



Department  
for Education

# **Extending the academies risk protection arrangement to local authority maintained schools sector**

## **Government consultation response**

**January 2020**

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## **Introduction**

The Department has been considering extending the Academies risk protection arrangement (RPA) currently operational for academy trusts (ATs) to the local authority maintained schools (LAMS) sector in England, so that the sector can benefit from financial savings such as ATs have attained through membership of the RPA. For clarification, academies are the educational institutions maintained and run by ATs.

The public consultation exercise sought views on extending the RPA to LAMS provision and allowed respondents to express comments, views or concerns.

## **Who this was for**

The following stakeholders were identified and consulted on the proposed changes, however this was a public consultation and respondents were not limited to those listed below.

- Local Authorities (LA) in England
- Governing bodies of LA maintained schools in England
- Academy trusts
- Church and other foundation and trust bodies
- The insurance industry and suppliers of insurance services including relevant insurance trade bodies and associations

## **Consultation period**

The consultation took place from 9 September 2019 to 4 November 2019. It was conducted online using the government's consultation software, or alternatively, respondents were able to email or send a response form.

## About the consultation

### Summary

The Department proposes to extend the risk protection arrangement (RPA) currently operational for academies to the LAMS sector.

### Context

The Department commenced the RPA for academies on 1 September 2014, on an opt-in basis, as an alternative to commercial insurance.

The RPA project was initiated in order to help reduce the cost to the public purse of protecting academies against risk. In 2014 the average cost of commercial insurance for academies was £49.93 per pupil. The RPA launched in September 2014 at a cost of £25 per pupil. In the light of claims experience to date, the RPA has been able to reduce its cost to £18 per pupil in 2019/20.

We are now looking at the potential to extend the RPA to the LAMS sector in England in order to help reduce the cost of protecting them from risk.

This document summarises our proposals for change, the consultation responses to those changes, and then sets out what Ministers have decided to do.

### Proposed introduction of RPA to LAMS

- We proposed in the consultation document that in principle the coverage of the LAMS arrangement and the cost per pupil should be the same as for academies, since we believe the risks faced by LAMS are similar to those faced by ATs. As in the academy arrangement, cost for special schools and alternative provision (pupil referral units) would be expressed per place rather than per pupil.
- We proposed that it should also be possible for all primary and/or secondary maintained schools in an LA to join collectively by agreeing through the Schools Forum to de-delegate funding, as they currently can for purposes including insurance. In that case we proposed the LA would apply for membership en masse on behalf of the schools, though LAMS would become individual members and make individual claims. In order to facilitate that we intended to add the RPA to the current paragraph in Part 6 of Schedule 2 to the Schools and Early Years Finance Regulations that allows schools to de-delegate funding from their budget share for insurance.

- Subject to the outcome of the consultation, the proposed extension of the RPA to the LAMS sector would become effective from 1 April 2020. A new set of Membership Rules would be created for LAMS.

## Summary of responses received

This section sets out the views that we received in response to the consultation “Extending the risk protection arrangement to LA schools”.

In total there were 148 responses to the consultation.

**Table A – Types of respondents**

<b>Respondent Type</b>	<b>Number of responses</b>	<b>Percentage</b>
Governor	14	9%
Headteacher/ Principal Teacher	7	5%
Industry Expert	4	3%
Insurance Company Employee	2	1%
Local Authority Finance Officer	34	23%
Local Authority Insurance Manager	33	22%
Not Answered	1	1%
Other – Please provide role details	9	6%
Parent	3	2%
School Business Professional	41	28%
<b>Grand Total</b>	<b>148</b>	<b>100%</b>

A full list of the organisations that have responded can be found at Annex A.

Some respondents chose only to answer a subset of the questions that were posed. Throughout the report, the number of responses for each question is given and the percentages are expressed as a proportion of those answering each question, not as a proportion of all responses.

## Summary of main findings from the consultation

55% of respondents to the consultation supported the proposed extension of the RPA cover to LAMS. They suggested that their current commercial insurance was potentially not cost effective and they could save money if the RPA was extended to LAMS.

25% of respondents disagreed with the proposal and suggested that the current commercial market worked well and they did not consider it was necessary to extend RPA to LAMS.

20% of respondents were unsure and noted that they would need further information before reaching a decision.

The cumulative response from the LAMS related sector<sup>1</sup> was strongly positive, with 83% agreeing to the extension of the RPA to LAMS, from April 2020.

A more detailed analysis of responses to each question follows.

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<sup>1</sup> Combined responses from School Business Professionals, Headteachers / Principal Teacher, Governors and parents.

## Question analysis

Questions 1 – 8 gathered basic details about the respondent such as name, organisation and role, which we used to populate Table A on page 5, above. The full consultation questions document can be found at Annex B.

### Question 9

*Does the proposed RPA cover of Local Authority Maintained Schools impact you or your organisation directly or indirectly? Please let us know what the impact would be, and if this would cause any concerns or issues?*

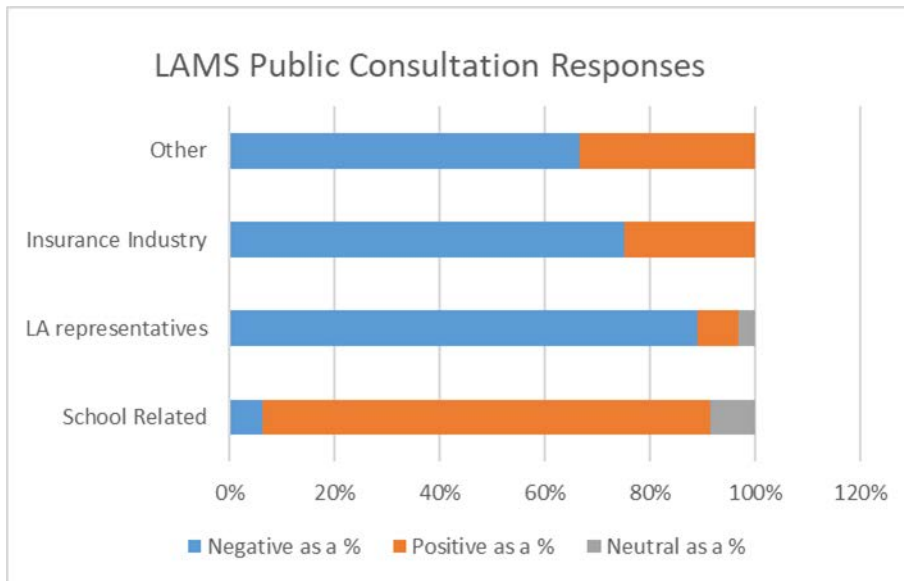
There were 147 responses to this question, however there were a number of respondents who answered yes to this question and offered no comments, so we are unable to describe the potential impacts. There were also a number of responses where comments were received but the impact was unclear.

Respondent Type	Negative	Positive	Neutral
Governor	0	8	1
Headteacher/ Principal Teacher	1	3	1
Industry Expert	2	1	0
Insurance Company Employee	1	0	0
Local Authority Finance Officer	27	4	0
Local Authority Insurance Manager	30	1	2
Other – Please provide role details	4	2	0
Parent	0	2	0
School Business Professional	2	27	2
<b>Grand Total</b>	67	48	6

Responses were analysed by respondent category: **Schools Related** represents the schools sector and comprises School Business Professionals, Headteachers / Principal Teacher, Governors and parents; **LA representatives** include Local Authority Insurance Managers and Finance Officers and **Insurance Industry** includes Industry Experts and Insurance Company Employee.

Respondent Category	Negative as a %	Positive as a %	Neutral as a %
School Related	6%	85%	9%
LA representatives	89%	8%	3%
Insurance Industry	75%	25%	0%

Other	67%	33%	0%
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The information below is in relation to the 121 respondents who provided comments.

55% of respondents suggested that there would be a negative impact on them or their organisation. 40% said that the impact would be positive and there were a number of comments, 5%, where the impact was considered neutral even though comments had been provided.

However, of the 55% who suggested there would be a negative impact on them or their organisation, almost a quarter also supported the extension of the RPA.

When comparing the responses received by the respondent category, it reveals an overwhelmingly positive response of 85% from the school sector community itself. This is distinctly opposite to the view of the LA representatives and the insurance industry, which viewed the impact of extending the RPA as negative, at 89% and 75% respectively.

Specific recurring themes that arose from the 121 responses to question 9, are as follows:

- 26% of respondents suggested that the introduction of the RPA to LAMS had the potential to save money. Some respondents provided examples relating to their current insurance costs, noting the savings they could make if the scheme was introduced. They suggested it would provide schools with a cost effective alternative to insurance and a commercial bartering tool with private providers.



- 14% of respondents also suggested that reducing the cost of insurance would mean that the savings realised could be reallocated to teaching and learning, leading to positive impacts on student outcomes.
- 14% of respondents suggested that they would need further information before they could make a decision on potential impact. They suggested that they would need to undertake a full comparison of covers before they could decide, including how the RPA would compare to their current arrangement, in terms of items such as coverage and the claims process.
- 45% suggested that the introduction of the RPA to LAMS would weaken their own in-house insurance schemes through loss of economies of scale and a reduction to the diversification of their assets, where the removal of low risk schools may impact on the remaining high risk areas. There was also some concern that there may be job losses in LA teams who deal with insurance for maintained schools.
- 33% of respondents said that if the RPA was introduced and schools left LA provision then the remaining insurance would potentially be more costly: they suggested there are economies of scale in the pricing of LA insurances. There were also concerns that removing schools from the LA insurance arrangements could impact the ability of the LA to spread the cost of risks.

The following comment was also submitted by a number of respondents:

*“Whilst the Council's spend on property insurance will reduce when schools are removed from our insurance portfolio, it is highly unlikely that spend on the public liability premium will reduce. This is because highways, children's services and social care are the main areas of risk and premiums reflect this. As a result, we will have to meet a greater share of the cost of premiums as there will be a smaller base to share this cost. This will mean the cost to other Council services is likely to increase.”*

- 28% of respondents noted that they currently received good risk management processes and policies with their current providers, with regular audits and some provision of training of staff. Some respondents suggested that the RPA appeared to offer little or no risk management support and asked how the RPA would incentivise schools to improve their risks.
- 25% of respondents indicated that the LA would still retain some obligations if a school joined the RPA. They noted that accountability and the duty to educate remained with the LA and that the LA retained ownership of school property and associated liabilities relating to providing an education service. Some respondents suggested that the RPA did not cover all risks that a school was required to insure against. LAs noted that they would have to have a process in place to check that the

buildings they owned were adequately insured as there could be an increased chance that some schools could potentially fail to arrange all the required insurances and the LA and the School could be exposed to uninsured losses. It was also noted that some schools were used for out of hours activities and non-educational purposes e.g. polling stations and questioned whether the RPA covered these uses.

- 25% of respondents suggested that additional covers, such as motor vehicle and engineering were needed as they were currently provided with these by their current insurance. Respondents also noted that they would like works in progress and travel insurance included in the scheme, despite these being already provided by the RPA. Other respondents suggested that the £250,000 works in progress limit was not sufficient.
- 25% of respondents suggested that the local knowledge and information insurance companies had built up was invaluable. Respondents noted that LAs had close working relationships with their maintained schools and the proposed introduction of the RPA could potentially remove the local knowledge and face to face relationship often needed to deliver specific insurance issues. They also suggested that a personal service where they dealt with queries on behalf of schools limited the amount of time/involvement needed by school staff.
- 22% of respondents noted that their current insurance supplier had a well-established and effective help and advice structure and questioned whether this was replicated in the RPA provision. Respondents said that LA insurance teams had local knowledge, experience, skill, contacts and an interest in dealing with school claims. They noted that many schools relied on them as they did not employ insurance personnel themselves and queried if the RPA would provide this.
- 16% of respondents commented on current RPA processes or rules noting that;
  - The proposed level of cover in places does not replicate those currently offered.
  - There would be an additional requirement for schools to raise and manage any insurance claims themselves.
  - Support would still be required from schools who joined the RPA to gain cover for motor, works in progress and engineering and it is unclear how this would be funded, premium and arrangement wise.
  - The specific nature of some schools means that the governing body makes a capital contribution of 10%. It is important that the scheme is suitably amended to reflect the different position of VA schools compared to other maintained schools.
  - It is noted in the proposal that there will need to be an adjustment in the wording to reflect that the LA owns the premises and employs the staff. There is, however, no acknowledgement that in Catholic VA schools the

diocese/religious order owns the land and the governing body is the employer of the staff.

- 12% of respondents suggested that while the majority of insurance policies tended to be annual, many LAs negotiate Long Term Agreements (LTAs) to avoid annual tendering and also usually receive a discount. It was noted that although individual schools still had the option to opt out of existing LA insurance arrangements, the removal of an entire school portfolio could have an impact on an LTA, potentially to the financial detriment of the LA which could be in breach of the agreement.
- 12% of respondents suggested that under the RPA proposals, LAs would potentially lose control of funding and decision making in schools to central, rather than local government, in the event of a major loss or problem arising.
- 10% of respondents noted that they would need additional information concerning the RPA to compare the levels of cover provided by their current supplier, before they could make a decision.
- 6% of respondents questioned how much consideration the Department had given to legacy claims and questioned if the LA would be left to respond to any legacy claims such as historic abuse, dyslexia and industrial disease (e.g. mesothelioma) without any ongoing contribution to the Insurance Fund from LAMS.

## Question 10

*In principle, do you or your organisation support the proposed extension of RPA cover to Local Authority Maintained Schools?*

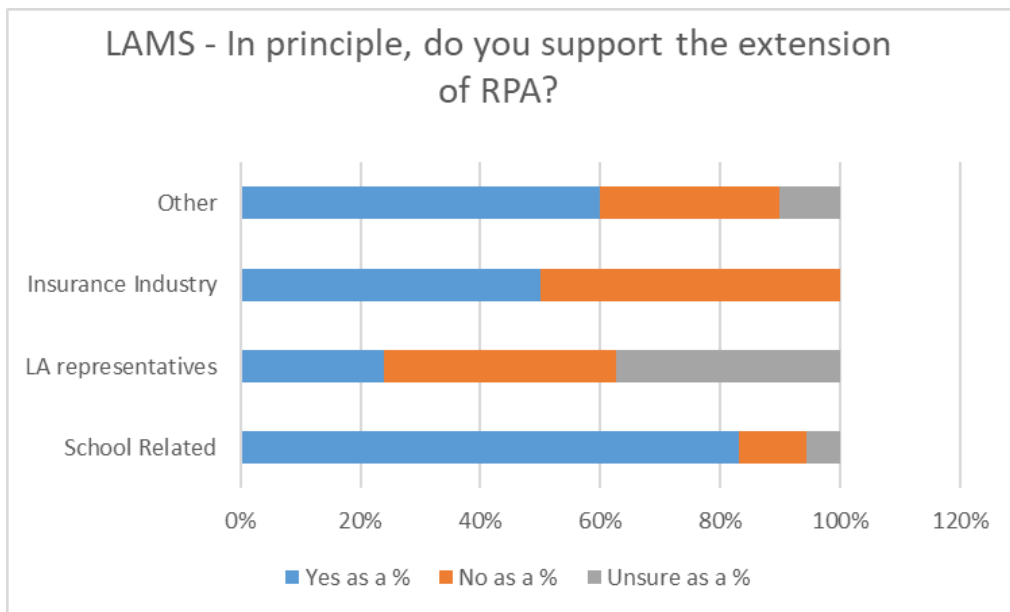
There were 148 responses to this question		
Options	Responses	
Yes	81	55%
No	37	25%
Unsure	30	20%

Respondent Type	Yes	No	Unsure
Governor	9	4	1
Headteacher/ Principal Teacher	5	1	1
Industry Expert	2	2	0
Insurance Company Employee	1	1	0
Local Authority Finance Officer	6	14	14
Local Authority Insurance Manager	10	12	11
Other	6	2	1
Not Answered	0	1	0
Parent	3	0	0
School Business Professional	39	0	2
<b>Grand Total</b>	<b>81</b>	<b>37</b>	<b>30</b>

There were a total of 148 responses to this question.

Responses were analysed by respondent category: **Schools Related** represents the schools sector and comprises School Business Professionals, Headteachers / Principal Teacher, Governors and parents; **LA representatives** include Local Authority Insurance Managers and Finance Officers and **Insurance Industry** includes Industry Experts and Insurance Company Employee.

Respondent Category	Yes as a %	No as a %	Unsure as a %
School Related	83%	11%	6%
LA representatives	24%	39%	37%
Insurance Industry	50%	50%	0%
Other	60%	30%	10%



The majority of respondents (55%) agreed with the proposed extension of the RPA cover to LA maintained schools.

When comparing the responses received by the respondent category, it reveals a strongly positive response from the school sector of 83%. The LA representatives' response was more mixed with 24% in favour of the introduction of the RPA and 39% against. The insurance industry representatives were split 50/50 on the proposal to extend the RPA.

Specific reoccurring themes that arose from the 148 responses to question 10, are as follows:

- 16% of respondents reiterated that the introduction of the RPA to LAMS would save them money by significantly reducing the cost of their insurance. It was suggested by one respondent that the money they could potentially save would be commensurate to the cost of a newly qualified teacher.
- 16% of respondents suggested that they strongly supported the introduction of the RPA as it redressed an unfair difference between academies and maintained schools.
- 25% of respondents disagreed with the proposed extension of the RPA cover to LA maintained schools.
- 18% of respondents indicated that they would need additional information concerning the RPA to compare the levels of cover provided by their current supplier, before they could make a decision on the validity of introducing the scheme. It was also noted that there was a concern that the RPA was still a relatively immature scheme and the information available on performance

measures was largely unknown. There was also concern noted about the resilience of the scheme and its sustainability in the event of sustained large scale liability or property losses.

- 14% of respondents said that their current LA insurance scheme works well. LAs had close relationship with schools giving risk advice and policy cover guidance and support when claims occurred. Respondents believed that their current insurance regime had developed through a longstanding relationship with insurers, meaning that both schools and LAs had confidence in the insurers' ability to meet their needs. 5% also commented that they a good working relationship with their LA.
- 9% of respondents said that the cover offered by the RPA would need to be similar to or better than the cover they already had.
- 9% of respondents asked if the RPA was legally obliged to pay out on claims. There were a number of similar comments, which suggested "the RPA, like a discretionary mutual, was not contractually obliged to pay out on claims or replace like for like in the event of a claim".
- 9% of respondents suggested risk management was an issue they were concerned about. They said that their LA undertook school surveys to help identify risks, and made recommendations for improvement. They believed that the RPA did not undertake risk surveys or audits and had no way of ensuring standards were maintained or risks improved.

## Question 11

*Have you any comments on what adjustments you think would be needed to the rules of the RPA to cover the circumstances of Local Authority Maintained Schools?*

There were <b>148</b> responses to this question		
Options	Responses	
Yes	70	47%
No	72	49%
Not answered	6	4%

44% of respondents did not offer any comments for this question, and of those who did there were few comments on the adjustments needed to the rules.

16% of respondents suggested that additional covers were needed. Those respondents who realised that works in progress cover was included in the RPA suggested that the limit would need to be raised, while those who were not aware suggested that works in progress cover would need to be added. Respondents also noted that their current cover included motor insurance and engineering inspection arrangements to meet statutory requirements. Some LA respondents suggested that motor and engineering cover would not be available in isolation.

16% of respondents said that they would need more information asking;

- Will there be a lower rate for PFI Schools who pay for Premises/Building Insurance via the PFI Unitary Charge?
- How can LA schools have a direct insurance relationship with DfE?
- Will the RPA cover the use of the school for non-educational uses such as hire, community events and polling stations?
- Is the proposal that individual governing bodies of LAMS can agree to join the RPA individually or is it only collectively via a vote process through the Schools Forum?
- There will need to be clarity in respect of the RPA that recognises the potential differences in liability arising from differences in status, particularly voluntary aided and community schools. In the case of voluntary aided schools, the governing body is deemed to be the employer whereas, in the case of community schools the LA is deemed to be the employer. Similarly, in the case of premises, the LA owns the land and premises of community schools whereas ownership of VA schools is usually with the church authorities. How will the RPA deal with this?
- Presently the rules are amended for church academies in the following ways: The rules apply where the trustees of a church organisation allow an academy to occupy their property. Under the rules those trustees:

- 1) Are covered for losses and liabilities they may incur through the school occupying the property
- 2) Can make claims on behalf of the occupier for those losses and liabilities
- 3) Can have those claims paid directly to them; and
- 4) Can use the complaints and arbitration procedures about those claims.

It was felt unclear if the expectation was that these rules would be implemented for Church VA schools as they stood or if they were to be modified.

- It was noted that Catholic Academies are only permitted to join the RPA if they have received approval in writing from the Trustees. Respondents asked if this rule would apply to Catholic LAMS schools.

17% of respondents suggested that there would not be many differences and that the rules should be similar to academies.

10% again noted that there appeared to be no incentives for schools to manage risk.

10% said that there were few if any changes needed to the rules and that the proposal appeared fair and commensurate with current arrangements for academies.

8% of respondents asked if there would be an individual choice for LAMS schools to join or if the decision is an authority wide decision taken by the Schools Forum.



## Question 12

*Have you any comments on the proposed arrangements for adjusting budget shares and DSG and amending the regulations in respect of the RPA?*

There were <b>148</b> responses to this question		
Options	Responses	
Yes	55	37%
No	90	61%
Not answered	3	3%

The majority of respondents (61%) did not offer any comments for this question.

16% of respondents noted that they agreed with the proposals, that the proposed arrangements were sensible and straightforward and agreed the DSG reduction was the simplest method.

12% of respondents felt that the process would be complicated and noted the following:

- Not all schools would necessarily want to join the RPA and they may have different renewal dates for their existing insurance policies. Mass de-delegation would therefore probably not be practical.
- Some schools currently purchased insurance via a 'buy back' scheme which respondents suggested was straightforward to administer. They said that the proposals for adjusting budget share for individual schools or to de-delegate funding seem slightly more complicated.
- It was noted that for individual LAMS joining the RPA there was a need to minimise the administrative complexity of this option by having a clear cut-off date for opting into the scheme and perhaps also requiring a multi-year buy in to the RPA.
- It was suggested that the financial mechanism to adjust budget shares would not work for maintained special schools as de-delegation did not apply to them and their funding was not calculated via the APT. Respondents questioned how the Department proposed to deal with this.

10% of respondents noted their concern around timescales. They suggested that schools could have different renewal dates for their existing insurance policies and mass de-delegation might not be practical. Respondents also suggested that the timing of when the cost of the following year's scheme was notified was important, both to allow schools to undertake commercial comparisons and to allow Schools Forums to consult on de-delegation. It was suggested that as the de-delegation decision was aligned to financial years and not academic years, that should the RPA extension

proposal go ahead, this should be from April 2021 at the earliest i.e. LA consultation with the LAMS from October 2020, for a decision in November 2020.

## Government response

### Summary

The government has carefully considered the responses to the consultation and has noted the difference of view between the school related responses to the proposed extension, and those from LA representatives and from the insurance sector. The strong response from schools that they would wish to see an extension of the RPA to cover LAMS, because of the potential financial benefits, creates a strong argument that the RPA should be extended to LAMS with effect from 1 April 2020.

Whilst we note the reasons for objections from the LAs and from the insurance sector, we are more persuaded by the benefits that schools could derive by being enabled to join the RPA. This will be a voluntary scheme for LAs and their schools. Our purpose is to offer choice, reduce the cost burden and where possible widen the offering of risk protection cover. We are content that where the LA or the insurance sector offers good value for all schools, then we are happy for schools to continue with these arrangements. However, where schools consider that this is not the case, then they will now be given the opportunity to join the RPA with effect from 1 April 2020.

**After careful consideration of the responses and measuring the pros and cons of the proposal, Ministerial approval has been given and changes to the School and Early Years Finance regulations have been put in train to allow for the RPA to operate for LAMS from 1 April 2020.**

Once these arrangements are in place, we will continue to review market behaviours and listen to LAs to assess changes in the market or impacts on the LAs over time. We are considering carrying out a survey after a period of operation.

### Response to comments

The key question asked in the public consultation was “*In principle, do you or your organisation support the proposed extension of RPA cover to Local Authority Maintained Schools?*”. Of the 148 responses, 81 were in favour of extending the RPA (55%), 37 were against (25%) and 30 were unsure (20%).

Of the school related respondents, 83% were in favour. This is a positive outcome of the public consultation which we believe reflects the importance of extending the RPA to LAMS.

Responses from the LA respondents show that although 39% were against the proposal, 24% were in favour of extending the RPA and 37% unsure.

The picture is also unclear from the insurance industry respondents, with 50% in favour and 50% against the proposal. However, we do know from their response that ABI are strongly opposed to the extension and they represent a number of commercial insurers who are active in the education sector.

In response to Q9 “*Does the proposed RPA cover of Local Authority Maintained Schools impact you or your organisation directly or indirectly?*” there was a clear distinction between the school sector and the LA / industry representatives.

The comments from the school sector demonstrated a significantly positive response with 85% of the comments detailing the benefits of the RPA to LAMS. This cohort of respondents recognised the potential savings that could be made on the procurement of risk cover, which would remain within the budget of the school to improve student outcomes. Respondents who suggested there would be a negative or neutral impact felt it would be difficult for LAs to manage the duty to educate and were concerned the LA could potentially lose control of their reinstatement and business continuity arrangements. A small number of respondents suggested their current insurance costs were less than the proposed RPA rate.

Analysis undertaken based on the 2017-18 consistent financial reporting (CFR) insurance spend figures indicated that the average annual spend per pupil in the LAMS sector was approximately £44. Compared to the current<sup>2</sup> £23.67 per pupil per year overall spend on risk cover for an RPA member an average saving of £20.33 per pupil per year is potentially achievable, reinforcing the case for the RPA to be extended into the LAMS sector. The latest analysis based on 2018-19 data published on 13 December indicates that the annual spend per pupil in the LAMS sector is now £41 per pupil. Whilst this reduces the potential average saving to £17.33 per pupil, it remains a meaningful level of savings to schools.

Conversely, comments from LA and insurance industry representatives were predominantly negative with 89% and 75% respectively detailing the perceived disadvantages of extending the RPA. Assessment of the comments from the LA Insurance Managers and Finance Officers indicate that there is widespread misunderstanding of how the RPA currently operates. Respondents that were positive about the extension of LAMS welcomed the opportunity of increased competition to the insurance market and potentially the transfer of the liability and property risk away from the authority.

In response to this, an overview of how the RPA currently operates is provided and the specific points raised are addressed below.

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<sup>2</sup> Calculated from the academies accounts return data for 2017/18

### Current RPA operation

The RPA is not an insurance scheme but is a mechanism through which the cost of risks will be covered by government funds. It is a voluntary arrangement currently available to all ATs and multi-academy trusts (MATs), including free schools, 16-19 academies, schools designated with a religious character that are academies, special academies, alternative provision academies, UTCs, studio and PFI schools.

Since it was launched in September 2014, over 6,100 academies have joined.

The DfE administer the arrangement, supported by external advisors and third party suppliers who provide services including claims handling and risk management.

The Government Actuary's Department (GAD) have been heavily involved with the financial provisioning of the RPA and perform two separate reviews annually, one as at 31 August and the other as at 31 March. The biannual review structure supports an appropriate level of financial governance at this stage of the RPA's development, whilst also providing DfE with the information required for horizon scanning to meet the operational requirements in the future. This review structure will continue once the RPA is extended to the LAMS.

### Membership Rules - Cover

The RPA covers a wide range of risks relevant to most academies and full details are included in the membership rules. The membership rules are updated from time to time to reflect the needs of the members, with additional cover being added as it is considered appropriate. Below is a summary of the risk cover the RPA currently provides and which is intended to be provided to LAMS:

<b>Type of risk</b>	<b>Description</b>	<b>Limit</b>	<b>Member Retention</b>
Material damage	Loss or damage to buildings, contents, computers and stock owned by or the responsibility of the academy	Reinstatement value of the property	£250 (Primary Academy) £500 (all other Members) each and every loss other than subsidence (£1000)
Business interruption	Compensation for increase in cost of working, resulting from interruption or interference with the business following a material damage loss	£10,000,000 any one loss	£250 (Primary Academy) £500 (all other Members)

<b>Type of risk</b>	<b>Description</b>	<b>Limit</b>	<b>Member Retention</b>
Employers liability	All sums the academy may become legally liable to pay (including claimants' costs and expenses) following death, injury or disease sustained by Employees and arising out of and in the course of their employment by the academy	Unlimited	Nil
Third party liability	For all sums the academy may become legally liable to pay (including claimants' costs and expenses) as damages in respect of accidental third party injury or third party property damage	Unlimited	Nil
Governors' liability	Governors' liability expense	£10,000,000 any one loss and any one membership year	Nil
Professional indemnity	Actual or alleged breach of professional duty	Unlimited	£1,000 each and every loss
Employee and third party dishonesty	Direct pecuniary loss due to the dishonesty of academy Employees and/or theft of money by computer fraud	£500,000 any one loss and any one membership year	£250 (Primary Academy) £500 (all other Members) each and every loss
Money	Loss of money whilst in transit or elsewhere	Various, including cash on premises or in transit £5,000	£50 (Primary Academy) £100 (all other Members) each and every loss
Personal accident	Compensation for accidental bodily injury to Employees, governors, trustees,	Death and capital benefits £100,000	Nil

Type of risk	Description	Limit	Member Retention
	volunteers and pupils of the academy whilst on the business of the academy in the UK		
United Kingdom travel	Compensation for travel related costs including loss of baggage, cancellation, curtailment, rearrangement and change of itinerary	Baggage and money £2,000 per person. Cancellation £1,000 per person	Nil
Overseas Travel (including winter sports) and Personal Accident	Compensation for travel related costs outside of the UK including medical expenses, loss of baggage, cancellation, curtailment, rearrangement and change of itinerary  Compensation for accidental bodily injury to Employees, governors, trustees, volunteers and pupils of the academy whilst on the business of the academy outside of the UK	Medical expenses £10,000,000 per person  Baggage £2,000 per person  Cancellation £4,000 per person (£250,000 per trip)  Death and capital benefits £100,000 per person	Nil in respect of Medical Expenses  £50 in respect of Baggage  Nil in respect of Cancellation
Legal expenses	Reimbursement of legal expenses relating to employment disputes, contractual disputes, tax investigations, civil actions in relation to school expulsions	£100,000 any one loss and any one membership year	£250 (Primary Academy) £500 (All other Members) each and every loss
Cultural Assets	Loss or damage to Cultural Assets (including works of	£10,000 per item, maximum £250,000 any one loss of	£50 (Primary Academy) £100 (all other Members)

Type of risk	Description	Limit	Member Retention
	art) owned by or the responsibility of the academy	multiple cultural assets	

We believe that the above coverage of risk by the RPA is commensurate with that offered by commercial insurers. For more details on the risks covered, see the [membership rules](#).

If cover is required for something not included in the RPA, such as motor or cyber security, additional cover is available through several public sector buying organisations (PSBOs) or from an insurer.

The RPA does not cover statutory inspections, often known as engineering inspections, which must be carried out by law. Statutory inspections can be procured through a PSBO, an insurer or body with authorisation to carry out these inspections.

Contract Works are covered up to a limit of £250k to cover minor works. If there is a need to take out Joint Names Cover, the member would have to take out additional cover to extend it as the RPA does not provide cover to a private contractor. However, if the contractor is liable for a loss, the RPA may seek damages from the contractor.

#### Membership rules

The RPA standard membership rules apply for the majority of academies and free schools. There is a second set of rules for church academies, agreed with the National Society of the Church of England and the Catholic Education Service. The Church rules apply where the trustees of a church organisation allow an academy to occupy their property. Under the Church rules, the trustees are covered for losses and liabilities they may incur through an academy occupying their property. The trustees or school representatives can:

- make claims on the academy's behalf for those losses and liabilities;
- have those claims paid directly to them; and
- use the complaints and arbitration procedures about those claims.

Other than this difference, the rules and level of cover are the same as the standard rules.

It is acknowledged that an additional two or perhaps three sets of membership rules will be required to address the specific requirements of community schools and other, mainly church schools (voluntary aided, voluntary controlled and foundation) within the LAMS sector. These rules will be drafted and discussed with the relevant organisations to ensure they are appropriate.

#### Claims made/claims occurring



Cover under the RPA generally operates on a 'claims occurring' basis'; as long as the incident giving rise to a claim occurs during the membership year then the RPA will respond, even if the claim is notified outside of the membership year.

Claims under Governors Liability and Professional Indemnity are handled on a 'claims made' basis. For the RPA to respond the claim must be notified to the Third Party Administrator (TPA) during the membership year. This mirrors the cover generally provided by the commercial insurance market and avoids potential gaps in cover for members joining the RPA in circumstances where a claim arises from an incident that occurred prior to the member joining the RPA and of which they were previously aware.

The scope and level of cover provided would be the same for LAMS as that currently provided to ATs with one possible exception: cover for asbestos, legionella and abuse damages under Third Party Public Liability is provided on a 'claims made' basis, including historical claims. For ATs, cover applies back to the date the funding agreement was signed. We are currently considering the scope of level of such cover for LAMS and have yet to make a decision on this.

### Membership

It is envisaged that there would be several options for schools to become members of the RPA. An LA could opt in all maintained primary and/or secondary schools to the RPA en masse on the vote of the schools forum. Provision will be made in the Schools and Early Years Finance Regulations 2020 to provide LAs with the vires to deduct the membership fees from the budget shares of all such schools. Individual governing bodies of schools may also decide to join the RPA if they are free to procure their own insurance: in that case the LA will apply a formula factor set out in the regulations to deduct the membership fee. This arrangement will apply to any maintained nursery schools, special schools and pupil referral units that join the RPA.

The governing bodies of LAMS are able to opt out of LA arrangements. However, where a school is tied into a Long Term Agreement (LTA) negotiated by the LA, they may be obliged to wait until it expires or can negotiate an early release.

Church academies are only permitted to join the RPA if they have written approval from their trustees. This would also apply to church LAMS.

It is acknowledged that in most maintained schools the LA will retain ownership of school property and the associated liabilities relating to providing an education service, staff employment and property maintenance and will need to be satisfied with the overall risk cover that a school has in place.

A member may leave the RPA at the end of a membership year by giving at least three months' notice. After a member has left the RPA, they will still be entitled to the benefits relating to the period of membership.

For PFI schools who pay for premises/Building insurance via the PFI Unitary Charge, it is unlikely that they would benefit from joining the RPA. Under the current arrangements

for academies, MATs are allowed to leave them out and this would need to apply to LA PFI schools too.

### Risk management support

The RPA provides extensive free risk management support services to members through third party risk management advisory company, Willis Towers Watson. Support includes advice, best practice guidance, template documents (e.g. risk assessment), bulletins on topical issues, on-line training, workshops delivered throughout England, online surveys, risk audits and access to risk managers for specific risk management queries.

The RPA also aims to undertake onsite surveys of 5% of the total membership throughout the academic year. The onsite audits cover a number of risk categories including Health and Safety, Fire and Security. Risk improvement recommendations made during a detailed audit remain open until the member has confirmed compliance. The risk manager who conducted the audit remains in contact with the member until all recommendations are completed. A selected number of members are re-audited, the results of the re-audits so far have demonstrated an improvement in risk management standards.

We intend to seek to develop this aspect of the RPA with LAMS in mind, so that it complements the arrangements currently embedded.

### Claim handling and support

Claims are handled by a third party administrator (TPA) TopMark Claims Management Limited. The TPA was appointed under a UK government framework agreement and has a panel of loss adjusters, legal advisers and rehabilitation facilities to assist in the claims administration and provide support to members.

Claims support includes a dedicated portal for claim notification, appointed loss adjusters and legal advisers, rehabilitation facilities and 24 hour contact details in the event of a catastrophic event.

The process of dealing with claims is set out in the membership rules and includes the process followed by the TPA in the event the TPA deems that a loss is not covered. The claims guidelines within the membership rules also set out the process for independent arbitration if a member disagrees with the findings of the TPA.

TopMark handle all loss claims and incidents reported from schools and will continue to do so for LAMS. The LA insurance team could choose to support the school in registering their loss, if required. There is a helpline and email for emergencies and urgent incidents including overseas travel emergencies and incident claims.

It is recognised that LAs retain a responsibility and will therefore need to be informed of the claim experience for their schools. A monthly report of all claims from schools within an LA area would be available.

### Local knowledge and support

Support is available to members from the DfE, risk managers, claims handlers and other RPA members and will continue to be available for LAMS. Examples of best practice are shared and members have the chance to network with other members in their geographical area at workshops, which are delivered throughout England. If a school has a particular risk issue they can contact the RPA risk managers who can provide support and/or put them in contact with another member who has faced a similar issue.

### Impact on LA insurance teams

A number of comments raised concerns about potential job losses within LA insurance teams. There is no reason why the existing LA insurance team could not continue to provide a service of providing ad hoc general insurance and risk matters to their schools, either for free or for a service fee. This would augment the risk management and claims handling support provided to all the RPA members by Willis Towers Watson and TopMark. It would be for the LA and schools to determine whether they wanted to continue to be involved in this process or allow the schools to deal directly with the third parties. Each LA can choose their own operating model for the RPA.

### Loss of LA control

A number of respondents mentioned that the LAs would potentially lose control of funding and decision making in schools to central, rather than local government in the event of a major loss or problem arising. In the event of a loss, the loss adjuster will work with the school and the Department would only become involved in exceptional circumstances. The RPA will have no more say over how claim payments are made than a commercial insurer would. The RPA (or DfE) does not take over control of funding or decision making of any of its members.

As long as the conditions of the RPA membership rules are met the member is entitled to an indemnity. In relation to property damage the RPA Administrator will pay to the member the reinstatement cost of the property at the time of the damage. If the property destroyed is a building this will be the cost of rebuilding. If the building is damaged but not destroyed this will be the cost of repair.

### Impact on overall LA insurance portfolio

It is possible that where low risk schools are included in an overall LA insurance policy, their removal may impact on premiums for the remaining high risk areas, such as Highways, Children's Services or Social Care but this form of subsidisation means that the schools are likely to be paying a higher premium than their risk profile would actually warrant.

It should be noted that where a LA has an insurance scheme which is working well for their maintained schools and which they consider to be cost effective, there is no

necessity for them to join the RPA. The RPA is intended to be an alternative to be considered where LAMS consider they are paying too much for cover.

The intention is not for the RPA to be mandated for all LAMS. It will be offered on a voluntary, opt in basis from 1 April 2020 with no penalties for not joining. It will be open to any LA maintained primary or secondary school, not contractually committed to another arrangement; and also open for LAs to join up all their schools after securing approval from the schools forum.

### Cover for community use

It was also noted that some schools were used for out of hours activities and non-educational purposes e.g. polling stations and questioned whether the RPA covered these uses.

At the request of the member the RPA will provide an indemnity to any person or organisation to which the member has hired rooms within the school premises where that person or organisation does not have and would not be expected to have public liability insurance.

As long as the property that is damaged or destroyed is owned by or is the responsibility of the member and the conditions of the RPA membership rules are met, then we would expect that the RPA would generally cover these uses in the event that property is damaged or destroyed. If the property destroyed is a building this will be the cost of rebuilding. If the building is damaged but not destroyed this will be the cost of repair.

### Funding

The cost of the RPA for academies for 2019/20 is £18 per pupil and it is proposed that LAMS would pay the same amount. LAMSs that join the RPA will be charged an amount per pupil/place for the number of days during the financial year 2020-21 that they are a member. This will be £18 per pupil for mainstream schools (i.e. community, foundation, voluntary schools and maintained nursery schools) and £18 per place for community special and foundation special schools and PRUs. Where a LAMS joins the RPA for part of the financial year, the amount per pupil/place will be pro-rated accordingly using the calculation ( $\text{£18} \times \text{number of days until and including 31 March}$ ) / 365.

It has been decided that the most straightforward funding arrangement is to deduct the membership fees from the LA's DSG. It is intended that the Schools and Early Years Finance (England) Regulations for the funding period 2020-21 will provide LAs with a duty to deduct the membership fees from the budget shares of all schools joining the RPA and to adjust the amount for a school opting in after 1 April, based on the number of days left in the year.

For special academies, we deduct the RPA membership cost per place from the general annual grant (GAG), based on the agreed place number already published. For maintained special schools and pupil referral units, £18 per place will be deducted for

each place planned by the LA in that institution, and the DfE will then deduct the same amount from the LA's DSG. This is to ensure that the members are making an appropriate contribution to the overall cost of risk cover and are paying a contribution based on their actual numbers of places.

In year 1 (2020-21), we do not expect that mass membership through de-delegation will be used, as there is unlikely to be enough time for LAs to agree it with their schools and the schools forum.

### Indemnity

The RPA is not insurance, it is a risk protection arrangement and all members pay the same flat rate, regardless of risk. Losses that arise are covered by UK government funds.

As long as the conditions of the membership rules are met and the claim is valid, the member is entitled to indemnity and there is no question that claims would not be met. It has been agreed that in the event of a sustained large scale liability or property loss, any claims arising which could not be met from the RPA surplus would be met from funds within the wider Department or if required, additional funds directly from the Treasury.

### Major loss

In the event of a major loss, the RPA and loss adjuster will work with the member (and other parties where applicable) where it is a valid claim and will indemnify the cost of repair, reinstatement or replacement. Further the RPA does not require a property schedule / property values so "average" cannot apply whereby the claim payable is reduced in the event that the property value is below the actual reinstatement value.

### Risk management

The cost of the RPA membership is the same for all members, regardless of risk profile. However, any risks identified are addressed and followed up with the individual member.

The RPA is committed to the promotion of risk management; its aim is to achieve consistent and improved risk management standards throughout its membership. The RPA proactively works with its members to identify risks and provide support and guidance in the mitigation of these risks. The entire RPA membership is asked to complete an online risk management survey, which covers a number of risk categories including Health and Safety, Fire and Security. Responses to the online survey are analysed and clarified if responses are not clear. The results of the survey are used to identify risks that require action and support, to identify best practice that can be shared with the membership and to determine general support requirements (e.g. workshops, training, bulletins and guidance documents). Any significant risk issues identified through the online survey are addressed immediately with the member.

One incentive of improved risk management of the RPA membership as a whole is the potential to reduce claim costs which impacts the cost per pupil. Additional costs not covered by insurance or the RPA, such as fines/penalties, negative impact on reputation, may be avoided with improved risk management.

In the past financial year, the RPA has introduced proactive flood and crime resilience schemes and is reinvesting annual operating surpluses into supporting member schools to either improve risk management or to invest in solutions that are likely to reduce future claims (e.g. improve lighting and security measures in areas subject to vandalism and flood protection measures in areas of high flood risk).

## **Next steps**

This government response is being published in advance of implementation of extending the RPA to LAMS from 1 April 2020, and the Schools and Early Years Finance (England) Regulations for the funding period 2020-21 being made.

## **Annex A: List of organisations that responded to the consultation**

A total of 109 organisations responded: 18 organisations asked for their response to remain confidential and 2 organisations omitted their names. Details of the 39 individuals who responded have been withheld. Below are the 89 organisations who agreed to be included in the published response:

### **ALARM**

Aldermaston CE Primary School  
All Saints CofE primary Bradford  
Association of British Insurers (ABI)  
Belle Vale Community Primary School  
Bradford Metropolitan District Council  
Brighton & Hove City Council  
Brimpton CE Primary School  
Bury Council  
Calderdale Metropolitan Borough Council  
Carr Hill High School  
Catholic Education Service  
Centurion  
Chair of the Oxfordshire Schools Forum  
Cheshire East Council  
City of Wolverhampton Council  
Cornwall Council  
Devon County Council  
Dudley Metropolitan Borough Council  
East Riding of Yorkshire Council  
East Sussex County Council  
Enborne C of E Primary School  
Essex County Council  
Federation of Hampstead Norreys and Ilsleys Primary School  
Federation of St Marys and St Thomas of Canterbury Catholic Primary Schools  
Gloucestershire County Council  
Halton Borough Council  
Hampshire County Council  
Henry Chichele Primary School  
Hertfordshire County Council  
Institute of School Business Leadership  
Isle of Wight Council  
Kent County Council  
Kintbury St Marys CE Primary School  
Kirklees Council

Knowsley MBC  
LB Bromley  
Leeds City Council  
Little Heath School  
Liverpool City Council  
Livingstone Primary School  
London Borough of Barking and Dagenham  
London Borough of Bexley  
London Borough of Hackney  
London Borough of Hammersmith & Fulham, Royal Borough of Kensington & Chelsea,  
City of Westminster  
London Borough of Havering  
London Borough of Newham  
London Diocesan Board for Schools  
Matravers School  
Millway Primary School  
Milton Keynes Council  
Mortimer St John's CE Infant School  
Norfolk County Council  
North East Lincolnshire Council  
North Somerset Council  
North Tyneside Council  
North Yorkshire County Council  
Northamptonshire County Council  
Nottinghamshire County Council  
Oxfordshire County Council  
Palmerston School  
Parrenthorn High School  
Parsons Down Partnership of Schools  
Peterborough City Council  
Portsmouth City Council  
Preston Primary  
Redwell Primary School  
Robert Sandilands Primary School  
Rochdale BC  
Rotherham MBC  
Sefton Council  
Solihull Metropolitan Borough Council  
Southampton City Council  
Springfield Primary School  
St Helens LA  
St Nicholas C of E Primary School  
Staffordshire County Council



Stockton on Tees Borough Council  
Sutton London Borough Council  
The Downs School  
Wakefield Council  
West Sussex County Council  
Westhoughton High School  
Westhoughton High School  
Whitehills Primary School  
Wigan Council  
Wiltshire Council  
Wirral Council  
Zurich Insurance

## Annex B: Copy of all consultation questions

### Preliminary Questions

1. What is your name? (Where you wish to remain anonymous, please leave blank)
2. What is your email address?

If you enter your email address then you will automatically receive an acknowledgement email when you submit your response.

3. Are you responding as an individual or as part of an organisation?
  - a. Individual
  - b. Part of an organisation

4. What is the name of your organisation (if applicable)?

5. What type of organisation is this (if applicable)?
  - a. Mainstream local authority maintained school
  - b. Special local authority maintained school
  - c. Academy or free school
  - d. Multi-academy trust
  - e. Independent school
  - f. Independent special school
  - g. Non-maintained special school
  - h. Sector organisation
  - i. Charity
  - j. Local Authority
  - k. Commercial Insurance Provider
  - l. Insurance Body/Organisation
  - m. Other – Please provide organisation details

6. What is your role?
  - a. Governor
  - b. Multi-academy trust member
  - c. Headteacher/ Principal Teacher
  - d. Parent
  - e. Local authority councillor
  - f. Local authority finance officer
  - g. School Business Professional
  - h. Insurance Company Employee
  - i. Industry Expert
  - j. Other – Please provide role details

7. Which local authority are you responding from? (where applicable)

8. Are you happy to be contacted directly about your response?
  - a. Yes
  - b. No

## Questions on the consultation

(Please use the comments box to give more details for each question where relevant)

9. Does the proposed RPA cover of Local Authority Maintained Schools impact you or your organisation directly or indirectly? Please let us know what the impact would be, and if this would cause any concerns or issues.

- a. Yes
- b. No
- c. Unsure

10. In principle, do you or your organisation support the proposed extension of RPA cover to Local Authority Maintained Schools?

- a. Yes
- b. No
- c. Unsure

11. Have you any comments on what adjustments you think would be needed to the rules of the RPA to cover the circumstances of Local Authority Maintained Schools?

- a. Yes
- b. No

12. Have you any comments on the proposed arrangements for adjusting budget shares and DSG and amending the regulations in respect of the RPA?

- a. Yes
- b. No

13. Do you wish for your response to remain confidential?

- a. Yes
- b. No



Department  
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