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SHOULD WE SHED THE MIDDLE TIER?

Report authors: Laurie Thraves, John Fowler
and Jonathan Carr-West, LGiU

UNISON
the public service union



The middle tier debate

More and more schools are becoming academies and free schools: independent of local authorities and accountable to the Secretary of State. LGiU research, conducted in partnership with the NUT and UNISON, has found that the majority of councils expect that most schools in their area will convert to academy status by 2015.¹

Conversions to academy status, as our research highlighted, are reducing the influence and resources of local government in education. This is making it harder for councils to fulfill their role as the “middle tier” of the education system providing accountability, admissions monitoring, school support services and place planning.

The result, as one education expert argues in this report, is that we are “sleepwalking into the centralisation of the education system” with up to 24,000 schools and governing bodies accountable solely to the Secretary of State.

Key findings

While the contributors to this research came from a variety of different perspectives, and political positions, consensus emerged that some kind of middle tier was required. Admissions and accountability were identified as central to the role of the middle tier since these could not be provided effectively by schools or central government.

Local authorities were seen by many contributors as best-placed to act as a middle tier. There was little appetite for the creation of new bodies, such as regional commissioners or school boards. However, there was agreement that this new middle tier role would not resemble the current local government role.

The middle tier role envisioned by contributors would, in some respects, be a reduced role in comparison with local government’s current responsibilities. There was, for instance,

This diminished role of the middle tier in the school system poses three key questions for policy makers.

First, do we still need a middle tier at all? Second, if so, what middle tier functions currently provided by local government and other organisations need to be maintained going forward? Third, how can these functions be discharged?

These questions have been the subject of extensive, and at times heated, debate. It is for this reason that the LGiU, in partnership with the NUT and UNISON, has produced this report which takes an objective look at the middle tier debate.

The LGiU conducted interviews with leading politicians, researchers and policy-makers who are engaged in this debate and, in some cases, have proposed their own models.

consensus that local government would provide a reduced school improvement and school support offer.

But there were also areas where the middle tier role would be more developed than is currently the case. In particular, there was agreement that a middle tier was a better source of strategic management and accountability for academies and free schools than the Secretary of State.

The arguments assembled in this report should give pause for thought both to education policy makers, who may see reforms undermined by “collateral damage” to important functions such as accountability and admissions, and to advocates of the status quo who have failed to recognise the need for a middle tier that evolves in response to the needs of all local schools.

1 LGiU, NUT and UNISON (2011) *The future of local government’s role in the school system*

At a time when the educational landscape across the country is changing rapidly, debate about these changes is becoming increasingly polarised and shrill.

We urgently need to establish a rounded, pragmatic discussion about the best way to organise middle tier functions within a more diverse landscape of school provision.

We hope that this report will provide a good starting point for that debate.

Interviewees

Interviews were conducted with:

- Melissa Benn, Comprehensive Future
- Cllr Judith Blake, Deputy Leader, Leeds City Council
- Caroline Boswell, Head of the Children and Young People's Unit, Greater London Authority and Head of the Secretariat for the Mayor's Education Inquiry
- Sir Tim Brighouse, Visiting Professor, Institute of Education
- Jon Coles, Chief Executive Officer, United Learning Trust
- Lucy Heller, Chief Executive, ARK
- Robert Hill, Visiting Senior Research Fellow, King's College London
- Debbie Jones, President, Association of Directors of Children's Services (ADCS)
- James Kempton, Director, Kempton Consulting
- Cllr Jane Scott, Leader, Wiltshire County Council
- Cllr Rob Wood, Cabinet Member for Children and Education, Portsmouth City Council

The functions of the middle tier

The LGiU asked interviewees to identify functions that in their view could not be discharged by schools or central government and, in consequence, required some kind of middle tier to fulfil. Functions that emerged in discussion included:

- accountability
- admissions
- school improvement and support services particularly those for vulnerable children and children with special educational needs (SEN)
- school place planning and capital allocation
- funding.

Admissions and accountability were identified as the core functions that could not be provided effectively by schools or central government and required a middle tier.

1. Accountability

Central government does, and should, provide an important element of democratic accountability for the education system. As Lucy Heller argued, any government will want to be accountable for the performance of the school system given the pivotal role learning has in the development of the nation. Indeed, increasingly, central government appears to want to be accountable for individual schools.

However, all contributors to the LGiU research argued that central government alone could not provide effective democratic accountability for the education system. Tim Brighouse argued strongly that it was simply not possible for the Secretary of State to hold each of England's 24,000 schools to account for their performance and so has instead chosen to manage them through contract law via "funding agreements".

Some have argued that governing bodies provide sufficient accountability to the local

communities that schools serve. As Jon Coles noted, however, the independence of governors is an important guarantee of their integrity. Governing bodies can lack this independence as a result of their “critical friend” relationship with headteachers. There is also the question of who should monitor the performance of governing bodies.

Contributors also raised the point that accountability focused on an individual school, rather than a whole-systems level, can have counter-productive consequences.

For instance, as Jon Coles argued, parents may support an exclusion policy that may benefit an individual school but is ultimately detrimental to the education system as a whole. Contributors argued that there is, therefore, a need for a body that is independent of schools and takes responsibility for the interests of all children.

There was broad agreement that independent inspection was not a middle tier function. Several contributors pointed out that Ofsted should provide a necessary degree of independence in holding schools to account for their performance. However, it was also recognised that high-stakes inspections by Ofsted were not sufficient to ensure the day-to-day management of schools. Debbie Jones argued, furthermore, that combining these functions “is a recipe for confusion and poor performance”.

2. Admissions

Admissions was agreed to be one of the most important middle tier functions. Contributors argued that schools cannot fully monitor their compliance with the admissions code without some guarantee of independence. Central government, meanwhile, cannot monitor 24,000 schools from a single Whitehall department.

There was broad consensus from all contributors that a local body of some sort was required to monitor compliance with the code on admissions. Tim Brighouse argued strongly that such a body was required to oversee practice on admissions and ensure equity in the education system.

There was recognition that such robust practice on admissions was not a pro- or anti-competition point. Lucy Heller argued that some local body is needed to stop schools choosing students and make parental choice real.

Similarly, Jon Coles argued that education cannot be about a narrow competition for the most able students. Rather, competition must be set within a robust framework on a level playing field.

3. School improvement and school support services

Councils currently provide a range of support services to maintained schools. These include school improvement, provision of services for vulnerable children, children with SEN, arts and cultural services, curriculum support, behaviour support, library services, buildings maintenance and school dinners.

Contributors were agreed that school improvement was best delivered by schools working with other schools to provide high-quality continuous professional development for teachers.

Debbie Jones, Jon Coles and Tim Brighouse argued that a middle tier can help develop and strengthen these partnerships. The direct provision of these services is likely to be limited going forward as a result of the impact of budget cuts, and academy conversions, on local authority budgets.

Debbie Jones did emphasise, however, that most authorities are retaining a quality team and some are even expanding to provide traded services in other authority areas. In a market scenario, school improvement services must either be high-quality and cost-effective or they will fail.

Several contributors argued that there was a stronger case for a middle tier role in securing critical and specialist services that cannot be provided by individual schools for themselves, in particular services for vulnerable children and children with SEN. However, there was no consensus on how such services should be provided.

4. School place planning and capital allocation

The majority of contributors identified the strategic planning of school places as a middle-tier function. Contributors were agreed that some local discretion on the use of capital funds to create new school places, and take redundant school places out of use, was required if sufficient good-value school places were to be created. Interviewees expressed scepticism that central government could secure sufficient school places without a local partner with local knowledge, connections and influence. Similarly, scepticism was expressed that market forces alone could create and sustain sufficient school places. Contributors noted that the location of free schools did not always appear to take account of need for additional school places.

5. Funding

The introduction of Local Management of Schools led to the replacement of locally-

determined funding for schools with a national funding formula.

Concern was expressed by interviewees about the equity of this funding formula. Tim Brighouse and Jon Coles both expressed concern that similar schools are receiving very different funding. Cllr Scott added that the uncertainty of funding arrangements from 2013 made planning very difficult, especially for vulnerable children and children of military personnel. Small school funding looks set to become another issue.

There was no consensus, however, that current variations in the funding of schools meant that funding should be a middle tier function. Tim Brighouse argued that a nationally-determined formula with a locally-determined element should be introduced to help tackle unfair variation. Jon Coles, however, argued that the problem is not a national formula *per se*. Rather, it is the fact that the national formula was based on local authority allocations at the time the legislation was passed.

Delivering the middle tier

As outlined above, contributors identified some functions that could not be discharged by schools or central government and, in consequence, required some kind of middle tier. This raises the question of how and by whom the middle tier should be organised.

The LGiU asked contributors to the research to identify the organisational means by which middle tier functions could be discharged. These included:

- local government
- local or regional commissioner
- local or regional body
- chains of schools
- school-to-school support.

A number of models have been advanced in the course of the last year. The LGiU conducted interviews with researchers and policy-makers who have made leading contributions to this debate. These include: Robert Hill who argued for education to be part of sub-regional government in an RSA report²; United Learning Trust's Jon Coles who called for a more localised approach to strategic management of academies and free schools; the Greater London Authority's Caroline Boswell who is currently undertaking the Mayor's Education Inquiry that will look at where the Mayor can add value to London's school system; and ADCS which called for councils to use statutory powers and moral influence to hold schools to account when standards decline.³

The LGiU now wants to take an objective look at the advantages and disadvantages of some

2 Robert Hill (2012) *The missing middle – the case for school commissioners*

3 ADCS (2012) *The Missing Link – the evolving role of the local authority in school improvement*

of the different models that have been proposed for a middle tier. In doing so, we recognise that there is no consensus on this, that there will be no perfect solution and indeed that the solution may look different in different parts of the country. We hope that this will provide a stimulus to a better grounded debate across the country.

There was a range of views from the contributors to the research. The majority of contributors, however, saw local government as best-placed to deliver a middle tier. There was no strong appetite for the creation of new bodies, such as regional commissioners or school boards, although a strong interest in working in partnership with these bodies where they exist or evolve in future.

There was disagreement about what this new middle tier role would mean for local government. Some contributors argued that local government would only be able to provide effective, independent challenge once its service provision role had ended. Others, however, maintained that local government's role in the school system could not survive without some kind of provision role.

1. Local government

Middle tier functions have traditionally been delivered by local government. The majority of contributors believed that local government was best-placed to perform a middle tier role. None of the contributors, however, suggested that this would amount to "business as usual" for local government.

Several contributors argued that the creation of a new middle tier was an unwelcome distraction. Melissa Benn and Lucy Heller argued that, in the current economic climate, resources should be prioritised on supporting existing structures. Jon Coles, meanwhile, argued that creation of a new middle-tier creates systems-type challenges where people have different understanding and expectations.

The majority of contributors recognised the importance of local government's democratic mandate and its local knowledge. Cllr Scott argued that local authorities combine the authority of their local democratic mandate with

on-the-ground knowledge and data. This allows local authorities to intervene early before performance issues escalate. Lucy Heller argued that a "regional office" not grounded in local accountability may not have the same credibility.

James Kempton and Debbie Jones also emphasised local government's broader-based understanding of a local area. James Kempton was critical of the way that the national system places influence in the hands of a few high-achieving schools. Local government, in contrast, is closer to people's real lives and priorities. Debbie Jones emphasised that councils are aware of non-education issues, such as the impact of the current welfare reforms on families, and can therefore help to provide effective support.

Several contributors emphasised that local government was already carving-out a new role in education and working pragmatically to support local schools of all types.

Debbie Jones argued strongly that the "important thing is to get on with the business of supporting schools". Good local authorities will continue to fulfill their statutory duties, especially around securing sufficient school places and vulnerable children. Her priority is forging on-going relationships with the family of schools.

Cllr Judith Blake, Cllr Jane Scott and Cllr Rob Wood strongly echoed this view. Cllr Wood emphasised that Portsmouth is committed to working with all schools in the local area. Schools in Portsmouth can, for instance, choose academy status with the support of the council. The council's role is to promote a common vision about what the community wants for its children, based on empirical evidence and sound data. This is done in Portsmouth through an active Schools Forum, a schools standards and improvement group and an education and skills body for employers.

Cllr Blake, meanwhile, pointed out that Leeds City Council maintains a full range of services to schools and the council is talking to the academy sponsors about maintaining these services. Her aim is for the council to achieve a

collective sense of responsibility for the school system and strong leadership in a collaborative structure.

However, there was also recognition that local authorities will face challenges in implementing this new role. Debbie Jones pointed out that there will always be a way to share hard information. However, sharing of soft information and intelligence is much more valuable – but also much harder. Successful local authorities will need to work pragmatically through existing and new frameworks such as federations.

Two contributions posed a significant paradox: that a local body needs to be both independent but also funded in some way by local schools. Currently, local authorities receive a top-slice from the government's grant to schools.

Cllr Blake was clear that local government would face “real and significant” problems in continuing its education functions if a large number of primary schools became academies due to the resources implications. The current “mass experiment” does not, in her view, give local authorities sufficient time to adapt to this changed environment. Jon Coles, however, argued that councils could only be a real provider of an independent accountability function once, as in housing, they no longer had a significant provision role.

Several contributors argued that improvements were needed in the performance of some local authorities. Lucy Heller argued that the effectiveness of some authorities, as much as the number of academy conversions, explained why the middle tier role was not being fulfilled in some cases. James Kempton, meanwhile, argued that, although we must recognise the current success of many local authorities, there is a case for removal of powers where there are unsatisfactory schools.

2. Local or regional commissioner

Directly-elected commissioners are, increasingly, regarded as one way of introducing greater democratic accountability over key services. On 15 November, the public

will elect police and crime commissioners for the first time.

The idea of a dedicated commissioner in education did not receive strong support. Lucy Heller argued that there was little point in “recreating the wheel” by setting up separate local school commissioners when one already existed in local government. As argued above, local government can draw on a more holistic understanding of an area, and more diverse powers, than a specialist education commissioner.

However, some support for the commissioner model was expressed if it operated between central and local government and assumed some of the Department for Education's functions over the local school system. Cllr Rob Wood argued that a commissioner located at this level, appointed by either central government or a group of councils, could usefully oversee strategic governance of all schools, including academies and free schools. Responsibilities could include issues such as school clustering, leadership, sustainability and regulation.

3. Local or regional body

Local or regional bodies play an important role in the governance of education around the world. In some large economies, notably the United States, education is the responsibility of dedicated elected school boards. In others, such as Germany, education is the responsibility of regional rather than local government.

Dedicated local or regional education bodies responsible for education did not receive strong support from the majority of respondents. Jon Coles argued that a local elected school board or similar could help to encourage people to vote on local education issues. However, his preference for driving participation in education decision-making would be improved public awareness of the local government role.

Considerable enthusiasm was expressed for working within existing and emerging regional structures. The majority of contributors were agreed that the UK was becoming more sub-regional. Robert Hill pointed out that there were more sub-regional arrangements with the

creation of new structures such as city region authorities, elected mayors and police commissioners. He argued that these may constitute a “back door” route to elected mayors and education cannot detach itself from this trend.

This analysis was echoed by contributors who described how sub-regionality is emerging organically. Debbie Jones argued that, in her view, there is no need for a middle-tier to necessarily conform to council boundaries. She noted that trading across local authority boundaries is already blurring the boundary between authorities.

Cllr Blake agreed with this assessment. She noted that local authorities will work together at the sub-regional level, as happens in Leeds, where a single authority is not large enough to procure or co-ordinate a service. Cllr Scott concurred with this. She was very happy for Wiltshire to work with neighbouring authorities.

Contributors were also careful, however, to place limits on the power of city regions. Cllr Blake emphasised that individual authorities must be closely involved in the governance of city regions to ensure strong local accountability. This view was echoed by Caroline Boswell who is leading the Mayor of London’s Education Inquiry. Caroline emphasised that the boroughs are the best source of this local awareness and understanding.

The Mayor of London’s Inquiry is focused on the important space that exists between central and local government in London. Caroline argued that creating new school places, a tough challenge for London, is intrinsically linked to policy areas with a strong whole-London dimension such as economic regeneration and transport. Caroline noted that investment in new educational resources, by all schools including academies and free schools, can be a vital part of regeneration.

The Mayor of London will seek to ensure that decisions about the location of new school places have the best possible synergy with other policy areas by sharing intelligence about demand, bringing players together and using his political leadership and influence to support

collaboration and networking. It is not, as noted above, about seeking to create a new bureaucratic tier.

4. Chains

“Chains” of schools are groups of schools that share functions such as procurement, strategic management and human resources.

Some education policy-makers have argued that formal or informal chains at the intermediate level would emerge organically to deliver middle tier functions on behalf of schools. However, as James Kempton noted, there is no evidence that these are emerging. James pointed out that more than half of academies are single schools and, in the case of small chains, are not strong enough to advocate at the centre.

At a national level, some strong chains have developed and are fulfilling key middle-tier functions, in particular school improvement and some school support services. Even in these cases, however, chains are not a replacement for a middle tier responsible for strategic management of the school system. As Jon Coles argued, a key quality of the middle tier is that it is independent of local schools and has a view of the totality of the local education system.

5. School-to-school support

Contributors were, as noted above, agreed that school improvement was best delivered by schools working with other schools. The middle tier role is likely to be confined to developing and strengthening these partnerships. To continue to influence the character of educational provision in their area, Robert Hill argued that local authorities will need to develop a “shared mission” with school leaders and employers around what the key things that they need to do together to improve outcomes.

However, although recognising the benefits of school-to-school support in some key areas, contributors also emphasised that a key quality of the middle tier is independence from local schools and a whole-system view. Peer-to-peer support, although beneficial, cannot provide this kind of strategic oversight and direction.

Summary

This paper aims to contribute to the debate about the middle tier in education in England by asking a number of leading practitioners and commentators for their views.

Our research found that a middle tier is needed for the efficient strategic management of the school system and that local government performs that role well. It is also healthy for democracy, giving local people a say in how their school system is run. There was no support for abolishing the local authority role and replacing it with direct management from Whitehall or with a complex pattern of academy chains.

Contributors did point to the need for central government to want to make local government's middle tier role work. James Kempton asked for central government to "talk up the capacity and power of local authorities" and to tell schools to listen to their local authority. Cllr Scott spoke of the need for central government to be clear about where the current changes to the school

system would lead over a five-year period in order to allow local authorities to manage change effectively.

Local government is central to the network of services that support the local education system. Their middle tier role is a vital complement to: their provision of social care services for children and families; their support for economic development, skills training and working with local employers; and their development of local infrastructure including transport, planning, leisure activities and public protection.

Our research found that, in the absence of a national lead, local authorities are actively seeking out and developing a middle tier role.

As Debbie Jones argued, local authorities need to actively embrace this leadership role if they are to continue to work in support of the interests and welfare of the children and young people that they serve.

Concluding essays

Schools policy needs to come from communities, not Whitehall

Dr Jonathan Carr-West, Director, LGiU. The LGiU is a localist think tank and membership organisation.

The LGiU believes that there are compelling reasons to support a middle tier of governance in the school system.

This is in part a question of practicality. We do not think it is feasible for the secretary of state to directly manage 24,000 schools from Whitehall. As the contributors to this report have demonstrated, there are a range of functions such as accountability and schools place planning that are much better delivered at a more local level.

But it is also a question of principle, or at least of principled pragmatism. As committed localists, we believe that it is more effective and more democratic when decisions are made as close as possible to the people that they most affect and when those people have the greatest possible influence over those decisions.

Schools are a vital part of our communities and schools policy should therefore as far as possible reside in those communities and not in Whitehall.

This commitment to local, community-led schools policy has consequences that are challenging to all sides of the debate. Given the different needs, resources and priorities of communities across the country, it is hard to imagine a one size fits all solution to the problems raised in this report.

Our contributors proposed different ways of organising a middle tier. There was no consensus and we believe this should be welcomed. Each of the solutions proposed had merits and disadvantages. A future system may well be emergent, variable and localised.

There's no reason why a middle tier should be the same in every part of the country. What is important is that we find ways to open up a democratic conversation with people across the country about how they want schools to be organised in their community, for their children.

Don't shed the middle tier

Christine Blower, General Secretary of the National Union of Teachers. The NUT represents over 320,000 teachers and school leaders.

I welcome the consensus that without some form of middle tier it is difficult to see how the school system as a whole will function – and that local government is best placed to perform this role. The key role local authorities play in the support system for schools must be recognised. Their role in securing democratic accountability, service provision and efficiency must not be undermined.

The NUT has long championed the vital role of local authorities in education but recognises that successive changes to the system have fatally undermined their strategic role. The NUT believes that it would be a shocking waste of expertise and resources to limit the role of local government still further.

Further, it is the view of the NUT that as national pay and conditions are important for the profession, our clear policy preference would be for all teachers to be employed by the local and diocesan authorities.

Effective commissioning, shared services and collaboration require appropriate funding mechanisms to be in place. The government's cuts, academies programme and drive to maximise delegation to schools have all had an adverse impact on the delivery of high quality support services to schools. Cuts to valuable support services are a false economy

reducing as they do high quality but cost effective support to schools, in particular support for SEN.

To ensure a fair and transparent admissions system all state-funded schools must be included. Any system should be administered and overseen at local level with independent rights of appeal by parents and carers to the schools' adjudicator or SEN appeals tribunal.

The current power of the Secretary of State to exempt some schools from their obligations under the admissions code and to vary the admissions' arrangements should be removed.

There is a great deal of expertise in school improvement among the teaching profession in schools. However, a local authority – rather than an academy chain sponsor or a private consultancy – with its understanding of the context in which its schools operate, is well placed to both co-ordinate school improvement and to provide additional expertise and capacity as required.

Mind the gap

Jon Richards, UNISON National Secretary, Education and Children's Services. UNISON is the UK's largest public service union and represents more than 1.3 million people.

The government's uneasy relationship with the role of local government in education continues. Suspicion remains that some in the government still believe that local authorities' micro-manage community schools and that councils' "education monopoly" must be broken. In reality it has been central government that has been hoovering up powers and increasing control over schools.

The rapid increase in the number of academies and reduced funding has seen key local authority roles, such as performance management and school improvement, diminished. These losses and the changing responsibility for admissions, which ought to be geographic and even-handed, will inevitably lead to an incoherent education system, undermining good government policies on access and social mobility.

It is argued that academies and free schools increase parental choice. However, as initial data seems to suggest that academies in national chains perform better than unaligned ones the government is pushing academies towards these chains. Yet this move runs counter to local innovation and also distances schools from their community as distant head offices begin to exert their control in their long march towards state funded monopolies.

The serious imbalances in the system need to be levelled. Of course central government should set strategic frameworks and be able to intervene if necessary – but how much more? On the frontline, schools should focus on the direct delivery of education, with school staff autonomy but with strong links to the community to ensure accountability. But what of admission, improvement and support services, surely these need to be separate

from schools and central government and be the responsibility of a middle tier?

Alternative middle tier structures also have their problems. How democratic, costly and accountable would appointed school commissioners be?

Elected commissioners may be democratic, but would have weak links with both local support structures and national academy chains (and as mayoral referenda have shown may not be wanted), Ofsted would be conflicted and seems easily influenced by central government.

So unless a better model is proposed, UNISON believes that local authorities remain the best model for the middle tier – albeit one that itself needs to be opened up further to transparent inspection and critical challenge.

The LGiU is an award winning think-tank and local authority membership organisation. Our mission is to strengthen local democracy to put citizens in control of their own lives, communities and local services. We work with local councils and other public services providers, along with a wider network of public, private and third sector organisations. The LGiU convenes the Children's Services Network (CSN), which provides policy briefings, reports and events for children's services professionals.



22 Upper Woburn Place
London WC1H 0TB
020 7554 2800
info@lgiu.org.uk
www.lgiu.org.uk

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