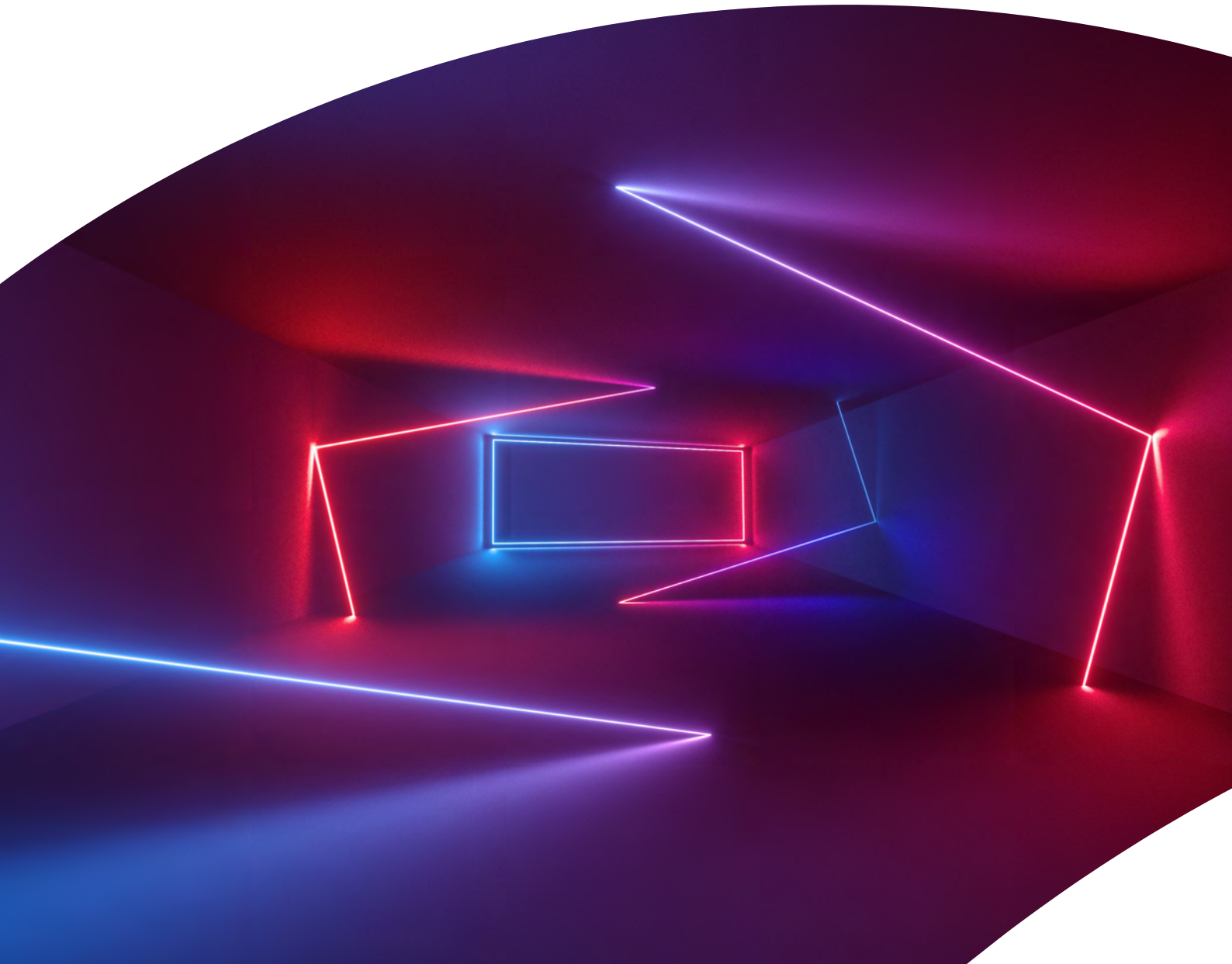
Confederation
of School Trusts

Intelligent Systems of Accountability

Part of the CST 'A Bridge to the Future' series



About CST – The voice of School Trusts

CST is the national organisation and sector body for academy and multi-academy trusts - advocating for, connecting and supporting executive and governance leaders in School Trusts.

We are a charitable company, registered with the Charity Commission. Our charitable purpose, as set out in our Articles of Association, is "the advancement of education for public benefit."

We are governed by a Board of Trustees and are subject to the regulations of the Charity Commission and accountable to our members.

We are strictly apolitical. We work with the government of the day, political parties and politicians across the spectrum to advance education for public benefit.

CST's mission is to build an excellent education system in England, with every school part of a strong and sustainable group in which every child is a powerful learner and adults learn and develop together as teachers and leaders.

Our vision is a system which holds trust on behalf of children.

Our values:

Selflessness
Integrity
Objectivity
Accountability
Openness
Honesty
Leadership

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"Teachers and learners, like others, need to be held to account, but this requires intelligent systems of accountability that do not distort primary activities. Intelligent accountability in education, as elsewhere, also needs to communicate, not merely to disseminate, relevant evidence that can be assessed by those to whom professionals and institutions are accountable."

Professor Onora O'Neill

Introduction

In this short paper, we make the case for intelligent systems of accountability built on firm principles. We explore what accountability means and why it matters in the Trust sector. We also explore what needs to be done to create more 'intelligent' forms of accountability.

We think 'accountability' is often debated but not always with a consistent meaning or intent. As a result, we tend to see policy proposals that are piecemeal or in unintended conflict rather than rooted in systems thinking. We need first to define what accountability means in broadest terms and map the territory. This paper attempts to map the territory – the systems of accountability within which trusts are located - so that specific policies are situated within a proper relational framework with clear purposes and aligned instruments.

We argue that there are three interrelated systems of accountability:

- Democratic accountability;
- Regulatory accountability; and
- Professional accountability to the people and communities we serve.

We make the case that the last of these, professional accountability to the people and communities we serve, is arguably the least developed and the most important.

We should start by saying that we do think government has a mandate to set an accountability framework for state education. If only because of the amount of public money invested, government is accountable to the taxpayer for the outcomes of the state education.

Government should set the systems of accountability within a coherent and intelligent framework to ensure the right of every child to a good quality education.

At a system level we believe there should be small number of accountability measures which are stable over time and should as far as possible not drive unintended behaviours. We do not deal with these measures in this paper. We intend to say more on this in a future paper.

Trusts as robust structures

Our premise, as set out in our White Paper on the **Future Shape of the Education System in England**, is that all schools should be part of a strong and sustainable trust. There is power in a group of schools working together in a single accountability structure. We have made the case in our **Bridge to the Future** paper that School Trusts are the most robust of school structures.

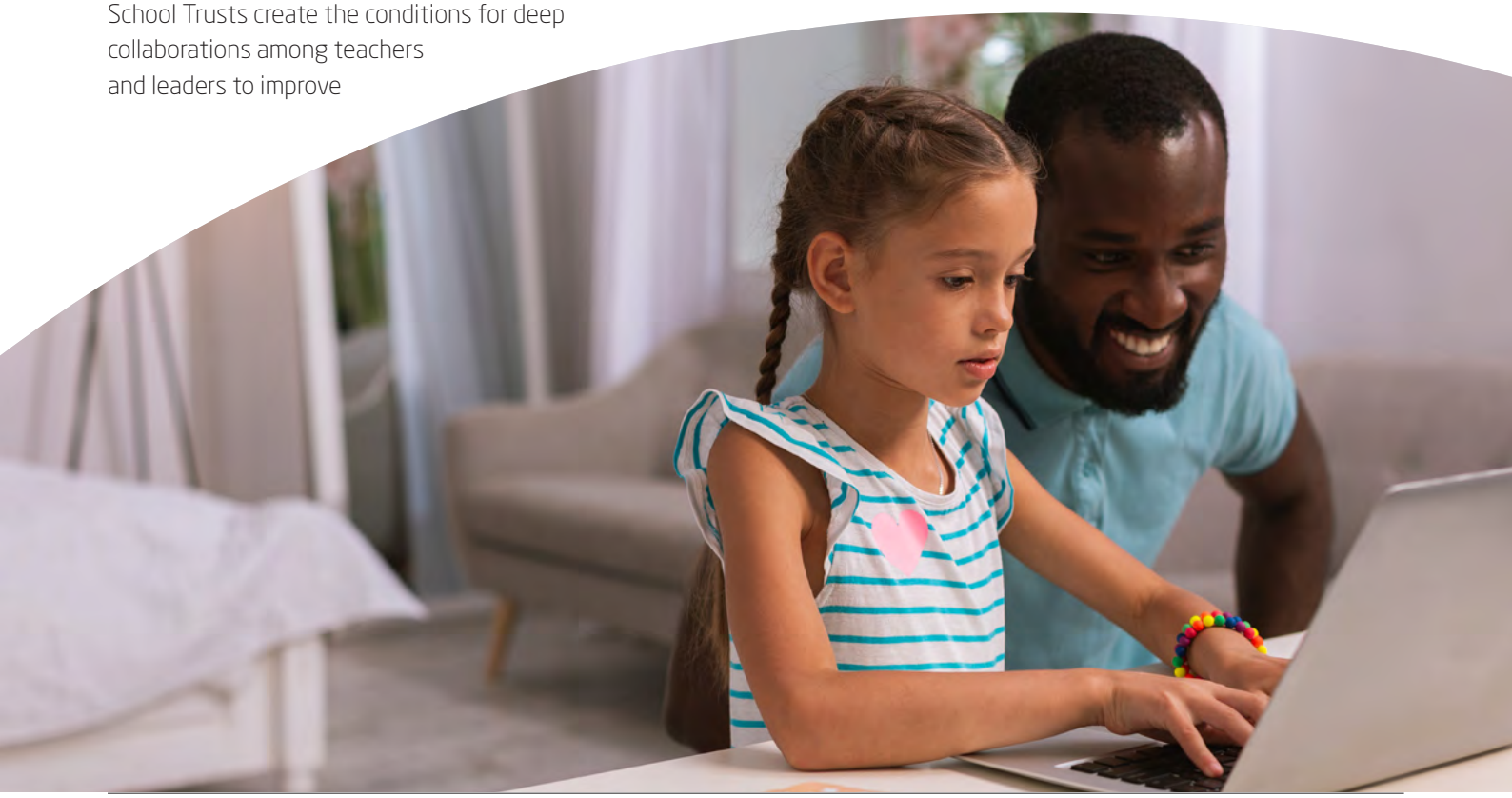
In *A Bridge to the Future*, we analysed the conflicting roles of local government in relation to maintaining schools. Already employers and improvers of schools, under the 2006 Act, local authorities also became responsible for intervening in those schools where their own improvement activity had failed. Because maintained schools are only quasi-separate organisations, local authorities using powers of intervention are essentially exercising those powers over their own functions and duties.

Governance – the first point of accountability

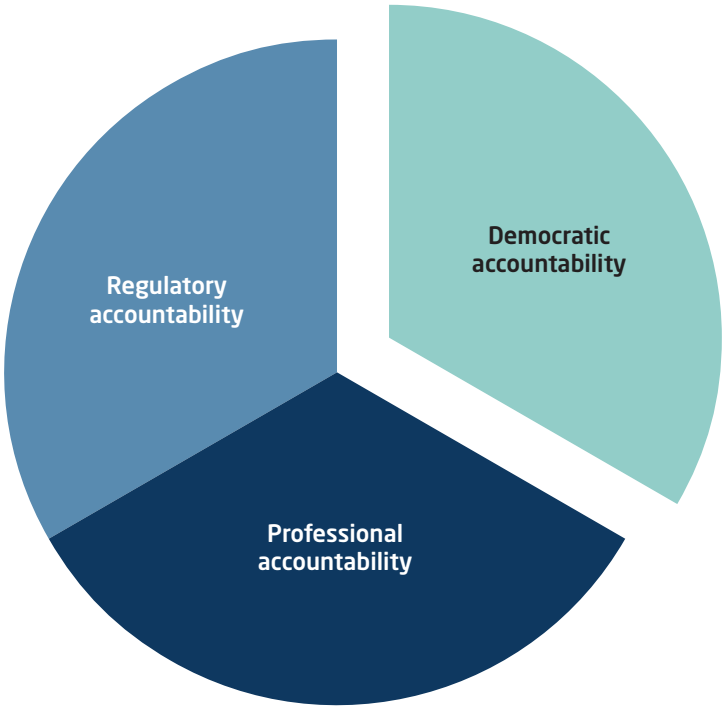
School Trusts create the conditions for deep collaborations among teachers and leaders to improve the quality of education. They are a new civic structure created with the sole purpose of advancing education for public benefit.

Ultimately the task of governance in School Trusts is to advance education for public benefit. In so doing, the Trust Board must enact a sacred duty of holding trust on behalf of children. This is a task bigger than one person – bigger than the executive trust leader, because we all have moments of blindness alongside our capacity for insight. It is a task so important that it requires a group of people, The Trust Board.

Executive leaders hold their authority, power, legitimacy, and ability to make decisions because these are delegated by the Trust Board. The Trust Board is therefore the first point of accountability. The Trust Board must be able to hold executive leaders to account. But in order to do so, they need to understand the systems of accountability within which they operate and to finely balance three different forms of accountability: democratic, regulatory and professional.



1. Democratic accountability



The principle

Democratic accountability refers to the way in which public services are held to account by government. In the United Kingdom, we have parliamentary democracy which is a system of democratic governance where the government derives its democratic legitimacy from its ability to command the confidence of parliament (the legislature) and is also held accountable to that parliament.

What does this mean and why does it matter in the Trust sector?

School Trusts are charitable organisations set up under a funding agreement with the Secretary of State for Education. As publicly funded organisations, School Trusts are accountable to government under their funding agreement. The governance instrument (the Articles of Association) has a single charitable object – to advance education for public benefit.

The most senior paid employee, the Accounting Officer, has a personal responsibility to parliament, and to the Department for Education's Accounting Officer, for the Trust's financial resources.

The National Audit Office (an independent parliamentary body) has the right to access the books of accounts and all relevant records, files, and reports of an academy trust for inspection, or for the carrying out of value for money studies. The NAO's findings are considered by the Public Accounts Committee (PAC). The PAC, a committee of cross-party MPs appointed by parliament, has the power to call anyone, including past and current Accounting Officers of a trust, to account.

Accounting officers, as leaders in public life, must also adhere to the **7 principles of public life** (the 'Nolan' principles).

Trusts are therefore democratically accountable to both government and to parliament, in a way that no other type of school is.

What more needs to be done?

School Trusts are however separate legal entities from local government. In other words they are not 'maintained' by local government. They are the accountable entity, the employer, and responsible for the improvement of schools within their group.

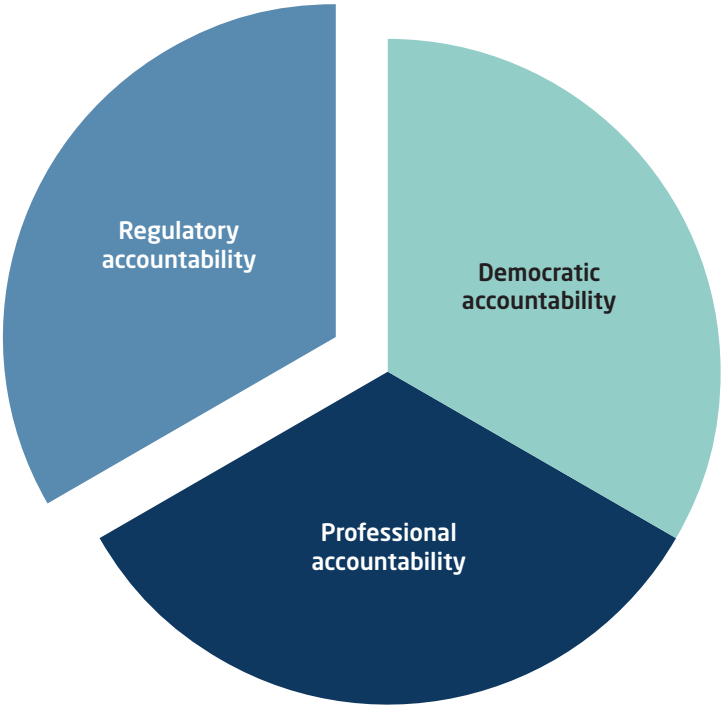
For the avoidance of doubt, we believe there is an important role for local government but not as a 'provider' of schools. The public discourse tends to conflate the democratic and administrative functions of local government.

One could argue that while local government 'maintains' schools, it is simply a provider of schools among other providers. We need to reach beyond the provider-role to articulate the democratic role local government should have in relation to public sector services like health and education.

Local government does not maintain GP surgeries or NHS trusts and it is doubtful that the public would consider this a good idea. This is because GP surgeries and NHS trusts are specialist organisations involving clinical knowledge and requiring clinical governance. A parallel can be drawn with the school sector.

We made the case in our **Systems Of Meaning Paper**, that School Trusts are a new form of civic structure. Like NHS Trusts and universities, School Trusts have their own governance arrangements but this does not preclude them from working in civic partnership with local government and other civic actors. We need to strengthen the role of School Trusts as new civic structures and recalibrate the relationship and joint working with local government.

2. Regulatory accountability



Principles

Regulations are rules made by a government in order to control the way something is done, or the way people behave. Regulation should not be confused with low-level compliance or micro-management. The most effective regulation comes from a mixture of **principles-based standards** and technical specifications. We refer to this as 'intelligent regulation.'

CST has ten principles of intelligent regulation:

1. The regulator(s) must serve the interests of children and young people and protect the quality of education, fiduciary responsibility, and good governance.
2. Regulation must be robust and coherent.
3. Regulation must be based on principles-based standards and technical specifications.
4. There should be a single regulator, separate from the funding body.
5. There should be a single regulatory framework.
6. Regulatory decision must be impartial, fair, and taken on merit, using the best evidence and without discrimination or bias.
7. The principle of transparency should apply to all regulatory decisions.
8. The power to regulate should be at the level of the legal entity/accountable body.
9. The power to regulate should include the power to enforce regulatory decisions.
10. The regulator and inspectorate should have separate and clearly articulated authority, decision-making powers, legitimacy and accountability, within a coherent approach to system governance.

What does this mean and why does it matter in the Trust sector?

It is fundamentally important to have strong and intelligent regulation in a system of legally autonomous (but highly specialist) organisations.

School Trusts are exempt charities, meaning that their principal regulator is not the Charity Commission. The Academies Act 2010 deems that all academies approved by the Secretary of State are automatically charities and that all existing academies became exempt charities when the Secretary of State for Education is their Principal Regulator.

The Department for Education has entered a **Memorandum of Understanding** with the Charity Commission which sets out the protective and support powers of the Commission and a summary of the Secretary of State's key responsibilities.

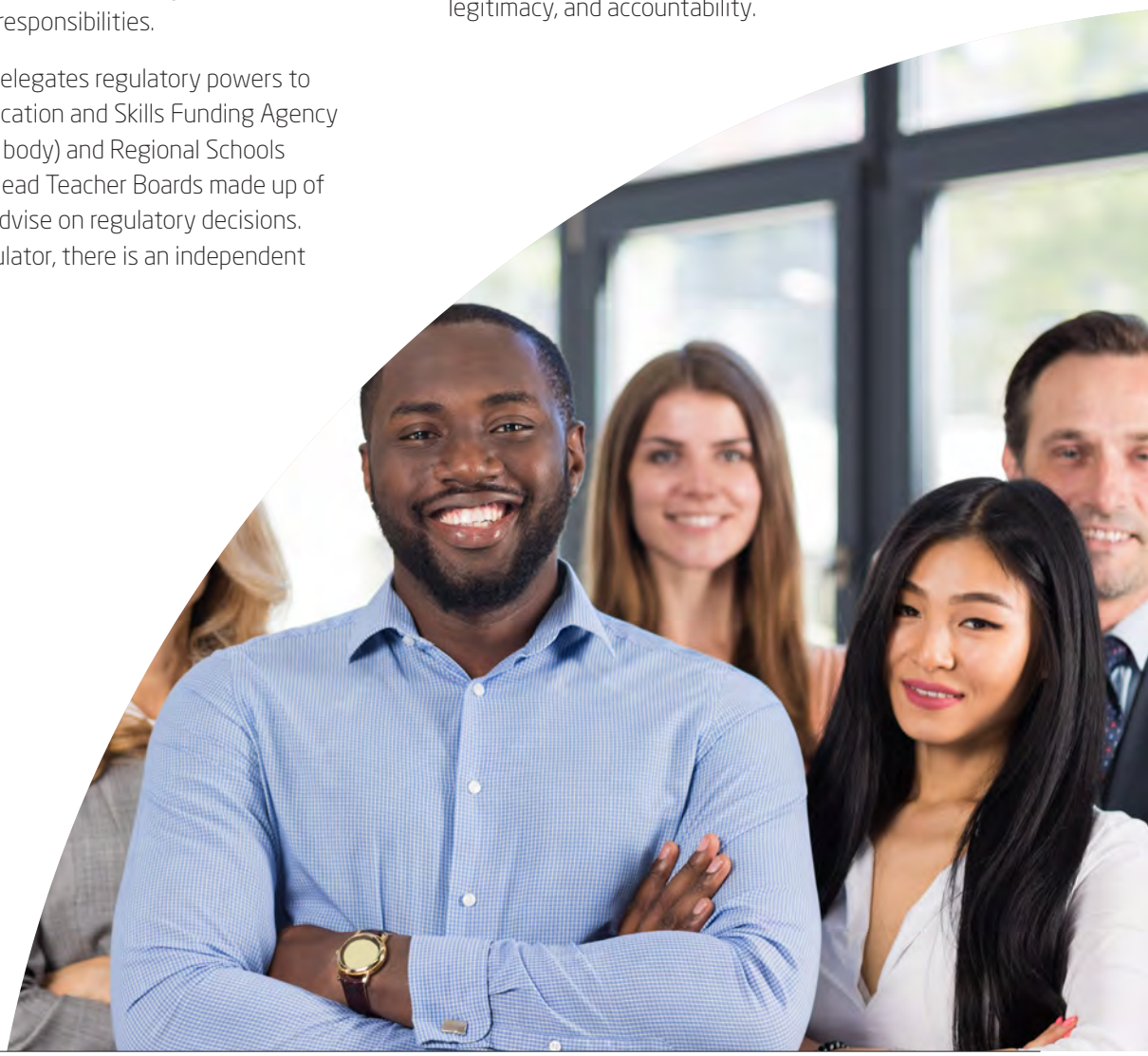
The Secretary of State delegates regulatory powers to two regulators – the Education and Skills Funding Agency (ESFA - also the funding body) and Regional Schools Commissioners (RSCs). Head Teacher Boards made up of sector representatives advise on regulatory decisions. Separately from the regulator, there is an independent inspectorate that is responsible for judging the quality of education in schools at a point in time on behalf of parents, the taxpayer and parliament. The inspectorate is not a regulator of schools.

Regulation of the sector is therefore complex and multi-faceted.

What more needs to be done?

In our White Paper, **Future Shape of the Education System in England** we made the case for a single regulator with responsibility for intervening in schools and Trusts where the quality of education is not good enough, financial management is weak and/or there is a failure of governance.

The regulator and inspectorate should have clearly articulated authority, decision-making powers, legitimacy, and accountability.

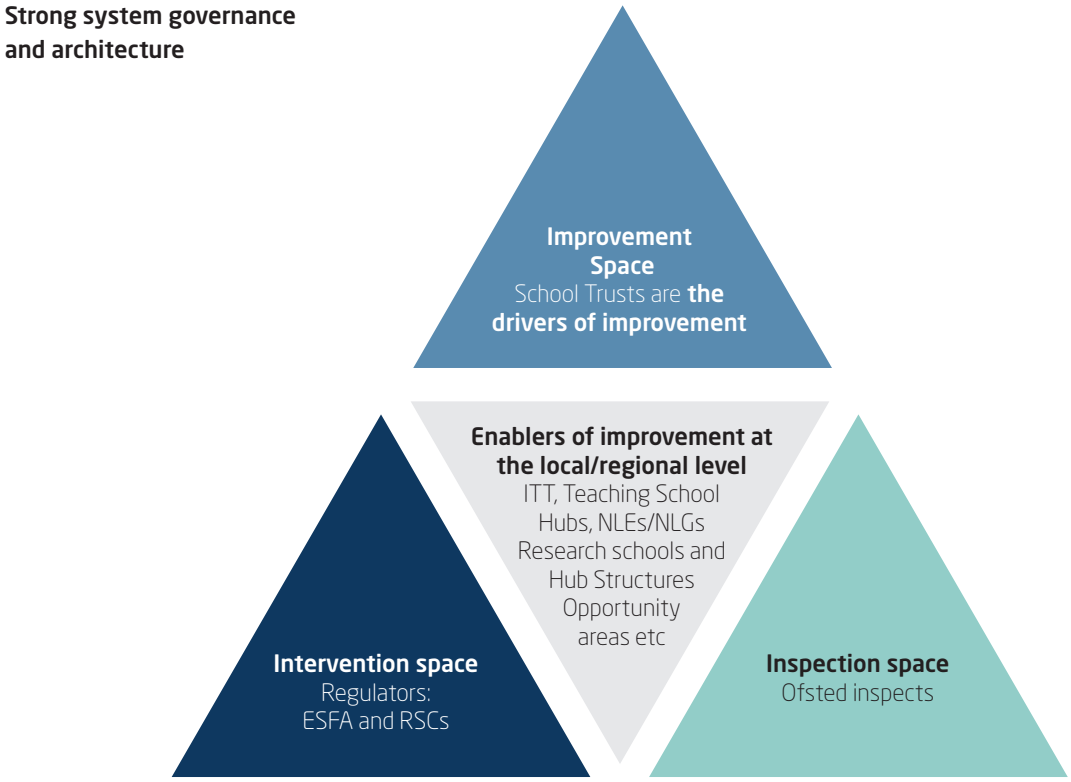


School Trusts are the vehicles of school improvement with the legal responsibility and accountability for the improvement of schools in the group.

We said in our White Paper that the Government should:

- License and grant-fund successful School Trusts as providers of school improvement and instructional leadership, while the system makes the transition to ensuring education quality through strong and sustainable groups.
- Create a single regulator by bringing the regulatory functions of the RSCs and ESFA together, separate from the funding mechanism.
- Pass legislation which allows intervention at Trust-level not just at school-level, because the Trust is the accountable body.

In a **paper** we published jointly with the Teaching Schools Council in 2018, we made the case for clearly articulated, separate spaces of improvement, intervention and inspection, within a coherent approach to system governance.



Cruddas, L (2018) **Where next for the self improving school system?** Getting system governance right, CST

The current system of regulation is weakly conceptualised, lacks coherence and was never intended for an end-state in which all schools are part of a strong trust. As we prepare for this as a direction of travel, it is essential that we consider reforming regulation so that it is **robust** and **coherent** (two of CST's principles of policy reform set out in our **Bridge to the Future** paper).

3. Professional accountability

The Principle

While both democratic and regulatory accountability are important, the **highest** form of accountability is the individual's *professional* accountability for the quality of her or his own work and to the people whom the profession serves.

What does this mean and why does it matter in the Trust sector?

This means that School Trusts should see their primary responsibility in terms of accountability to the community or communities they serve.

CST would advocate that, rather than accountability being perceived as something that is only externally imposed by the government, we could shift it in the direction of trust boards being ever-more explicit and eloquent about their vision and the measures that will evidence success. This will need to include the government's performance measures but need not be constrained by them. In other words, this involves a move to measuring what we value in our school or group of schools.

If we could harness the power of autonomy as interdependence – a collective effort to secure good outcomes – alongside a shift in our accountability system towards internal ownership, we may finally have the conditions in which the system could flourish.

What more needs to be done?

Our framing of professional accountability sits within our articulation of School Trusts as new civic structures.

In the case of civic trusts, we need to help communities develop a better understanding of education and its role in regeneration and recovery, and engage in a

collaboration of partners to deliver a coherent public services offer and perhaps even wider change and transformation in a locality or region. Civic leaders create the conditions for collective impact by addressing complex issues affecting children and young people that require different actors to work together.

Trust leaders are civic leaders. As well as leading a group of schools to give children a better future, trust leaders also look out beyond their organisation. This is part of the 'public benefit' duty at the heart of the charitable object. They work with each other in a connected system and they seek to work with other civic actors to ensure the value of the child in the locality, and that the collective actions of all civic actors protect high-quality education.

The language of civic leadership gives us a way of recalibrating our relationship with local government and other civic actors. Civic leadership is about the protection and promotion of public values and addressing issues of place or public concern.

4. Trust and accountability

In public life, we often unfortunately read of untrustworthy actions and behaviours. Within our own sector, we have seen some examples of failures of public duty. More generally in public life, we may be seeing a deepening crisis of trust and indeed a culture of suspicion. Professor Onora O'Neill explored these issues in great depth in her 2002 Reith Lectures, **A Question of Trust**. She says:

> ***"If we want greater accountability without damaging professional performance we need intelligent accountability. What might this include? Let me share my sense of some of the possibilities. Intelligent accountability, I suspect, requires more attention to good governance and fewer fantasies about total control. Good governance is possible only if institutions are allowed some margin for self-governance of a form appropriate to their particular tasks, within a framework of financial and other reporting."***

This is of course what School Trusts are – specialist organisations with self-governance of a form appropriate to the task of advancing education for public benefit, within a regulatory framework of financial and other reporting.

We may want and need more intelligent forms of regulatory accountability. But while we build the arguments for these, we can be doing more within our own organisations – within our own systems of governance – to build trust with those whom we serve. We can be doing more to enhance professional accountability.

As we set out in our **Systems Of Meaning** paper, trust leadership is also about building trust – in at least five ways:

1. **Trust as a relational principle:**

   Our education system must reclaim trust as a relational principle. By this we mean that all schools and trusts must have as a core focus, the behaviours and actions everyone will take to build trust – with children and young people, parents and the community and the wider society. Trust as a relational principle should also be at the contractual heart of employer-employee relationships. The principle of trust should represent an objective reality in our education system that transcends cultures and organisations. It is at the heart of education as a public good.

2. **Trust as a core value:**

   Trust is an essential human value that quantifies and defines our interdependence in relationships with others. As a value, trust should help us determine the rightfulness or wrongfulness of our actions.

3. **Trust as character:**

   Steven Covey[1] writes about trust being born of two dimensions: character and competence. Character includes integrity, intentions, capacity and results. This speaks to the ethics of leadership and public service.

4. **Trust as competence:**

   Competence includes knowledge, capabilities and impact. The public will not trust us unless they believe we are competent to lead and govern. Changing the narrative will require careful social persuasion based on trust as competence.

5. **Trust as a promise:**

   Kofi Annan, the late Secretary-General of the United Nations said:

   "There is no trust more sacred than the one the world holds with children. There is no duty more important than ensuring that their rights are respected, that their welfare is protected, that their lives are free from fear and want and that they grow up in peace."[2].

   As we lead and govern our organisations, we are effectively making a promise to hold trust with and on behalf of children. That is perhaps our most important accountability.

1 Covey, S. with Merrill, R. (2008) The Speed of Trust: The One Thing that Changes Everything. Simon and Schuster.
2 Annan, K. (2000) Foreword to State of the World's Children. UNICEF.