skills to make a sensible choice of external auditor. Furthermore, it raises questions about whether all Academies will be able to attract suitably qualified and independent people to their audit committees.

While some concern had been raised that schools might all use Big 4 accounting firms giving them a monopoly position, in practice small and local firms have acted on this opportunity to extend their business portfolios, although it is unclear whether these small companies have the specialist skills needed to conduct an appropriate audit. It is not surprising in this context that the Academies Accounts Direction (2011/12) introduced mandatory standardised terms of engagement for external auditors.

Groups of Academies

The Academies Commission (2013, p 27) identifies a number of different types of Academy groups that include (i) ‘soft’ or ‘light touch’ collaborations of school improvement partnerships and primary school clusters which convert to Academy status together for mutual support, (ii) school-led chains in which high performing schools become sponsors and (iii) ‘hard’ Multi-Academy Trusts (MAT) in which schools may have to subscribe to the Trust’s centrally mandated systems and practices in relation to governance, management, monitoring and teaching practices (Francis, 2012). In addition some sponsors have set up large national federations, where one Academy Trust operates a number of Academies. In some cases federations are divisions of larger educational or faith-based trusts. For example, the United Learning Trust is a subsidiary of the United Church Schools Trust, which also owns a number of independent schools, whilst Oasis Community Learning is part of Oasis UK, a Christian organisation which also runs housing and social projects.

As of November 2012, the Academies Commission identified 312 Academy chains including collaborative partnership type arrangements and indicated that 39% of Academies are in a chain, although this figure reduces to 28% if collaborative partnerships are excluded. As of May 2012, primary schools were more likely (45%) than secondary schools (30%) to be part of such groupings (DfE Director of Academies Delivery Group, in speech at Academies Show). Some such groups are substantially locally based, but some are national in nature.

Our focus is on the MATs because they differ significantly from the stand-alone Academies in terms of the impacts on governance, monitoring and accountability.

The role of these MATs varies – some focus on education services whereas others provide both education and financial management (and other) services. Executive Officers from a small MAT indicated to us that by joining a MAT it is likely that an Academy will lose some power in relation to the services the MAT provides, and the governing body of the school will be accountable to the MAT. Given the need for increasing professionalization of governing bodies and especially the Chair as discussed above, it is likely that a governing body and/or the Chair may be shared between schools in a MAT. This raises issues about local accountability and raises the possibility of payment, at least for Chairs.

Although at present most MATs involve a small number of Academies the potential for mega-chains exists, raising the possibility that these groups would become a middle tier in the education market, as indicated by the Chair of FASNA in a speech at the Academies Show. One small two Academy not for profit MAT, which is actively seeking new Academies to join it, said that large MATs would eventually become just like LAs. Their size would inevitably lead them to standardisation, which this small MAT regarded as counter-productive, although these respondents did identify their own organisation as a mini-LA. This is an interesting development since it is likely that the MAT would be able to exercise greater control over schools than the LAs, post LMS, although such control would have been voluntarily ceded by the schools.

Furthermore, our interviewees from the small MAT argued that strong relationships between the MAT and Academies could only really be achieved if the Academies were geographically located close to each other. That is, essentially mirroring the local relationship between a LA and its schools. A participant at the Academies Show from FASNA argued that many schools appreciated being able to turn to their LAs for advice, so that the MATs may take over this kind of support previously provided by the LAs, but this does raise questions about how the national MATs can organise their services.

The MATs also raise a number of issues from an accountability perspective. It is the nature of the schools sector that accountability needs to recognise diversity and be conscious and reflective of the local community. However is unclear how local communities can get voice in a MAT due to the elongated structure between the local community of one Academy, the MAT executive level and the EFA. On practical grounds, there appears to be an incentive for EFA to encourage the growth of large groups since it would be easier to control a smaller number of MATs than large numbers of individual schools or small MATs. The chief executive of a large federation acknowledged in a speech at the Academies Show that if the MATs become nation-wide bodies this reduces the possibilities for locally sensitive accountability. For example, he suggests that EFA would be unlikely to intervene in the workings of a MAT if just one school in the group was performing badly. This would reduce local accountability. Furthermore, whilst small groups of Academies may be local, many are national organisations, raising questions as to how well they may be able to manage downwards accountability to local communities and how the balance of national versus local stakeholders, in particular the LA, may be affected.

The creation of MATS tends to reduce the information that is publicly available. While new Academies need to provide EFA with the FMGS in their first year of operation before audited annual accounts are available, this return may not be required if the new Academy joins a MAT that is already preparing audited accounts. Furthermore, while each school in a group will retain its own budget based on its own LA funding formula, groups may choose to send to EFA consolidated financial statements for the whole entity. EFA now publishes the financial statements it receives on its website, but this means there is no guarantee that the individual financial statements for each Academy member of the MAT will be publicly available. In evidence to PAC the head of EFA indicated that the DfE was reluctant to impose a requirement to publish individual school level expenditure data as this was contrary to the intention that Academies should have more autonomy (PAC, 2013: evidence page 9).

More generally, the financial statements of Academies are not readily accessible to the public. While in the early days of the programme financial statements could be reasonably easily identified and accessed via the Charities Commission website, Academies now routinely take advantage of their right not to publish financial information at this location. To date, despite exhortations from EFA to publish financial statements on Academy websites, this is often not done. Therefore the public must either use the DfE's website, where information may be consolidated or the Companies' House website where financial statements can be purchased. However, in order to do so the user needs to know the name of the reporting trust, which is typically not the same as, nor related to, the name of the school.

Discussion – impact on accountability and policy issues

The introduction and extension of the Academies Programme has brought increasing complexity to organisational structures and governance mechanisms, which this paper has examined through modelling the relevant principal-agent relationships and accountability flows. This approach therefore seeks to make a theoretical extension to agency theory through using these models to examine the impacts occurring in practice. The paper has shown how the shift from maintained schools to Academies has created a much more complicated set of principal-agent relationships and flows of accountability.

In relation to downwards accountability to parents, children and the local community, the maintained school model (Figure 1) showed coherence as the LA and its maintained schools were jointly accountable. Under the Academies Programme (figures 2 and 3) this coherence is lost and the picture is very fragmented. In line with central government's wishes, the role of LAs is significantly diminished as they no longer appear as principals in the Academy model.

Individual Academies, as independent schools, have no clear incentive to work together with the LA on matters of local interest such as capacity planning, and already there are reports that Academies are seeking to ringfence and distort their admissions (Academies Commission, 2013). For sponsored Academies, the sponsors represent a further stakeholder relationship to take into account, which is likely to rank higher in importance than the relationship with the LA. It may be for this reason that some LAs wish to retain a stronger relationship with Academies by becoming sponsors themselves, although this further complicates agency relationships. For groups of Academies, particularly national groups, the downward accountability is further diminished due to the distance between the overall governing body and the individual local communities. All of this is important because, by removing the role of the LA, opportunities for involving local democracy in school decisions are also, at the very least diminished, if not extinguished, as indicated by the Coleraine Park example quoted in note 4 above.

Upwards accountability for an Academy is to the EFA, a central government agency with considerably more power than a LA. The EFA as principal therefore has significant authority which it can choose to exercise in relation to an Academy. The imbalance of the principal-agent relationship is thus more extreme than was the case between maintained schools and the LA, and leaves a stand-alone Academy more exposed and vulnerable. It is not yet clear what the full implications of this may be in practice, but for example it has the potential to lead quite rapidly to financial problems if performance is judged to be poor. A maintained school can have support from its LA in this position, whilst a stand-alone Academy is dependent only on itself. This gives a natural incentive to individual Academies to join together for mutual support, as this gives them more power in their role as agents in relation to the EFA, and offers opportunities for protection for weaker Academies. However, head teachers in groups effectively cede at least some of their autonomy to the executive running the group, which means that there is the potential for a power shift in terms of running state-funded education from educational professionals to business professionals, opening the door for the privatisation of schools.

Governing bodies of Academies are much more akin to those of companies in terms of their accountability. However the EFA has said that it is operating a 'light touch' regime, in order to free Academies up to focus on raising pupil performance. In addition staff numbers at EFA are small and may reduce further, meaning that financial monitoring may be minimal. This is a cause for serious concern. Already one case has been reported (DfE, 2012a) where DfE internal auditors investigated the Priory Federations of Academies Trust, finding a number of serious shortcomings in relation to the CEO and financial management of the Trust. This case is especially concerning because the YPLA had previously validated the Trust's self-assessment of its financial management and governance as 'outstanding'. Too much focus on the individual Academy, rather than the group to which it belonged, was the reason given in evidence to the PAC for this monitoring failure (PAC, 2013 evidence page 18).

Academies, as agents, make decisions which lead to an imbalance in meeting the needs of all stakeholders, within the context of the rapidly changing environment of the primary and secondary education system in England. At the heart of this programme is the government's desire to increase schools' autonomy and to reduce the LAs' role in schools. The implementation of this programme raises five policy issues which we now discuss

First, there are significant changes to the roles of key actors in the education sector which means that these actors need a new or expanded skill set. In relation to stand alone schools recruiting head teachers, who also have the ability to fulfil the Accounting Officer role, represents an obvious difficulty, even if the role is delegated. But in particular the rapid expansion of the Academies programme creates a significant need for suitably motivated and able governors to fulfil their expanded role. There will be a considerable demand for financial skills across England's 25,000 schools if suitable governors and especially chairs of governors and members of audit committees are to be recruited. Furthermore, unless the role is outsourced to auditors, under new regulations an unpaid Responsible Officer must be recruited to oversee internal controls and procedures.

While one representative of FASNA indicated that FASNA members were not experiencing problems finding governors of the appropriate calibre and that business people would fill any gaps elsewhere, another representative of FASNA and the Chief Executive of the EFA both expressed some caution about whether all schools would find appropriate governors. This must be a particular concern in areas of socio-economic deprivation and could lead to the sort of division based on socio-economic factors that Labour set up the original Academies to eliminate, unless the EFA and the Schools Commissioner[8] are able to persuade sufficient 'good' Academies to collaborate with failing schools. But this has not happened in any substantial way to date (Academies Commission, 2013).

The alternative is likely to be that schools will join MATs to share skills, in essence replacing the central skills provided by the LA with private sector provision, and relinquishing autonomy to the demands of their MAT's processes and procedures. This can lead to important decisions being taken by executive officers with business, rather than education, qualifications and experience.

Second, there is a lack of clarity about the role of the LA. While the demise of the LA in education was quite widely predicted at the time LMS was introduced, this did not come to pass, so it is interesting that in the context of the current changes most commentators do identify a LA role, but on a revised model that perhaps focuses more on pupils than schools (PAC, 2013 evidence page 17). There appears to be a consensus that the LA should retain three core responsibilities identified by Parish *et al.* (2012) in the new autonomous school

[8] The Office of the Schools Commissioner was established to support the aims of the Academies programme by improving performance across the state education sector and by extending sponsorships.

environment: ensuring sufficient supply of school places; tackling underperformance whilst ensuring high standards of education; and supporting vulnerable children. But there is much less understanding about how these roles should work in practice.

For example, Parish *et al* (2012) report that LAs feel especially exposed to the risks of managing under and over supply of school places. Schools' admissions procedures are hugely controversial in the UK so rendering any change in the power relations between stakeholders politically sensitive. Yet it is unclear how parents can best manage the admissions process for their children in areas where there is an actual shortage of places or even where there is a perceived shortage of good school places. Each Academy will manage its own admissions and is responsible for its own appeals, and yet Parish *et al* (2012) report that Academies are often reluctant to expand to create needed new places and that indeed some schools may have converted specifically to avoid such expansion. Capacity questions also have knock-on effects for the issue of disruptive and vulnerable children. Under LA control, such children were shared out across the LA schools, but in a competitive schooling environment where exam results are key, there is little incentive for autonomous schools to accept shared responsibility especially for disruptive children. All this raises questions as to how the LA can continue to carry out its duties in relation to schools when it is receiving less or no funds to do so, at a time when LA funds in general are being cut.

Third, there appear to be conflicts of interest within the LAs' developing roles. At least for the foreseeable future LAs will need to balance two different roles. While they continue to hold their traditional role as maintaining authorities for the schools that are not Academies, they will be developing a new and different type of role within the more diverse and devolved school system. But this new role appears to create tension that is felt acutely by LAs as they seek to combine roles as facilitators and enablers with responsibilities for convening partnerships, making and shaping effective commissioning and championing children (Parish *et a.,* 2012). Participants at the Academies Show had different perspectives about how LAs might operate in future.

One participant suggested that the LAs' new role should be modelled on their role in relation to housing, while a second participant argued that their role should be similar to that they currently hold for Further Education. While these are different, in both cases this would imply that LAs should hold service providers to account, and lobby government about levels of funding and quality of provision. The Academies Commission (2013) supports this position as it suggests that LAs should provide light-touch monitoring, and scrutiny of education provision, but it adds that LAs should report not only locally but also to the DfE. However, in cases where the LA is an Academy sponsor there is a conflict of interest between its role as sponsor and other LA roles, for example, in planning school places and acting as guardians and champions of the needs and interests of all children in the area (Academies Commission, 2013). Perhaps for this reason, one speaker at the Academies Show suggests a cooperative model of engagement between Academies and the relevant LA aimed at enhancing the quality of education and local accountability.

Fourth, from a public accountability perspective the limitations, identified by the NAO (2012), in the data for assessing and comparing value for money in Academies are concerning; financial data is not yet fully comparable between Academies and maintained schools, nor is it always reported at individual Academy level. Moreover the Office for National Statistics (ONS) has had to alter the way in which it calculates public sector employment, to take account of Academy staff, who are now classified as central, not local government, employees (Carless, 2012).

Finally, there is uncertainty about what happens if an Academy, now essentially a small business, or a group should fail. Given its lack of resource, local government would likely be powerless to help but if, as has been suggested, it retains a role as champion of children it would have a moral, if not legal, duty to act. While at present most convertor Academies have been in surplus at the time of conversion (NAO, 2012), clearly as more Academies convert the risk of financial failure increases. Parish *et al* (2012) note LAs' concerns that there is no clarity about how to manage the necessary re-organisation if a stand-alone Academy became not viable, for example, due to over- capacity in the area. The PAC (2013) expressed its concern that such lack of clarity could lead to delays in interventions at failing Academies. Were a MAT to fail the consequences would be even greater, so that it is imperative that clarity about responsibilities is determined.

In summary, the Academies programme creates an uneasy blend of autonomy and accountability. Even the programmes' proponents acknowledge that accountability is a big challenge, which can only be achieved with high quality independent governance. This depends upon the willingness and ability of local people to take on the governance role. In particular local accountability may be restricted by the growth of federations. Some proponents do recognise that if autonomy is not used wisely and accountability is not made to work, then the government may be forced to take a more prescriptive role. But this is essentially an insider's perspective – for the public, the real concern is the privatisation of schools which is moving rapidly but silently, and with little or no public accountability.

Conclusions

Autonomy for state funded schools necessarily creates tension, highlighted by the NAO (2010), between strong stewardship of public money and the desire for a 'light-touch' oversight regime. Concerns have been raised about the quality of financial management in Academies, most tellingly when the Comptroller and Auditor General qualified the YPLA's 2011-12 accounts. His report highlighted limitations in the Academies assurance framework, and associated compliance and resourcing issues (NAO, 2012). While the DfE did put new arrangements in place to counter these problems the NAO (2012) reports that it is too early to judge their effects. Yet in September 2012, the DfE and the EFA introduced further changes intended to reduce administrative burden on Academies, and place greater reliance on Academy auditors to obtain assurance over regularity of expenditure (NAO, 2012). There thus appears to be greater concern to progress the agenda of autonomy for schools than for the strengthening of probity over public money and public accountability.

Nevertheless in tandem with this autonomy for Academies, the reform of education has also involved the centralisation of control over schools, which has been pejoratively described as a ‘Tesco model for schools’ by opponents of reform (Shepherd, 2009). But even proponents of the Academies programme have questioned whether so much central control is effective in education. Apart from concerns about the ability of EFA to oversee the large and increasing number of Academies effectively, Jon Coles, the CEO of the United Learning Trust, for example, has called for much more local accountability and community engagement in the school governance process. He has proposed that Academies should be accountable to local, rather than central, government because the sheer number of Academies means that the current accountability model cannot be the long-term equilibrium (Higgs, 2012). It is not surprising that this thinking finds favour with most LAs which have been lobbying to retain their over sight role. However, if a national group of Academies crosses the boundaries of multiple LAs then such oversight might not be easy (PAC, 2013 evidence page 7) and would require careful management.

From a stakeholder perspective the key issue is that the way in which the Academies programme was introduced broke the downward stream of accountability from central government through the LA to the community. It is not at all clear that this loss of public accountability has been replaced by the necessarily restricted and apparently ever reducing oversight by EFA. What is clear, however, is that while the DfE has succeeded in fragmenting the LAs’ holding company role, it has not eliminated it. In a process that mirrors what has happened with buses, rail and NHS Foundation Trusts, individual Academies are now joining together in groups which are equivalent to private corporate groups.

This paper shows that the changes in the agency relationships that are taking place with the Academies Programme create more complexity and shift the balance of stakeholder requirements upwards towards the EFA and sponsored Academy groups. The Academies, as agents, are likely to seek to comply with the financial and other governance mechanisms put in place by the EFA and federations and MATs, as future funding depends on these. Whilst the head teachers’ role is strengthened in stand-alone Academies, power is ceded upwards to an executive body in groups, thus removing education decisions from the professional educators. The LA’s role as stakeholder is now very weak, although some LAs are seeking to maintain a stake by acting as a sponsor. This break- up of the state’s role is not unique to schools, as it follows what has happened with hospitals, buses and rail. For the majority of Academies, and exacerbated by the move to federations, local democracy is compromised and weakened, easing the way towards the privatisation of state schools and private control over state funding for education.

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Figure 1 Principal-agent relationships and accountability flows: Maintained Schools

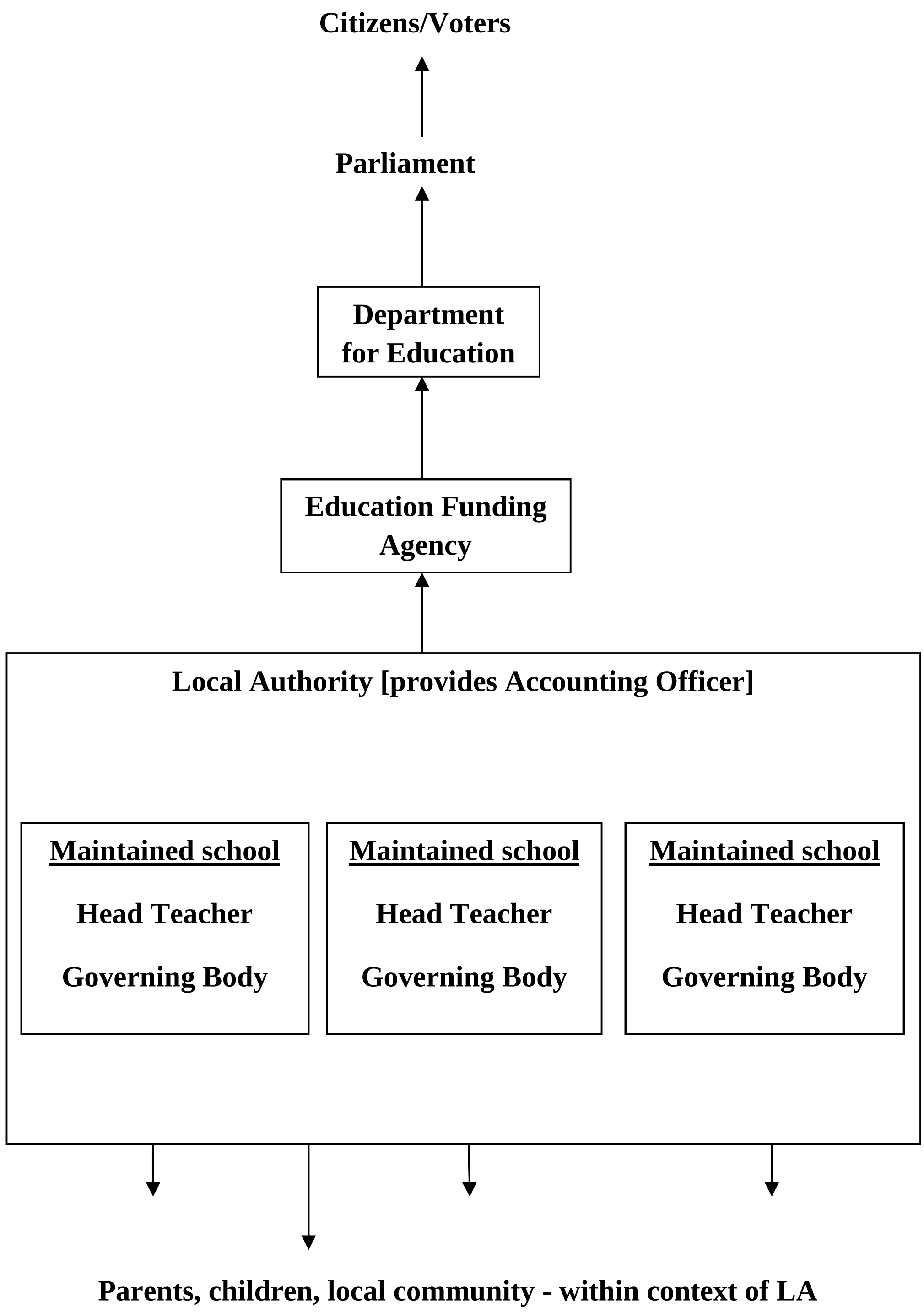

Figure 2 Principal-agent relationships and accountability flows: Academies

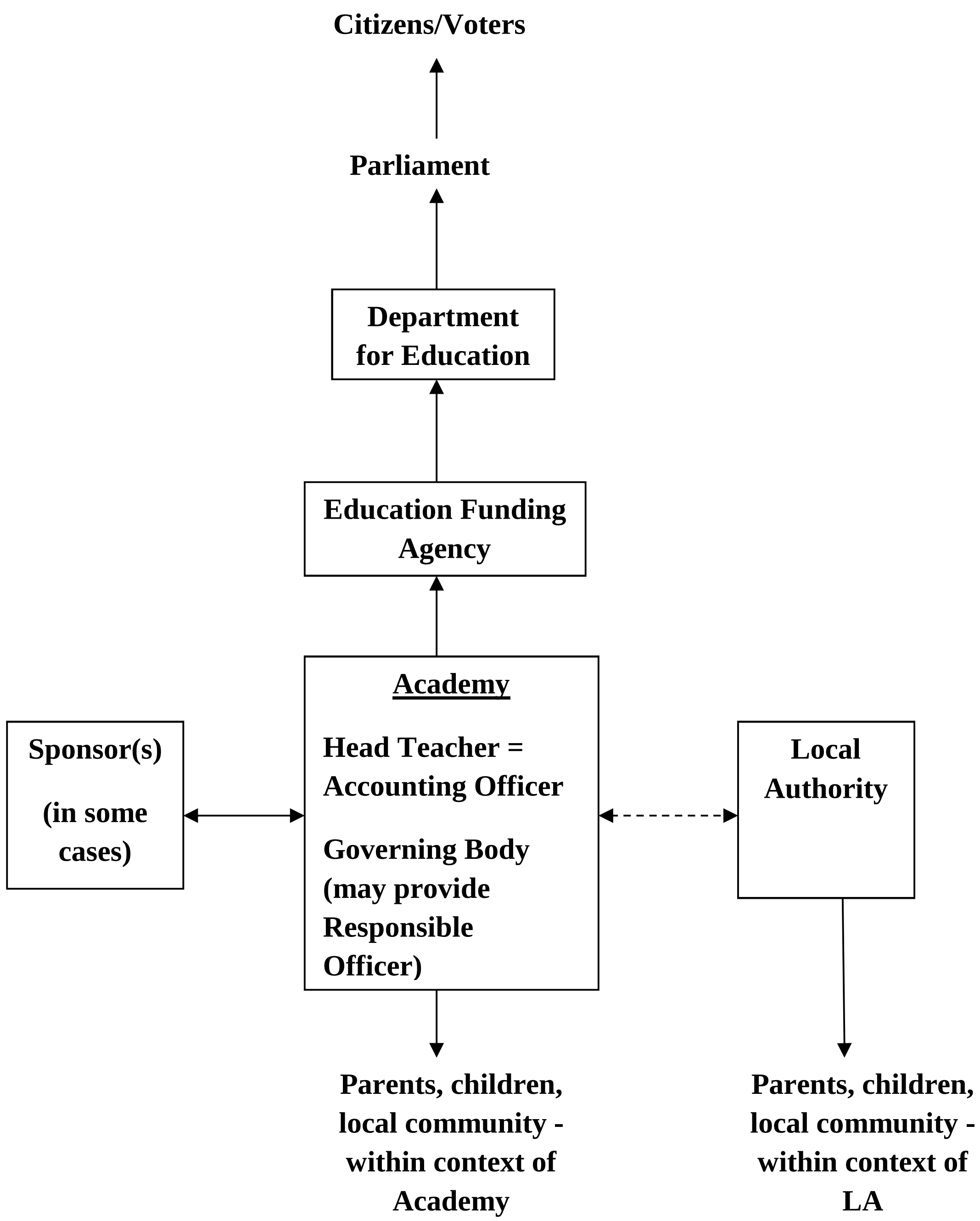

Figure 3 Principal-agent relationships and accountability flows: Federations