

More **Good** School Places

James O'Shaughnessy
and Charlotte Leslie

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Policy Exchange is an independent research institute whose purpose is to contribute to public understanding of, and stimulate wider debate on, a broad range of social, economic and political questions. Using an evidence-based approach to policy development, Policy Exchange aims to generate fresh ideas in support of strong communities in a free society.

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**James O'Shaughnessy
and Charlotte Leslie**

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Foreword

by Professor Alan Smithers

One of the great unresolved challenges in English education is how to organise secondary education. Compulsory state education was originally introduced in 1876 as a bolt-on to the existing – and largely successful – private schools. What we now call secondary education grew somewhat haphazardly out of the early elementary provision. In 1944 there was an attempt to create a coherent system based on academic selection, but this came to be seen as unfair and divisive. From the mid-1960s selective schools in most local authorities were replaced by neighbourhood schools. Recent governments, both Conservative and Labour, have become increasingly dissatisfied with what pupils have achieved in them. Thatcher, Major and Blair have all tried to lever up standards by giving parents choice across a diverse array of schools. But, as the difficulties that the recent White Paper has run into amply illustrate, reconciling parental choice and fair admissions is no easy task.

In this report James O'Shaughnessy and Charlotte Leslie succinctly lay out the issues for us and propose some radical solutions. They suggest, for example, that any attempts to reform the present system must begin with those who are being failed by it. They argue that money for improvement should be attached to pupils rather than schools, so that any children unfortunate enough to attend a failing school would become eligible for substantial additional funding. This would make them especially attractive to other schools. If more wanted to go to a particular school than could be accommodated, the places should be decided by lot. Money for what they call the Advantage Premium could be released by scrapping some

of the government's pet schemes, such as the city academies, which take a disproportionate slice of the schools' budget.

This pamphlet is essential reading for anyone interested in getting to grips with why governments have had such difficulty with secondary education. It offers the present government a way out of the box in which it has trapped itself, with Blairite policies of specialist schools that are not specialist and independent trust schools that would not be free to choose their pupils. But while the legacy Blair has planned is probably beyond rescue, Policy Exchange's ideas are an important contribution to a debate we must have.

If I can offer a personal view, it is that when things appear complicated we may be looking at them in the wrong way. The movements of the planets seemed absurdly complicated when calculated with the Earth as the centre of the Universe. Much in secondary education would fall into place if it were accepted that differentiation by ability and interest is intrinsic to it. The emotion attached to rejecting selection at age 11 has become so generalised, however, that the obvious advantages of choice/selection at other ages, say 14, cannot be contemplated. That is where I am coming from, but O'Shaughnessy and Leslie make a powerful case and I have been tested and stimulated by engaging with it, as I am sure many others will be.

Professor Alan Smithers is Director of the Centre for Education and Employment Research at the University of Buckingham.

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Executive Summary

Expansion and equity

There are two challenges for anyone designing a system of reform for English schools. The first is to look at how rapidly to expand the supply of good school places. This might be achieved by:

- Encouraging new schools to set up within the state sector
- Enabling good schools to expand
- Bringing independent schools providing education at or below the state cost into the state sector
- Effectively and swiftly turning around failing schools
- Deregulating state schools to allow them to innovate and improve

However, even if all of these initiatives are undertaken it will take some time for the number of good school places to expand. During this transition period good schools will be forced to ration their places, as happens now. Experience shows us that children from disadvantaged backgrounds lose out disproportionately when this happens. This presents the second challenge – to ensure a fairer distribution of the existing limited supply of good school places. This might be achieved by:

- Providing extra funding for disadvantaged pupils
- Providing fairer admissions arrangements

Barriers to reform

Five key barriers to reform have prevented a dramatic improvement in the quality and fair distribution of good school places in the English state education system.

1. Local Education Authorities

Local Education Authorities (LEAs), whose functions are being rolled into Children's Services Departments, provide the majority of funding for state schools. However, due to their cost-minimising nature they are reluctant to support additional places in existing or new

state schools while also supporting surplus places in other schools, even where shortages exist. There is no link between LEA funding and school performance and therefore no incentive for LEAs to bring good new schools on stream or to scrap bad ones. LEAs have no incentive to turn around failing schools, nor are they incentivised to prevent schools from failing in the first place.

2. School Organisation Committees

The School Organisation Committee (SOC) has an instrumental role in most decisions affecting the supply of education within a local authority area. SOCs are committees of existing state education providers, set up in 1998 to bring grant-maintained schools back under government control. The LEA and SOC jointly determine the need for new school places. SOCs display the classic symptoms of producer capture, i.e. they allow existing providers to protect their own position within the system against the threat of newcomers. Via the SOC, existing state schools are able to prevent more popular rivals from expanding, or new schools from entering the market, if it "harms" them – i.e. provides competition for places. New and independent schools are regarded with particular suspicion.

3. Regulatory burden

The processes for setting up new state schools, bringing independent schools into the state sector and expanding existing state schools are extremely lengthy, complex, bureaucratic and expensive. The general burden of regulation in the state sector is very high when compared to the independent sector. This discourages new providers from entering the system as well as eroding teaching time, impeding innovation and improvement, and undermining the morale of teaching staff within schools. The system for identifying failure is bureaucratic, time-consuming and involves too many different bodies to be effective.

4. Funding

Funding is generally lower in the state sector than in the independent sector, although a significant minority of small independent schools have similar fee levels. Between 30 and 50 per cent of funding schools receive is unrelated to pupil numbers, featherbedding failing schools against falling rolls and weakening the link between success and funding. Much of the funding to tackle failure is spent on buildings and facilities rather than on improved leadership.

5. Tackling disadvantage

Additional funding to take account of children's additional needs and background is insufficient to make them desirable 'customers' to other schools or to compensate schools for the cost of teaching them. No special admissions arrangements exist for disadvantaged pupils, whose parents often lack the social and financial capital to take advantage of opportunities within the system. In addition, the lack of school transport restricts their ability to attend good schools that are some distance away.

An agenda for reform

We believe the following reforms will remove these barriers to improvement and provide a better and fairer state school system for all:

- **Streamlined National Curriculum** – two hours per week on each of English, Maths, Science and Citizenship with no set syllabus
Encouraging schools to innovate and independent schools to join the state system
- **Annual school prospectus** – schools required to publish all test results and other information annually in a school prospectus
Helping parents make better choices about their child's school
- **Freeze admissions** – no change in schools admission procedures except for children who have attended failed schools
Targeting improved opportunities on those who need them most
- **Self-governing schools** – all schools to become self-governing, in charge of all aspects of their day-to-day operation while adhering to the basic requirements
Setting schools free to succeed
- **Per capita funding** – all funding, DfES and LEA, capital and recurrent, to be rolled into a single per capita amount worth on average £5,000 and paid direct to schools (actual amount will vary depending on Key Stage and relative disadvantage, as now)
Re-establishing the link between success and funding
- **Right to supply education** – all schools, including new and independent schools, entitled to operate and expand in state sector providing they adhere to the minimum regulatory requirements without recourse to LEA or SOC
Encouraging greater and more diverse provision
- **Fast track planning** – planning law amended to give automatic approval to applications for education usage subject only to health and safety requirements
Making it simple to set up or expand a school
- **LEAs and SOCs scrapped** – no role for local authorities or committees in the funding or organisation of school places
Removing the key barriers to the expansion of good school places
- **Pupil Advocate** – directly elected local post, replaces remaining functions of the LEAs and Children's Services Department as well as being responsible for identifying land for educational usage, distributing performance data to parents and helping children at failed schools find better alternatives
Providing a champion for pupils', not producers', interests
- **Fast turnaround** – Pupil Advocate charged with dismissing failed schools' leaders and appointing new management, with incentives for success and fines for failure
Making sure children do not languish in failing schools

- **Incentives for success** – funding for the Pupil Advocate’s remaining functions to be linked with local school standards
Rewarding success in improving standards in all schools
- **Advantage Premium** – approximately 325,000 pupils in 1,000 failed schools would become entitled to the Advantage Premium – £4,000–£6,000 additional funding for primary and secondary school pupils respectively, tapering off to zero after four academic years
Providing additional funding to those who need it most
- **Lottery admissions** – pupils with the Advantage Premium would only be admitted to other schools through lottery-based admissions procedures
Creating fairness and preventing ‘cream skimming’ of the best pupils
- **Independent schools** – would be able to offer places to children with the Advantage Premium, through lottery admissions, provided the school makes up any difference in fees
Allowing the best schools in the country to educate some of the most disadvantaged pupils
- **Funding the Advantage Premium** – the scheme will cost £4.2 billion when mature and would last ten years. To be funded by scrapping the Academies programme and three other discretionary DfES funding streams
Funding children who have been failed, not failed institutions
- **School buses** – a comprehensive system of school buses to be introduced to allow disadvantaged pupils to access more good schools
Ensuring transport is no barrier to parents’ choices

1. Better and fairer

The research

Policy Exchange has been studying the benefits that the introduction of greater choice in the English education system could bring to pupils and their parents for the past two years. An analysis of the experiments in nursery vouchers in the UK in the 1990s, as well as choice-based education systems in Sweden, the Netherlands and various US states, was published in our previous publication *Hands Up for School Choice*¹.

The aim of the final stage of our school choice research, which resulted in this report, was to examine the extent to which choice is currently possible within the existing state school system; how widely and fairly spread that choice is; and what reforms should be made to the system in order to give more parents the option of choosing a good school for their children.

We were aware that the actual operation of the education system is very different from how it often appears to policymakers and think tanks. Based on our previous research, we identified a number of methods that successful choice-based systems used to encourage the expansion of the good school places and to make sure those choices are fairly distributed. We then interviewed around 50 individual education stakeholders and carried out desk-based research to see how successfully (or not) these methods were used to improve the English school system.

We interviewed a range of stakeholders from the following categories:

- Local Education Authorities
- State school staff and providers
- Independent school staff and providers
- Groups potentially interested in setting up state or independent schools
- Parent groups

More good school places

More and more British parents now believe that greater choice between schools will result in better outcomes for their children. A poll by YouGov has shown that 76 per cent of parents with children at state schools said that choice is very or fairly important to them². And of course parents are not persuaded by the false choice between poor or under-performing schools. Indeed, one survey has estimated that three out of every four voters believe state-run education is in need of fundamental review³, and while there has undoubtedly been an improvement in measurable school standards in the past 15 years England still under-performs by international comparisons and there is a huge gulf in performance between the independent and state sectors⁴.

The logical result of our less than perfect education system is an under-supply of good school places. One method, therefore, of increasing the supply of good school places is to look at the possible obstacles restricting that supply and seek to remove them.

Experiences from abroad

Policy Exchange's previous research described a number of ways in which other countries have tried to expand the supply of good school places. These broadly fall into two categories. Those in the first, typified by US schemes operating under the federal No Child Left Behind Act and the Milwaukee voucher programme, give extra choices through the distribution of vouchers only to specific groups of under-privileged children, and lower the regulatory burden only for schools catering for children with vouchers. Those in the second category, typified by the Swedish and Dutch school choice systems, provide vouchers to all children and erect lower barriers for entry into the state sector for private schools and new start-up schools.

A further catalyst for the expansion of good school places is the Schools Superintendent found in local school districts in the US. Superintendents play a similar role to LEAs in that they act as brokers between pupils and school places, but a very different one in that they actively try to recruit pupils to their districts in order to reduce the tax burden on local citizens. When the system works properly there is a clear emphasis on creating good school places, thereby bringing funding into the local district and improving the quality of services available.

Strengths and weaknesses

The major strength of the Swedish and Dutch choice models is that their universal nature makes it easy to expand the provision of good school places, which provides better outcomes for all children. The Dutch system is particularly effective as it is a mature system where the supply of school places is greater than the demand for them. However, these systems are also typified by a relatively high regulatory burden which impairs the flexibility to respond to demand.

By contrast, the major strength of the Maine and Milwaukee schemes, for example, is the low regulatory burden on schools accepting vouchers or charter. One reason why the regulatory barriers were set so low is that, by restricting the school market to only a small proportion of those who could *potentially* be exercising school choice, extra incentives were required to expand the market. Unfortunately this has led in some cases to problems with fraud and maladministration.

Superintendents have an important role to play in encouraging improvement in the US state education system. They operate most successfully when there is genuine competition for pupils. However, because voucher funding is the exception and not the norm, and because the Superintendents often retain control over the opening of schools, the incentives to expand the number of school places are not always clear.

Increasing the supply of good school places

We therefore wanted to understand how well English LEAs, which still control the organisation of school places at a local level, utilise the following methods of increasing the supply of good school places:

- Making it easier for good and/or popular schools to expand

- Operating an effective system for ‘turning around’ weak schools
- Encouraging good and/or popular independent schools to operate within the state sector
- Reducing compliance and regulatory costs on new providers
- Encouraging innovation and improvement through lower levels of regulation

Fairer good school places

As well as investigating the ways in which the state might be restricting the supply of good school places, we also wanted to investigate which pupils were most affected by this restriction. So long as under-supply restricts choices, popular and over-subscribed schools will be forced to ration their places through their admissions criteria. The effect of this rationing is startling, with children from lower-income families far more likely to go to the worst (and therefore least popular) schools. In the top 200 performing state schools, only 3 per cent of children are entitled to free school meals as opposed to the national average of 17 per cent⁵. In 2001, 69 per cent of the secondary schools placed in Ofsted’s lowest quality ‘special measures’ category were in the top 10 per cent of deprived wards – only 11 per cent are in the least disadvantaged 40 per cent of wards⁶.

Experiences from abroad

Our previous research also identified ways in which other countries have tried to ensure that the worst-off do not lose out disproportionately. In the Netherlands, extra funding is provided for children whose parents have a limited educational background or are immigrants for whom Dutch is not their first language. The US schemes target vouchers specifically on either deprived families or on those who have attended weak schools, which as we have demonstrated is often a very good proxy for low-income families.

Strengths and weaknesses

The major strength of the No Child Left Behind and Milwaukee programmes is that they recognise that the least well off are disproportionately failed by the state education system and target them for extra help with vouchers. A weakness, however, is that children at the margin of targeted help continue to lose out. The major weakness of the universal systems is their lack of targeted

support, although to some extent the Dutch system does provide targeted funding⁷.

Lottery-based admissions

Lottery-based admissions have also been promoted as a solution to the equity challenge. Both the Milwaukee and Boston voucher programmes in the US use lottery-based procedures, although these are complemented by parent-school interviews prior to admission. The Social Market Foundation in particular has done a great deal of valuable work in this area⁸. These schemes can work in a number of ways but the underlying principle is straightforward – children apply to one or more schools which, if it they are unable to meet demand, select their pupils through a lottery of those who have applied. This avoids the *de facto* discrimination that often results from other forms of selection, as described above.

Strengths and weaknesses

While lottery-based admissions procedures are equitable and can be successful when there is a relatively small amount of over-subscription, they have mainly been used in the US where only a small number of pupils are eligible to use them. They are likely to prove extremely unwieldy in towns and cities where children are able to access many schools. This can be exemplified by how the arrangements might work in London. In a lottery-based system where parents were allowed to express six preferences, the rational course of action for parents of ten year old children living in the thirteen Inner London Boroughs would be to apply for the best six secondary schools in Inner London. This would mean that each year around 25,000 children could apply for around 1,000 secondary school places, so that 24,000 children would not get places at one of their first six preferences⁹.

In reality the situation is not likely to be as extreme. However, the actual result of lottery admissions, particularly in suburban and urban areas, is likely to be closer to this situation than not. This could result in a chaotic admissions process, huge numbers of disappointed parents and many appeals. It might also make it very difficult for schools to plan for the future, as they will have no idea from where their intake will be coming.

Making the distribution of good school places fairer

We therefore wanted to understand how good the English state school system was at utilising the following methods of making the distribution of good school places fairer:

- Providing additional funding for those who have suffered as a result of the under-supply of good school places
- Providing fairer admissions arrangements for those who have suffered as a result of the under-supply of good school places

Key challenges

Where choice is nominally available but the supply of good school places is in practice restricted, research shows that poverty asserts itself through the education system to reduce social mobility and perpetuate intergenerational inequality. This poses two challenges for proponents of choice-based reform of education:

- **Expansion:** How rapidly to expand the supply of school places so that choice is no longer limited? However, even the quickest expansion of school places will not provide school places to everyone who wants them in the short run.
- **Equity:** How to ensure that, while a shortfall in places still exists, those most failed by the system are given the best chances?

2. What next for choice?

Introduction

The results of our research uncovered important aspects of the way people feel about school choice and the state education system. In the course of our research we also made discoveries that forced us to review and reform the very basis of our approach to this project.

The following chapters in this report will detail the results of our research and look at the responses we received, but first we feel it is imperative to look at three key conflicts we identified:

- Choice as a means *versus* choice as an end
- Increasing school choice *versus* increasing the number of good school places
- Choice within the state sector *versus* choice outside the state sector

Choice as a means not an end

One parent we interviewed, Jane Pickard from Wandsworth, summed up the views of many parents when discussing the concept of choice in state education: “I don’t find the idea of more choice appealing. I think it is a nasty political jargon word that seems designed to make people think they can have anything they want...there is a demand simply for more good school places”. Another parent, David Duttson from Devon, said that he believed that “choice is a metro-centric obsession”.

During our research, similar frustrated cries were often the first response we encountered. On further analysis they seemed to have been provoked by the perceived hijacking of the term ‘choice’ by policymakers as an unquestioned byword for successful provision. Such reactions are not a new phenomenon, but too many proponents of choice have simply dismissed these responses as ‘uneducated’ and moved on. By contrast, we believe that the inability or unwillingness to understand the sentiment expressed above is the reason for the failure to convince voters of the value of school choice policies.

Although the research for this report met with substantial and emotive opposition to the term ‘choice’, nearly all of the outcomes that parents said they wanted can be best achieved from market-based reform, for which ‘choice’ has become the shorthand. A system of effective choice in education allows a parent who wants to cater for their child’s ability, a parent who wants to bring their child up in a faith-ethos school, a parent whose child has a passion for academia and a parent whose child is a budding athlete to be able to send their child to the school they want them to go to.

For such a system to be effective, however, the following are required:

- A high minimum standard of education in all schools
- Sufficient number of school places to meet parents’ demand
- Sufficient variety of schools
- The ability of parents to access all school places

The most important result of choice in education is that a parent can get the school that they want for their child, not that they can spend time gridlocked in the luxury of being able to choose. On the other hand, a choice between any number of undesirable outcomes, or choice between theoretical outcomes that cannot be achieved in practice, is no choice at all. In other words, choice must be conceived as a means rather than an end. Opening up the school sector to market forces, helping new schools to set up and granting increased independence to schools appears to have had measurable benefits in a number of countries. Our previous analysis of education systems in the US, the Netherlands and Sweden shows that these countries have successfully harnessed the mechanism of choice to create a broader, more varied and better quality of school education. But it is this end, rather than the means, that is important.

However, a caveat must always be issued when drawing upon case studies abroad and applying them to England.

For many of the people we spoke to, the commercial marketplace appears to hold different moral connotations from a possible school marketplace. The perceived existence of ‘winners and losers’, a suspicion of private and possibly profit-making companies being involved in the state sector, and a well-justified fear that greater choice has resulted in less equitable educational outcomes emerged as particular obstacles to the idea of choice and market forces as a mechanism for improvement. The note of caution expressed by our interviewees to policymakers is to remember that whatever the benefits of choice-based reforms, in a country where there appears to be a high degree of scepticism about ‘marketising’ the public sector, it is the outcomes of reform that really matter. Talking about choice as an end in itself has become a fetish for education reformers, but it is not one that turns on ordinary citizens.

Good school places

In our report *Hands Up For School Choice* we looked at the various ways different education systems around the world provided a greater choice of schools to parents and pupils. In the Netherlands, Sweden and the US, many parents are able to make more and better informed choices than parents in the UK about where they send their children to school.

“There’s enough variety of schools around here, so I suppose we have choice. The trouble is, there just aren’t enough places at those [good] schools, so our choices don’t mean very much...”

Sofia Yates, parent from Lambeth

What is often overlooked about these systems is that they do not simply offer the mechanisms of choice to parents (for example by allowing them to express preferences for schools rather than just allocating them places), but that they offer a range of desirable choices by dramatically increasing the supply or potential supply of good school places. The trap that much of the previous research into school choice has fallen into, however, is to become obsessed with the mechanics of choice rather than the outcomes and to favour the esoteric over the practical. This is an important distinction. British parents are allowed to express a number of preferences of school, but if the total number of good school places does not increase all that will happen is that more and more parents converge on the same good schools, leaving many

disappointed with their final allocated school place. As Jane Pickard, a parent from Wandsworth, rightly points out, in a constrained system “more choice for one person is nearly always less choice for another”.

As we demonstrate later in this report, our school system makes it almost impossible for new schools to start up or enter the system; makes it very difficult for good schools to expand; is particularly bad at turning around failing schools; and fails to allow teachers the freedom to innovate and improve. Given this, the feeling among many of the people we spoke to was that choice was a zero-sum game – when some people have more, other people, usually the most-disadvantaged, will inevitably have less. Thus the experience of choice since the 1988 Education Act has been that it is divisive, with the poorest losing out most. Standards may have risen on average, but the distribution of good standards is highly uneven and biased towards the most advantaged. Only 3 per cent of students at the top-performing 200 state schools qualify for free school meals, compared to a national average of 14.3 per cent and a rate of 12.3 per cent in the postcode districts of those schools. Peter Lampl, the Chairman of the Sutton Trust, which published these findings, commented: “We have replaced an education system which selected on ability with one that is socially selective: the best comprehensives serve the relatively affluent, while the remaining grammar schools attract far too few able students from poor backgrounds”¹⁰. No wonder parents are unconvinced about the benefits of choice.

Our research shows that what is more important to parents is that there is a plentiful supply of good state school places. If this is the case, then it follows that parents will have a choice of good schools. The only way, therefore, to increase the amount of desirable choices that parents are confronted with is to increase the supply of good school places. A revolution in the supply of school places must come before the revolution in the demand for those places. The key issue here, which will undoubtedly make for uncomfortable reading for many pro-choice advocates, is that choice is a secondary issue. Choice is only important once the supply of good school places enables all parents to exercise a number of desirable choices. In our research, the term that parents responded to best was “more good school places”, which is why we have used this as the title for our report.

Understandably parents, LEAs and heads are more concerned with this outcome than with the processes of

achieving it. Our research both in the UK and internationally has shown that this is best achieved when the supply side is liberated, i.e. when it becomes easy for new good places to be created within the state sector. In the Netherlands, despite a relatively high level of regulation of education, the constitutional entitlement of parents to demand funding for the schools of their choice makes setting up new schools straightforward. Not only does it provide a constant input of good new school places – often, significantly, in schools much smaller than those in England – but the threat of new entrants to the system and the competition for pupils makes existing schools very responsive to parents’ needs, driving up standards across the board.

Choice within the state school sector

In the UK there is very strong support for a universal state school system. Sophia Yates, a parent from Lambeth and leader of the Elmcourt School project, believes, “the private sector is divisive. Private sector energy should be put back into the state sector”. Our respondents tended to be wedded to the notion that every child should be entitled to broadly the same uniform standard of schooling. Among those who had never been to independent schools there was enormous distrust and scepticism about the sector in general. As one of our respondents put it, independent schools are for “toffs”, an attitude that persisted even when discussing small independent schools with fees lower than that level of funding available to state schools. Parents sending their child to one such school, the independent Al Risaala School in South London, did so because of an inability to find an appropriate faith-based education within the state sector. They are no more “toffs” than families whose children attend the local state schools.

This creates a potential problem for those who support greater school choice. Proponents of school choice have often advocated that parents should be able to take state funding to independent schools – also known as ‘exiting’ the state system. Almost all our respondents were very hostile to this idea, believing the state should have no role in funding the independent sector. They were, for example, very suspicious of the Conservative Party’s plans at the 2005 general election to enable parents to take vouchers to spend in private schools, even if parents were unable to top them up. In many parents’ view this was a subsidy scheme aimed to enable middle-class parents already using private schools to get the state to pay for them.

While many of those we interviewed were not happy for state money to be used in the independent sector, they were much more open to the idea of independently-run new schools entering the state sector. This is not just semantics. People are wedded to the notion of a universal state system, and they do not want a fractured landscape of well-informed, middle-class parents being able to take their funding to private schools while everyone else languishes in a state sector deprived, so they see it, of funds and talent. As Gill Richards, head teacher of the independent Belvedere School in Liverpool, points out: “There is huge unmet demand for places as schools like mine”. But these places must be brought within the state school ‘family’, rather than state-funded children exiting to the independent sector.

That does not imply, however, that our interviewees were implacably opposed to innovative ways to improve the state sector. Hence our respondents were happy with the notion of new groups – parents, charities, church groups and even private companies – operating schools within the state sector. They recognised that autonomous schools with a strong ethos and control over their curriculum tend to be more successful. Britain also has a tradition of independently-run schools operating within the state sector, such as church and faith schools, which the recent establishment of City Technology Colleges and Academies has continued. Church schools and Academies may be viewed with suspicion by the educational establishment and teaching unions, but parents recognise that they are models of success and are desperate for their children to be educated in them. The key, Cllr Malcolm Grimstone, Cabinet Member for Education in the London Borough of Wandsworth, believes is, “to make it easier for educational trusts to establish schools which could then be funded in the same way as LEA-maintained schools. There is no convincing reason why LEAs should ‘run’ schools in the limited way they do at present”.

The key point about these kinds of school is that they are clearly within the state sector, even if they are run independently. They offer more choice, diversity and higher standards, while very obviously still existing within the state sector. This is an important point that much of the polling on the popularity of choice has failed to detect. A poll by YouGov, much favoured by proponents of school choice¹¹ showed that 76 per cent of parents with children at state schools said that choice is very or fairly important to them. But the question it failed to answer was where those choices should be made? Our

research suggests that parents want choice but that they want it within the state sector. Any talk of helping children to exit the state sector was almost uniformly greeted with hostility.

Understanding the problem

When carrying out our interviews, we were initially unaware of the extent of parents' and teachers' hostility to what they saw as the breaking up of the system of state education. Consequently, when carrying out our interviews we often talked about enabling parents to exit the state system or use vouchers to pay for places at independent schools. We found that, not only were interviewees inimical to the idea of leaving the state sector, but that as soon as we started talking about it they effectively stopped listening to our ideas. Former Chief Inspector of Schools Chris Woodhead notoriously told an independent schools conference that he was looking forward to the destruction of the state education system and its replacement by a system of privately run schools¹². Given the type of reforms we seemed to be proposing, our interviewees often assumed we were would be destroyers of state education, rather than people who want to destroy the need for fee-paying education by dramatically improving the quality of all state schools.

This presents a further challenge for policy-makers when communicating policies intended to expand the number of school places and provide greater choice. It is perhaps why the Conservatives' 2005 manifesto proposals, despite offering a radical and well-funded expansion of good school places, failed to gain much support among the electorate¹³. According to a Populus poll for the Times newspaper only 23 per cent of voters believed the Conservatives were the best party on education compared to 42 per cent for Labour¹⁴. Our research suggests that as soon as Conservatives started talking about 'exiting' the system, voters stopped listening, confirmed in their belief that the Tories had no attachment to the principle of state education. Anecdotal evidence suggests that the Conservative Party's private polling and focus groups confirmed this, which is why the party switched to talking about "more discipline" in schools. This underlines the problem that proponents of school choice face in getting their message understood.

It is a point that the Labour Party seems to have grasped, however, and the language used in its 2005

general election manifesto was telling. Three examples demonstrated its understanding of the electorate's desire to maintain a universal state sector:

- "Foundation schools operate within the local family of state schools"
- "Britain has a positive tradition of independent providers within the state system, including church and other faith schools"
- "We want all secondary schools to be independent specialist schools"¹⁵

Applying the lessons

The British people seem to hate the prospect of 'two-tier' public services, a vastly overused and misunderstood term but which nevertheless transmits the sense of not getting a 'fair deal'. This appears to be a particular aspect of British culture, perhaps born out of the unique post-War circumstances in which our tradition of universal services was created. Other countries do not share this concern:

- In the Netherlands there is no great suspicion of non-state education providers, although of course they operate within the state-funded sector;
- In Sweden state money could be described as 'exiting' the system to go into the independent sector. However, so strong is the concept of universal public services in Sweden that this is not regarded as problematic. Again, a sense of national uniformity is guaranteed by the regulation of all schools accepting state funding and through a national curriculum and national teacher pay scales;
- In some of the vouchers systems in the US there is a very definite emphasis on 'exiting' the public (state) sector. However, because many of these schemes are aimed at disadvantaged or underachieving pupils (often the same children), there is no sense that the middle-classes are getting more out of them than anyone else.

This is not the place to undertake a detailed discussion of why the British feel the way they do about their public services, but fairness is an important concept in the British national psyche and any education policy must be able to demonstrate that it offers a better deal to everyone concerned.

We have learnt some useful and specific lessons during the course of our research, enabling us to design a process

of education reform that we believe will provide huge improvements in standards for all children. Arguably as important, however, has been the ‘mood music’ we have picked up while testing our hypotheses. This has told us that parents want more choice, that schools want to provide it, and that new providers want the opportunity to educate children. But they all want to do this within the

state sector, not outside it. And they want policy-makers to start talking about the outcomes of choice, what it will actually mean for them in terms of higher standards. The challenge, therefore, is to construct a scheme of education reform that rapidly expands the supply of good schools places and ensures they are fairly distributed, all within the state school family.

Part I

The expansion challenge

3. In with the new?

Despite central government guidance to encourage new and diverse state schools being established, the combination of local government influence plus an enormous regulatory burden prevents real progress. Virtually no new groups have been brought in to run schools because the cost-reducing tendency of LEAs and the producer bias of School Organisation Committees prevent real progress.

Setting up a state school

New schools may be set up as either additional schools or non-additional schools. In contrast to a non-additional school, an additional school is one that brings additional capacity with it into the state sector:

“...One that does not replace a discontinued school. The additional school would be expected to provide for a growth in pupil numbers and would not replace another school. Although an existing independent school could join the maintained sector as an additional school if it provided the extra net places needed, we would not expect that this would normally happen. To do so, it would need to close (as an independent school) and open as an expanded maintained school...”¹⁶

We use the term ‘new school’ in reference to additional schools in this report.

The need for new schools

The definition of ‘need’ is clearly outlined in detail by the DfES’s own guidance to LEAs. It recognises that a school place should not realistically count as a place unless it is a good place and that parents are the most important judges of this:

“The Decision Maker should take into account not only the existence of spare capacity in neighbouring schools, but also the quality and

popularity with parents of the schools in which spare capacity exists and evidence of parents’ aspirations for a new school”

“The existence of surplus capacity in neighbouring less popular or successful schools should not in itself prevent the addition of new places...where proposals add to surplus capacity...but there is a strong case for approval on parental preference and standards grounds”¹⁷

Elizabeth Steinthal of the Educare Small School in Surrey believes that there is need for places in schools like hers: “There is definitely an unmet demand for places at schools like ours. I would think about setting up a new school – part of our long term vision is to be a model for future schools”. However, in recent years the impetus for setting up new schools within the state sector has come from the LEA when it judged there to be a need for one. More precisely, the decision was and in most cases continues to be made by the School Organisation Committee (SOC), an independent statutory body usually consisting of five groups representing the LEA; the Church of England and Roman Catholic dioceses for the area; existing schools; and, the Learning and Skills Council¹⁸. SOC’s were introduced through the School Standards and Frameworks Act in 1998 to consider the LEAs’ School Organisation Plans¹⁹. An important role of the SOC is to provide a ‘silo’ for central government influence of the local organisation of schools – one of their primary functions was to end the operational freedoms of grant-maintained schools and bring their places back within government control.

Who should run new schools?

Having established the need for new schools, recent national legislation clearly establishes that a variety of providers, including parents groups, charities, business,

church groups, should be able to submit proposals to run a new school when it is required:

- *The School Standards and Framework Act 1998* – makes provision for anyone who wants to set up a new school to submit a proposal to the LEA, to be considered with regard to perceived needs for school places. These proposals would only come into play when the LEA considered there to be a need for an additional school²⁰.
- *The Education Act 2002* – makes a requirement for LEAs who themselves wish to set up a new state school to publish a notice inviting any other parties interested in putting forward a proposal, i.e. it requires a competitive process. Such a proposal would only be put forward if it was decided that there was a shortfall of places and an additional school was needed²¹.
- *The Education Act 2005* – requires an LEA which intends to establish any new school, additional or not, to invite proposals from anyone interested in setting up a state school. Shortfall of places need not be the only reason; lack of diversity of provision and parental demand can also be considerations²².

Systemic failure

The system for establishing the need for new schools, and then for encouraging new providers to establish these schools, appears to be straightforward. The DfES establishes that quality is more important than quantity, and that the LEA is obliged to allow a variety of providers to ‘pitch’ for the management of these schools. According to the DfES, no new providers have set up additional schools since the provisions in the 2002 Education Act. It is unclear as to whether this is due to lack of interest or ignorance amongst those who might be interested. Just one school has been able to take advantage of similar provisions in the 1998 Act, the Elmcourt School in Lambeth LEA. It will open in September 2007 following a five year campaign for additional secondary schools²³. And this in a borough that has only one school that outperforms the national average for achievement at GCSE and in January 2004 had a massive 4,883 shortfall of secondary school places – 40 per cent of the total required²⁴.

As will become depressingly clear, the gap between the rhetoric and the reality of new school provision is staggering. The problem is not so much a regulatory one, rather it is based on the peculiar balance of power given to two bodies whose interests clash with the introduction

of new schools into the state sector – the LEA and SOC. David McGahey, Managing Director of VT Education and Skills, explains: “In theory the regulations allow for competition and private sector involvement in the LEA, but reluctance in the fabric of the LEAs means that in practice it is still difficult”.

Efficiency versus effectiveness

As we have already set out, the decision that an additional school is needed is made by the SOC, together with the LEA, which is then obliged to issue an invitation to prospective school providers to submit proposals for establishing the additional school. The decision on whether there is a need for a new school, although guided by the DfES, is ultimately left to the SOC to define. Elaine Simpson of Serco, working for Walsall LEA, says that, “we would actively look for ways to set up new schools, but only if they were needed”. The definition of need is crucial – while Walsall has enough places for all its resident school age children, only 43.5 per cent of its secondary school pupils gain five good GCSEs²⁵. What exactly is need?

Much has been made of the existence of the so-called ‘surplus places rule’, by which LEAs are not supposed to allow the creation of new school places until all places have been filled. There is in fact no such rule, rather a tendency to behave in a surplus places-minimising way, driven by the legislative and fiscal requirements of operating state schools. No one would argue with the fact that public money must be used cost-effectively, and indeed the government encourages LEAs to consider unused school places as “a poor use of resources”²⁶.

This surplus-place minimising behaviour reflects a general policy on behalf of LEAs to reduce as far as possible the number of school places they have to maintain, and to encourage economies of scale and other financial efficiencies. One of our interviewees, Margaret Gill at Liverpool LEA, responded when asked about the possibility of new schools opening in her area that: “As many schools and local education authorities are struggling to reduce the number of school places because of falling pupil numbers, I do not feel that these are appropriate questions”.

This betrays the LEA mindset all too clearly. Because the LEA is ultimately responsible for funding, its first impulse is to focus on reducing to the bare minimum the number of school places its budgets have to maintain. Shirley Rainbow, Headmistress of Lowick Primary

School, Cumbria explains that “our problem for the county was the fact that in this area overall there are surplus places. Now surplus places depend on how you define the school’s net capacity... we felt it was just an excuse to close us because we were a small school and thus expensive”.

This cost-reducing imperative is demonstrated by the DfES’ own statistics. Despite the fact that the number of children in secondary schools increased by over 10 per cent (305,630 pupils) between 1996 and 2005, there were 209 fewer schools at the end of this period than at the beginning, a fall of nearly 6 per cent²⁷. A teacher we interviewed at the Queen Elizabeth Grammar School, Penrith, was sceptical about the educational value of this trend: “If you go to a comprehensive of 1,500, half the staff don’t know the other staff. You don’t know if the person walking down the corridor is a teacher, visitor or intruder. The government should put more money into small schools”.

There is no clear focus on the quality of school places. It costs money to open a new school providing good school places while at the same time funding a half-empty bad school. It is much cheaper simply to allocate places in the bad school to those children who might otherwise be able to take advantage of a new school entering the sector. However, this does nothing for the chances of those children. Devon Allison of the Secondary School Campaign in Lambeth points out that one of the major hurdles to setting up new schools is that “little genuine attention is paid to the wishes of parents and children” and calls on the government “to take a more entrepreneurial approach to the issues”.

Existing provider capture

In addition to the rationalising behaviour of the LEAs, there is another reason why it has proven so difficult to set up new schools in the state sector. The SOC is made up of bodies that represent operators of schools within a given area. There is usually no representation on these bodies of parents groups, despite the exhortations of central government that their wishes are paramount. The threat to existing providers of new entrants into the system is clear – they might attract pupils away from their own schools, thereby representing a loss of income to those schools.

The view of a spokesperson for Kent County Council, for example, makes this very clear: “Any new schools being established should be part of an agreed strategic

plan for a locality to ensure that, as far as resources allow it, the needs of all children and parents are met. The consequences for existing schools of opening a new school have to be considered”. There is a conspicuous lack of acknowledgement that it is in fact parents who should be the main determinant of whether new schools are required or not, as Simon Patton, Parent and Director of MOSAIC Educational points out: “Parents should not just be consulted – they should be at the heart of any such development along with their children. We have too much ‘done unto us’ and not enough taking responsibility locally”.

The 2002 Education Act provides scope for promoters of new schools to appeal to the Adjudicator if their proposals are rejected by the SOC. However, although the Adjudicator is supposed to be independent, it is unfortunately not always so, as Rose Bugler from the Lowick Primary School in Cumbria explains: “We finally got to the Adjudicator, who we thought would be independent. However, the Adjudicator has to take note of what the LEA says and of course that must be the ‘truth’. It was all tied up in political knots”.

Regulatory burden

The combined effect of the LEAs’ rationalising behaviour and the SOCs’ existing provider bias has been virtual inertia in the creation of new schools. But the final nail in the coffin of new school creation is the overall regulatory burden involved in setting up and running a new school. A spokesman for the Oasis Charitable Education Trust explains, “We’ve encountered masses of hurdles in setting up a new school – planning issues in receiving land from the LEA, understanding intricate DfES policies and systems, the intricacies of the construction world etc.” Jason Praeter, Curriculum Manager, of Summerhill School in Suffolk concurs: “We have considered the possibilities of setting up franchise schools in other countries – the UK seems prohibitively rigid”.

The overall regulatory burden is a vital factor in discouraging providers from setting up new schools. The sheer size and scope of the regulatory burden on state schools is examined in more detail in Chapter 7 and represents a significant barrier to entry for new providers. Briefly, however, the provider must adhere to:

- National Curriculum arrangements which dictate what can be taught and how

- Employment conditions that spell out in minute detail what roles teachers should and should not be carrying out
- Incredibly complex teacher pay scales
- Close direction on how the school is allowed to operate, such as when setting budgets, maintaining school buildings, organising school trips, providing school meals and so on
- Complicated funding structures which require a great deal of heads' time to apply for discretionary grants and funds
- Representations (objections, support, other comments) on the proposals must be sent to the LEA within six weeks of the publication of the summary.
- The LEA has a week to submit the proposals and feedback to the School Organisation Committee.
- The SOC has six weeks to consider the proposals (with reference to points of statutory guidance issued by the secretary of state) and to send their view to the Secretary of State. The SOC can request further comments.
- The Secretary of State then makes a decision.

Steve Sansom, director of education services group Edict, sums up the view of potential providers: “The main regulations I’d like to see abolished? I’d like to see a general simplification. Things are much too bureaucratic”.

Setting up a school is also complicated. Since requirements set out in Education Act 2002 came into force in June 2003, the following process must be followed when setting up a new school:

- LEAs must publish a notice inviting any other interested parties to bring forward proposals for the new school before publishing any of its own proposals.
- The LEA then has to publish a summary of all proposals put forward and give all local people the opportunity to comment on them. These must be published in at least one local newspaper, displayed in a prominent place in the area and also sent to the local Church of England and Roman Catholic dioceses, any other person/organisation that has previously expressed an interest in setting up a school in the area, or any other body that is likely to be interested in the proposals.
- Promoters must respond with their proposals to the LEA within two months of the publication notice.
- The LEA must publish a summary of all proposals received, as well as its own, in the local newspaper and other specified local places for comments by anyone who wishes to respond. Full copies of the proposals must be available at the LEA office for the public’s inspection.

Once again it should be noted that LEAs and SOCs have a significant role to play in the process, and as David McGahey of VT Education points out: “I think the Education Act 2002 opens up LEAs to private sector engagement and competition, but in reality, little of this is seen. The LEAs are stubborn at grassroots and there is not sufficient legislative freedom”. Of course this is not true of all LEAs. The London Borough of Wandsworth has been very proactive in its attempts to encourage new providers into the state sector, but even with a willing LEA the process is still extremely lengthy. Cllr Malcolm Grimstone, Cabinet Member for Education for Wandsworth, explains that education officers had to work “over several years” with a trust wishing to establish a new Muslim primary school “to help them develop their case”. A special task force has been working with the school to help it adjust to the demands of operating in the state sector.

Summary

Despite legislative action to bring about a dramatic change in the diversity and quality of state school provision, the government’s vision has been frustrated by the self-serving nature of many LEAs and their SOCs. Despite a clear indication that the existence of surplus places should not discourage the opening of new schools, few new schools have opened in England and many popular but uneconomic schools have been closed. Even when LEAs are willing to help schools enter the state system, the regulatory burden means this process can take years – time that children in under-performing schools can ill afford.

4. Stopping the good growing

Many schools have been able to expand despite the influence of School Organisation Committees and a lengthy regulatory process. However, there is a danger that expansion is affecting the quality of education on offer by creating unmanageably large schools, particularly in the secondary sector. It is not clear that many more schools would be willing to expand.

A clear mandate for growth

“Successful and popular schools that wish to expand should be able to do so”²⁸

That a school should be able to voluntarily expand its roll is, on the face of it, a simple proposition. If the school is oversubscribed, and the head and governors decide that it would be in the school’s best interest to expand, why should it not grow to meet the needs of an increasing number of pupils?

This view is supported by DfES literature and guidance, which clearly states that: “The Secretary of State...wishes to encourage LEAs to reorganise provision in order to ensure that places are located where parents want them”²⁹ – a clear instruction to LEAs to allow parental wishes to guide the growth and distribution of school places. The guidance continues:

“There should be a presumption to:

- Approve proposals to expand successful and popular schools unless there is compelling objective evidence that expansion would have a damaging effect on standards overall in the area which cannot be avoided by LEA action...
- Approve proposals to expand a school in order to replace places removed by the closure of a failing school...
- Reject proposals to expand grammar schools, except where the increase is due to a general increase in local pupil population”³⁰.

Notwithstanding the prejudice against grammar schools, the guidance is clearly in favour of expansion while giving a ‘get out’ clause to LEAs and SOCs. According to Ron Egan, the head teacher at the Methodist J&I School in Wakefield, the reality is that little happens: “If current regulations were abolished, we would want our school to be larger so we could take the pupils we know we are staffed for and able to accommodate. LEA influence holds schools back from developing. They are protecting schools collectively rather than supporting successful schools”.

As with the setting up of new schools within the state sector, it is important to understand the nature of the process for expanding a school and what the roles of the key bodies – LEAs, SOCs and Adjudicators – are within it.

Expanding a school

Once a school has put forward a proposal to expand, the process of reaching a decision involves many stages that can last for up to eighteen months.

Consultation

There are no set rules for the nature of consultation (e.g. public meetings, consultation papers or direct), but all interested parties must be consulted. This includes the school which is subject to the proposals; any LEA affected; any schools in the area who may be affected; parents and teachers in the area who may be affected; the appropriate diocesan authorities or faith groups if the school is religiously based; any trust or foundation providing the school; the local Learning and Skills Council (LSC) for 16-19 education; and Early Years and Child Care provision if likely to be affected.

Publishing statutory proposals

Statutory proposals must be published by any school wishing to enlarge its premises by increasing the capacity of the school by more than 30 pupils. The LEA, School governors (and LSC for a sixth form) can all publish

proposals. The Secretary of State can direct the LEA or governing body of a foundation or voluntary school to publish proposals where it appears that there is, or is likely to be, either an excess or insufficiency of school places³¹.

The proposals should include information on the proposed alteration, any required enlargement of the premises, the number of pupils to be admitted to the school in each relevant age group and a clarification of who is to implement the proposals – the LEA or the governing body. Proposals should be published within twelve months of the consultation and a statutory notice for the proposals must be published in a local newspaper, posted at main entrances of schools named in the proposals, and in a conspicuous local place such as a library, community centre or post office.

Representations

Anyone who wishes has six weeks to make a representation (i.e. either supportive comments or objections) to the LEA (if the proposal was published by the LEA) or the SOC (if the proposals were published by anyone else). This is the final chance for anyone to ensure that their voice will be heard by the decision-maker.

The decision-maker

If the LEA published the proposals and there are no objections, the LEA can make a decision within four months, provided the proposals were not linked to any others that have to be decided by the SOC. If the proposals not decided by the LEA (if they are published by another body), then they are considered by the SOC who will ask the proposers for comments.

If there are objections to LEA proposals, then the SOC looks at the proposals within a month of the end of the representation period (within two weeks for a school in special measures). All the groups on the SOC cast a vote. Each group has one vote, and a decision can only be taken unanimously. The SOC may decide to:

- Reject the proposals
- Approve the proposals without modification
- Approve the proposals but with modifications following a consultation with the proposers' school and others

If the SOC cannot agree unanimously, they pass the decision to the Adjudicator (appointed by the Secretary of

State) within two weeks. Equally, if two groups have an interest in the case, thereby disqualifying themselves, the SOC may also pass the proposals to the Adjudicator who may then come to any of the conclusions open to the SOC.

If proposals are rejected for the expansion of a popular school (defined as a school, other than a grammar school, where the number of unsuccessful admission appeals exceeds 10 per cent of the admission number for the year, or 5 per cent for a primary school), the proposers can appeal to the Adjudicator within 28 days of being notified of the SOC's decision.

Implementation

When statutory proposals have been approved by the SOC or Adjudicator, or determined by the LEA, the proposers usually have a statutory duty to implement them. If the original proposals cannot be implemented, the proposer has to bring forward a second proposal to remove the duty to implement the first. The SOC will decide whether this second proposal should be approved.

Fast track

From August 2005, new DfES guidance has indicated that the process for school expansion should be shortened to less than twelve weeks. However, the LEA and SOC remain in control of the process and, although schools may appeal to the Adjudicator if their proposals to expand are rejected, the SOC is still allowed to consider the effect on other local schools of the application to expand³². These changes therefore only deal with the symptoms of the problem and not the cause.

Roles of the LEA and SOC

Not only does the process remain bureaucratic, it once again puts the LEA and SOC in the driving seat for change, rather than the school itself. In 2003 guidance was issued to LEAs, SOCs and Adjudicators with the emphasis on a "strong presumption that proposals to expand successful and popular schools should normally be approved"³³. The popularity of a school is based on the numbers of unsuccessful admissions appeals. The judgment of 'success' of the school is not laid out in strict criteria, but in guidelines over standards and therefore liable to interpretation by the bodies overseeing applications to expand – the LEA and SOC.

Listed below are the factors that must be considered in relation to any school's intention to expand.

- **Standards:** The effect of expansion on standards both in the area overall and at the school in question
- **Need for places:** The need for places in the area overall and at the school in question; the effect of the expansion on the intake of other schools in the area
- **Financial viability:** whether expansion is a cost-effective use of public funds, whether the resources are available, whether the sale proceeds of redundant sites can be made available
- **Views of those affected:** including other schools and colleges in the area, parents and local residents, any LEA affected, the Learning and Skills Council (for post-16 education) and of the Early Years Development and Childcare Partnership (where appropriate)
- **Other:** 14-19 provision with regard to collaborative arrangements between schools (including sixth forms); sex, race and disability discrimination issues; effects to the minimum statutory requirement to the provision of playing fields; provision of safe pedestrian, cycling and bus routes to school; and effect on infant class size

These factors are hugely problematic because they can be used to protect the interests of existing schools. The only factor that should count is whether or not a school is able to attract the pupils required to fill the new places. The SOC, representing as it does existing state school providers within the sector, is likely to act in favour of the status quo. Using subjective interpretation of some of the factors listed above, it is always possible to demonstrate that other schools will be harmed by one school expanding, for example by putting downward pressure on unpopular schools' rolls.

On the one hand, the financial efficiency-maximising behaviour of the LEA leads it to favour the expansion of schools so long as it is able to get rid of surplus places in unpopular schools, i.e. by closing them down. Despite a 10 per cent increase in the number of secondary school pupils there has been a 6 per cent reduction in the number of secondary schools in the last ten years. This expansion of schools, however, often goes beyond the limit of what is best for pupils, as Anetta Minard of Oakmead School in Bournemouth explains: "We have grown from about 1,100 to 1,500 in the past five years. However, I would not like to see the main body of the school expand beyond 1,500 because it does get to the stage where suddenly it becomes very impersonal and the infrastructure needs to be quite intensive to deal with a school like that".

Funding expansion

A further problem related to the expansion of schools is funding. As John McLeod, Director of Education at Wakefield LEA explains: "One of the main concerns about government proposals for expansion is that they are not properly funded. The grants on offer do not seem to cover the true costs of extension". Expanding a school often involves the addition of new facilities, which must be funded through capital grants available from the LEA and DfES. And according to Cllr Malcolm Grimstone, Cabinet Member for Education at the London Borough of Wandsworth, capital funds available through Building Schools for the Future finance are often misdirected, giving "vast capital sums to LEAs with bad exam results independent of the state of their buildings or of their ability to spend such money effectively".

Since August 2003 expansion has been made easier in terms of funding. The LEAs and schools may apply for funding of statutory proposals to enlarge any popular and successful secondary schools. If the proposals are approved, they will receive a fixed sum of £400,000 to support the expansion (£500,000 if they have a sixth form)³⁴. However, because capital funds are not rolled into per pupil funding but allocated on a school-by-school basis there is still no clear and transparent link between the number of pupils a school is able to attract and funding for expansion.

Do schools want to expand?

The final question is whether schools themselves want to expand. One teacher we interviewed at the Queen Elizabeth Grammar School, Penrith says that: "Bigger schools are more efficient and cost less to run, but I think that is at the expense of the children. A massive comprehensive school may provide a swimming pool and two sports halls and a much wider range of subjects, but that is at the expense of the interest of the pupils and their relationship with the staff. I think the problem with education nowadays is the size of comprehensives". John McLeod of Wakefield LEA asks the question, "how great can any expansion be before the very qualities that make it popular are negated?"

Many schools cite their small size as an advantage, especially independent schools³⁵. Gill Richards, Head of the Belvedere School in Liverpool says that, "the school, such as I currently run, works because it is relatively small. Each girl is known personally to me and the staff. We have a very good system of pastoral care and support

and spend a lot of effort creating the right ethos to ensure success and raise aspirations”. However, in many city areas, good schools are simply oversubscribed. If all children are to benefit from the education that an established, well-run school can provide, good schools will be under pressure to expand until legislation enables the rapid creation of new smaller schools.

Summary

The process of applying to expand an existing state school is long and bureaucratic. Once again it gives final decision-making powers to the LEA and SOC, although in this case they may pull in opposite directions. As proven by the falling numbers of secondary schools, the LEA will push for economies of scale and ‘rationalisation’ where possible, which encourages the expansion of popular schools. On the other hand, this expansion threatens the rolls of other existing state providers, and so

the SOC will tend to act as a brake on school expansion. Schools wanting to expand also still have to apply to the LEA or DfES for capital funds.

However, the fact remains that popular schools have been able to expand. They have been able to do this because small scale, incremental increases are possible without recourse to statutory procedures and because LEAs have been encouraging (albeit for their own reasons). It is clearly much easier to expand an existing school than it is to start a new one or bring an independent into the sector. This shows that flexibility is possible in the system and that LEAs, if correctly incentivised, can act to increase good school places. The downside is that, beyond a certain point, expansion may harm the quality of the school. Parents themselves have shown that they tend to prefer smaller schools, and so giving schools the ability to expand must go hand in hand with making it easier for new, smaller schools to enter the system.

5. No role for independents

Independent schools' role in state-funded education has diminished rapidly since the end of the direct grant and assisted places schemes. Independent schools enjoy enormous operational freedom, which is arguably more important than the additional resources many enjoy. A significant number of small, low-fee independent schools may be interested in transferring to the state sector in the right circumstances.

The independent sector today

"I think independent schools perpetuate the divisions in our society and should be discouraged in every way possible"

(Jane Pickard, Parent, Wandsworth)

To say that the independent school sector occupies a controversial position in British society is something of an understatement. Comments like the one above are not unusual and are based on the belief that 'public school' education does as much as anything to perpetuate class divisions within society. Opinion is highly divided on independent schools, as a MORI survey for the Sutton Trust has shown. 50 per cent of parents interviewed said they would or probably would send their child to a private school if expense was not a consideration. However, 29 per cent said they probably would not while 15 per cent said they definitely would not. Younger parents were more than twice as likely as all parents to say they definitely would not send their children to an independent school even if cost were not an issue³⁶.

There is no denying, however, that the sector is popular – the proportion of pupils taught in the independent sector has grown from 6.7 per cent in 1997 to 7 per cent in 2005. Simply understood, the sector is popular because it is successful and it continues to outperform the state sector by a wide margin. Despite educating only 7 per cent of the school age population,

independent schools supply 38 per cent of all candidates gaining three A grades or better at A-level. In 2004, 53.5 per cent of GCSE entries from independent schools scored an A* or A, compared to just 13.4 per cent at state schools³⁷.

But despite popular perceptions, the key to the sector's success is not just the financial resources it can call on, although these are important. Just as important is the freedom heads and teachers enjoy to innovate and improve. Shirley Rainbow of Lowick Primary School in Cumbria, which recently had its state funding withdrawn and was forced to become independent, explains: "As an independent, now we feel that there won't be anybody from the LEA coming and telling us we are not doing things properly. We can be as creative as we wish". The independent sector is considerably more flexible than the state sector, which has a positive effect on outcomes.

Setting up an independent school

In Chapter 3 we analysed the (incredibly lengthy and convoluted) process for setting up a new (additional) school within the state sector. By contrast, setting up a school in the independent sector is much more straightforward. According to Shirley Rainbow Lowick Primary School in Cumbria, "in terms of comparing what you have to do to register as an independent school and as a state school, it seems a lot less. It is a lot easier to be an independent school". An application for registration with the DfES is required, which usually takes only three months. Since a school must be legally registered before admitting pupils, the DfES recommends submitting applications by June for a planned opening in September of the same year. The application must include:

- A plan showing the layout of premises
- Curriculum and work assessment policies

- A school policy document detailing policies on bullying, child welfare, health and safety issues, behaviour etc.
- A risk assessment as required by the Fire Precautions (Workplace) Regulations 1997
- A copy of the school complaints procedures
- A completed Disclosure Form (obtainable from the Criminal Records Bureau) in respect of all proprietors of the school

Once set up, independent schools are subject to regular six-yearly cycle of Ofsted inspections to ensure they continue to meet the standards for registration³⁸.

Unfortunately, the process for setting up an independent school has been made considerably more complicated by the 2002 and 2005 Education Acts, as Maksud Gangat of the Al Risaala Education Trust explains: “Before, opening a new school was very easy...now you need the entire structure in place before you start. It has made it impossible to start a new school unless you are a multi-millionaire. You could put it all in place and spend all that money and it would not be approved. Either way it takes two years”. New independent schools are required to have an Ofsted inspection before opening, which means that only schools with vast amounts of start-up capital can meet the requirements.

Civitas, a think tank that decided to set up its own New Model School, did not have such vast capital sources. However, the team leading the project discovered that by teaching for less than 21 hours a week it could escape the regulation that goes with registering as a school. Therefore the school only taught in the mornings and has classified itself as a “provider of educational services”. The school was the legal equivalent of home schooling. Full registration as a school only took place at the end of the first year when the funding and management structures were in place.

Paying for private education

Today the independent sector comprises 615,000 children at 2,500 independent schools³⁹. Fees for day pupils range from £1,500 per annum at the small Al Risaala School in South London to £15,204-£16,488 per annum at the traditional ‘public school’ academic establishments such as Westminster School⁴⁰. This compares to per capita funding in the state sector that will reach more than £5,500 per annum in 2007/8⁴¹. According to the

Independent Schools Council, as many as 145 independent schools in England charge fees at or below this rate⁴².

Contrary to many preconceptions, a considerable socio-economic range of pupils attend independent schools. Many are fleeing poor quality state education, as a teacher at the independent Fold School in Hove explains: “Our parents will give up the summer holiday or a new car so their children can come here”. Around 40 per cent of children educated at independents school are ‘first time buyers’, i.e. the children of parents who did not attend an independent school⁴³. Laura Osei is the head teacher of the Eden School in London, a school which is typical of a new kind of independent school aimed at the lower end of the fee range. It charges fees of £2,550-£3,000 per annum, and Ms Osei points out that “many of our pupils are young black males from a disadvantaged background who have particular difficulty in settling down at school. At the Eden School we help them to engage and enjoy education. We are here to help the children in need”.

It is also important to understand that the overwhelming majority of independent schools are charities, which indicates the general ethos under which most operate. Philanthropy and a sense of vocation are major motivating factors for teachers in both the state and independent sector⁴⁴ and there is a strong desire to achieve inclusivity within both. Currently around 118,000 pupils at schools registered with the Independent Schools Council, which represents about 80 per cent of the private sector, receive assistance with their fees from their schools⁴⁵. In 2004, these schools paid out more than three times as much (£302 million) in scholarships and bursaries as they received in fiscal benefits from charitable status (£88 million)⁴⁶.

Freedom to succeed

Although there are many excellent state schools, statistics show that on average the independent sector consistently outperforms the state sector. The Independent Schools Council states that more than 80 per cent of pupils at independent schools (including special schools) gain five or more GCSE passes at A*-C, compared to the national average of 53.7 per cent⁴⁷. Some of this performance is related to funding. But as Peter Johnson, the head teacher at Millfield School in Somerset, explains it is not just a matter of extra funding but what those schools achieve with it: “Independent schools are in fact very good value for money. They have to be. They’re a business”.

The additional finance means that independent schools boast better teacher-pupil ratios than the state sector – 1:10 compared to 1:18⁴⁸ – while higher pay means the sector is able to attract better qualified teaching staff⁴⁹. These are important factors for parents too. Comments from parents we interviewed reflected those of the 2001 Mori poll conducted for ISIS⁵⁰, which found that 36 per cent of parents cited smaller class size as the principal reason for choosing an independent school. Eighty per cent of parents said that other key attractions were discipline and good quality teachers.

Even private schools that cannot afford to pay higher salaries than the state often manage to achieve better than average teacher-pupil ratios. One of the reasons for this is the much lighter regulatory burden on independent schools, giving teachers more time to teach and more freedom to personalise the syllabus to pupil needs. As Peter Johnson from Millfield School explains, “we are already dictated to too much by the overbearing state – in terms of curriculum and exam system”. Asked what stops him operating within the state sector he says, “Simple – regulation. I like being my own boss”. This view is supported by Jason Praeter, Curriculum Manager at Summer Hill School in Suffolk: “What stops us operating in the state sector now? This is an international school with a long history of independence...we see state funding as a significant danger to our freedom of action”.

Partnerships

There is a long history of independent sector activity within the state sector, although this has steadily diminished since the abolition of direct grant schools in the 1970s and the Assisted Places Scheme in 1997. Nevertheless, the sector continues to play a role in state education, not least in the provision of education services to children with Special Educational Needs (SEN). It is a little known fact that in the region of £300 million is spent each year sending children with SEN to private schools⁵¹. Independent schools are very willing to co-operate with the state sector, as Michael Barber, Deputy Headmaster of Downside School in Bath explains: “State funding transferable to the independent sector is an excellent and long overdue idea. It improves the social inclusiveness of the school. We already have a link with Writhlington [state] School and we do educate a small number of their pupils for A-Level”. But the actual reach of existing projects is minimal.

Assisted Places Scheme

The Assisted Places Scheme was introduced in 1980 to give bright, motivated but financially disadvantaged children a chance of a private education. It aimed to open up access to the independent sector to a wider social mix of children. It was criticised for being open to abuse from middle class families with clever accountants, for devoting disproportionate amounts of money to only a few pupils and for being too academically selective. In 1997/8 the government spent £134 million educating 36,458 pupils through the scheme⁵².

ISSP Scheme

The Independent State School Partnership Scheme (ISSP) was set up by the DfES in 1998 to provide a structure and funding for co-operation between the sectors. It has so far provided around £6 million for projects involving 1,100 schools and 80,000 pupils. The scheme revealed enthusiasm for partnership from the very first round of funding and received 300 applications. In 2003-4, the financial value of the applications to set up partnerships amounted £3.38 million, an oversubscription of over three times the funding available⁵³.

The partnerships involve the sharing of facilities, teaching resources and teacher training. They have tended to concentrate on sporting, community and extra-curricular activities. David Bell, HM Chief Inspector of Schools commented that: “...independent and state schools are sharing ideas, resources and the expertise of their teachers, and pupils are benefiting. Barriers and negative preconceptions between the sectors and individual schools are being broken down”⁵⁴. But is it enough?

The reach of the scheme is minimal; it is drastically underfunded and massively oversubscribed. The ISSP budget for 2004 is £1.4 million, only slightly more than the furniture allowance for the Learning and Skills Council⁵⁵. Many independent and state schools feel that the government has committed itself in theory but not in practice to breaking down the barriers between independent and state sectors.

Leading Edge Partnerships

In February 2003, Education Secretary Charles Clarke announced that independent schools would be allowed to bid for grants of up to £60,000 to share their expertise with state secondary schools. However, no independent school was involved with the two rounds of funding to date, and despite vocal intentions towards sector collabo-

ration, it seems there has been little consultation beyond the original statement. A member of staff we interviewed at the Independent Schools Council had not heard of the scheme.

Learning and Skills Council funding for minority subjects

In June 2003, the LSC set up some broad principles for a partnership with independent schools. The idea was to buy use of facilities at LSC national rates. The scheme was designed to work in conjunction with an ISSP scheme, providing academic interaction. However, according to the Independent Schools Council communication of the scheme has been very poor and no one has been made responsible for actually instigating it. The result is that this scheme is hardly used at all despite demand from heads of both state and independent schools. The following factors are to blame:

- Insufficient communication and co-operation
- Prejudice against the independent sector
- The lengthy and expensive teacher training required for teachers to re-qualify for the state sector (Qualified Teacher Status – QTS)
- Poor links between the independent sector and SUPERJANET, the National Education Network⁵⁶.

Unfortunately the various attempts at independent-state sector collaboration under the Labour government have proven very ineffectual. As Jan Scarrow, head teacher at Badminton School in Bristol comments: “The trouble with partnerships is that the state sector won’t let the independent schools access cheap IT facilities. We have to provide everything ourselves. In Australia there is a much warmer relationship between the independent and state sector”. She also notes that the nature of the state sector means that a very proactive LEA is a prerequisite for successful collaboration but in her case, “Bristol is not an easy area to operate in. The council is dreadfully apathetic...there seems to be a lot of glossy brochures and good words but very little practical action”.

From independent to state

Despite their dislike of burdensome regulation, many small independent schools we spoke to were interested in moving into the state sector and receiving state funding. The reason for this is clear: the provision of a regular and reliable income stream. Maksud Gangat of the Al Risaala

Education Trust in South London supports this view: “We charge a nominal fee of £1,500 per annum for our secondary independent school. The community has provided the funding. We have tried to do as much as we can independently, but would like further assistance”. As Laura Osei of the Eden School in London says, “we run on little finance...many parents are often behind in payment of school fees; regular funds from the state would solve our problem”. Her school is charitable, has less funding than a state equivalent and, in her words, “is focused on helping the working-class child”. So how easy is it to make the transition?

Bureaucracy

“We are a Christian faith school and to apply for VAS (Voluntary Aided Status) is a major hurdle due to red tape and bureaucracy and could take years”

(Laura Osei, Eden School, London)

The DfES ‘Guidance for Independent Schools wanting to join the maintained sector’ is 43 pages long and details the eleven steps necessary for the process. There are ten appendices covering additional background details and conditions that need to be met. It is as laborious and dense as the process it describes, if not quite as long. The guidance states that: “Bringing in a new independent school into the maintained sector takes time – probably longer than you would expect. As a very rough guide and assuming no hitches, it can take at least two years. But it is difficult to generalise and you might encounter issues that take time to resolve”⁵⁷.

The process is so complex that the DfES suggest working with “an independent consultant experienced in this field”⁵⁸. It is costly as well as being time-consuming. Architects, project managers, quantity surveyors, educationalists and planning consultants should also be employed at the independent school’s expense. According to Rose Bugler of Lowick Primary School in Cumbria, “the process you have to go through to be state funded is an absolute nightmare”. In addition, schools have to adapt their entire regulatory framework to that of the state sector, including curriculum requirements, teacher pay, admissions, disciplinary procedures etc.

It is of course understandable that a school receiving taxpayers’ money should be accountable and safe, but the regulations take no account of risk. While opening a new school can be problematic, especially if the operators have not operated a school before, an existing independent

school is clearly able to succeed and attract pupils. The assumption ought to be that they are automatically fit to operate in the state sector unless proved otherwise, rather than the other way round.

Role of local government

Independent schools wishing to enter the state sector also encounter local government prejudice. According to David Vardy of the Peter Vardy Foundation, “our main problem is the fact that some believe that local education authorities and councils have an inherent right to be responsible for education. We are in an area where ‘Old Labour’ is very prevalent. They are reluctant to allow in others that might show them up by succeeding where they have failed”. A teacher we spoke to at the Fold School in Hove backed up this view: “There is very much a bias towards the state system, which is completely unfair, because people who run the education system are in the state system and they feel that the children who come here are privileged”. This despite the fact that the school charges fees around the level of state funding and, according to the teacher, many of the parents make huge sacrifices to give their children the chance of a good education.

Unfortunately, the process for transferring into the state sector gives local government the ‘final say’, enabling them to use regulatory mechanisms to act in their own interest but against those of parents. We have already seen in Chapter 3 how difficult it is for new schools to enter the state system and a similar problem applies to independent schools wishing to transfer into the state sector. Once again, it is clearly not in the interest of the LEA to start funding a number of new places that were previously being paid for by parents, i.e. there is a deadweight cost involved, and existing schools with representatives on the SOC will be wary of letting a new competitor into the marketplace. Rose Bugler of Lowick Primary School in Cumbria emphasises the scale of the problem: “The LEA said to us that they had decided early on that there was no need for any new schools in the county. End of story. They don’t understand consultation and participation and engagement of communities, families and parents in delivering education”.

The Brighton and Hove Montessori School

The trials of the Brighton and Hove Montessori School (BHMS) exemplify perfectly the problem independent schools have in entering the state system. For 12 years the

BHMS has been bidding to become the first state sector Montessori school in the UK. They already operate their school on a not-for-profit basis, and want to become ‘free at the point of use’ so as to be able to offer places to all, regardless of ability to pay.

In February 2004, the DfES approved their Target Capital Funding bid to buy land and build a fully accessible, eco-friendly, Voluntary Aided School (VAS). The requirements of VAS status are that the school or associated trust must provide 10 per cent of the capital funding. For the sake of procedure, the school was classified as new, i.e. additional. The team included award-winning architects and the DfES rated their case as among the top five cases across the country in terms of quality of application and desirability of outcome. Initially the local authority Brighton and Hove City Council supported their bid but, despite the DfES’s enthusiasm, soon became far less co-operative.

Trouble at the bottom – local opposition

Brighton and Hove School Organisation Committee (SOC) refused the BHMS’s application for Voluntary aided status, to the bewilderment of the school and the apparent frustration of the DfES. The SOC put forward several objections. The BHMS exercised their right to appeal against the decision and to take their case to an Adjudicator.

The SOC objections were based on the following concerns:

- Surplus places in the area – 7 per cent
- Level of parental demand
- Admissions arrangements
- Educational standards of provision
- The source of the remaining 10 per cent of the funding

The BHMS responded to the SOC’s concerns in a letter to the Adjudicator, pointing out that:

- DfES Guidance states that surplus places cannot be used as an argument in rejecting an application by a proposer if there is sufficient parental support for the scheme
- They had over 700 petition signatures and a full waiting list
- They had followed the advice of the head of admissions team at the DfES
- Ofsted reports on the school were “very good” across the board and Montessori method has an excellent reputation⁵⁹

However, although the DfES were sufficiently impressed by their bid to agree to provide 90 per cent of the capital funding, the school's application foundered on its inability to secure the final 10 per cent of funding – around £600,000. The independent Adjudicator rightly pointed out that the DfES Guidance forbade him from approving a bid on condition of the remaining funding being found. The LEA's rejection of the bid on other grounds (such as surplus place considerations) discouraged the bank from granting the necessary loan. One of the staff described how they had found themselves caught in a vicious circle; the bank with whom they were negotiating a loan was supportive, but was not prepared to go ahead without more positive input from the LEA as to the likelihood of the bid being approved.

Adjudicator's report

Given that the DfES guidance is full of brave new rhetoric and states that the presumption should be to approve a new bid, some of the grounds on which BHMS's was contested appear dubious to a disinterested reader of the documentation. The Adjudicator's report demonstrates the conservatism of the system and the protection it affords existing state schools:

“Although I am not in a position to prove that income would not be generated as envisaged, I can only use my judgement and experience in reaching my conclusion that the income figures may prove over-optimistic”

“it is not therefore possible to be certain that present qualities [i.e. the high quality education available in the existing independent school] would apply to the proposed school”

“I must if anything err on the side of caution”

“With its new facilities, it [the new maintained school] might prove attractive to more local families who might indeed find places to be avail-

able. If this were to be the case, then the anxieties expressed by the LEA, schools local to the proposed site and other objectors would prove to be well founded”⁶⁰

The implication of these statements should not be underestimated. The decision of the Adjudicator comes down squarely on the side of existing state schools and, despite explicitly recognising the likely success and popularity of the new school, prefers to protect the cosy position of these schools at the cost of the education of local children.

Summary

Although the level of funding of independent schools varies, they all share one advantage over state schools – a radically lower regulatory burden. All independent schools we talked to valued this aspect of their business model more than any other because it allows them to innovate and improve, tailoring their educational offer to the children in their schools. Most state schools would thrive with similar freedoms.

For those independent schools with fees at or around the level of state funding, which could be as many as 145, taking on the onerous regulatory burden of the state sector is the primary disincentive to transferring. This is despite the fact that many independent schools would be interested in operating within the state school ‘family’, both for financial and for social or philanthropic reasons. But as Elizabeth Steinthal, head teacher of the Educare Small School in Surrey points out: “We could apply for funding but this would require the school to comply with criteria which do not align with our aims and objectives”.

Even when independent schools are willing to enter into the state system, the process for transferring into the maintain sector is lengthy and complicated and gives too much discretion to the LEA and SOC, in neither of whose interests it is to see new schools enter the sector. As the story of the Brighton and Hove Montessori School demonstrates, this is often despite the explicit wishes of parents. The self-serving attitudes of LEAs and SOCs are once again apparent.

6. A slow turnaround

It can take up to six years before failing schools are shut down – more than the entire secondary or primary school career of some pupils. The system for turning around these schools is bureaucratic and has a poor record of success. The key agencies, Ofsted and LEAs, have few incentives to prevent or deal with failure, threatening the futures of thousands of children.

The case for intervention

In the quest to create more good school places, it is not acceptable merely to focus on bringing new places into the system. Just as important is turning bad schools places into good ones. It is not acceptable to let bad schools ‘wither on the vine’, as happens in the independent sector, because children in state schools are often left with no other options. This is mainly to do with the supply issues related in previous chapters.

Time is also of the essence; while a school is failing, the future of each and every one of the pupils at the school is being eroded. It is easy to forget, and the system often does, that the school is there purely to serve the pupils and that the pupils are not there to keep the school afloat as an institution. Ofsted estimates that up to 1,000 schools are “not making sufficient progress”, meaning the lives and prospects of around 500,000 children are being jeopardised by school failure⁶¹. It is essential that weak schools are either closed down or drastically improved in the shortest time possible. As Roger Lucas, Strategic Manager in the Lifelong Learning Department of Luton Council, points out the system fails in this respect: “The current system is slow and cumbersome, resulting in schools being in special measures / serious weaknesses for up to two years”.

As always, there is a balance between doing things quickly, and doing things well. Schools that could be improved should not be shut down nor should time be wasted on attempting to resuscitate schools that are ‘terminally ill’. New schools should not be set up so hurriedly that they repeat the mistakes of the schools that

have been closed down, and the weaknesses of those schools must be identified. Leadership is the defining factor, as Gill Richards of the Belvedere Independent School in Liverpool explains: “The Head is crucial. I have seen and worked in some very challenging state schools that have had poor facilities but have been very good schools. Throwing money at it does not solve the problems. All state schools I have worked in needed more money but it needs to be carefully targeted money. The key question is why are they weak?”

Identifying failure

A great deal of DfES literature is devoted to explaining the system for turning around failing schools, categories of failure, the bodies equipped to tackle it, the various schemes and their inter-relation⁶². Problem schools generally fall under the title of ‘Schools Causing Concern’ (SCCs). There are also ‘Schools Facing Challenging Circumstances’ (SFCCs), which are not viewed as failing as such but face other problems such as falling rolls, local disadvantage and so on⁶³. However, turnaround measures apply for Schools Causing Concern.

Schools Causing Concern

Prior to September 2005 there were four categories of ‘Schools Causing Concern’, two of which were incremental:

- **Special Measures** – The most drastic of the categorisations. A school requires ‘special measures’ if: “The school is failing, or likely to fail, to give its pupils an acceptable standard of education”⁶⁴.
- **Serious Weaknesses** – The stage prior to ‘special measures’. A school has ‘serious weaknesses’ if: “Although giving its pupils, in general, an acceptable standard of education, it has significant weaknesses in one or more areas of its activities”⁶⁵. If a school has ‘serious weaknesses’ for more than two years it is recategorised as requiring ‘special measures’.

- **Underachieving School** – Not the third stage of weakness, but a separate category. It relates to relative achievement of schools in comparison with schools deemed to be comparable. The judgment is based on test results, test result improvement, school expectations for pupils, challenges provided and targets set.
- **Inadequate Sixth Form** – If a school is in ‘special measures’ it is automatically also assumed to have an ‘inadequate sixth form’. However, schools that have ‘serious weaknesses’ or are ‘underachieving’ may or may not be categorised as having an ‘inadequate sixth form’. An ‘inadequate sixth form’ is either “failing or likely to fail to provide an acceptable standard of education for pupils over the compulsory school age”, or “has significant weaknesses in one or more areas of its activities for pupils over compulsory school age”⁶⁶.

Legislation laid out in the Education Act 2005 has, since September 2005, introduced changes in the categorisation of failure and the processes for dealing with it. ‘Special measures’ criteria have been softened to take account of schools that are making dramatic improvements under a change of circumstances, e.g. a new head teacher. The

‘serious weaknesses’ and ‘underachieving school’ categories have been amalgamated into a new ‘requiring significant improvement’ category.

Facts about failure

One weak school is shut every fortnight, with the number having increased in recent years. In 2003-4, 22 schools were closed due to failure, compared to nineteen in each of 2001-2 and 2002-3⁶⁷. Nevertheless, the number of Schools Causing Concern in all four categories is in decline, as demonstrated by Figure 1⁶⁸. According to the DfES there are no data available before the Autumn Term 2003.

As well as considering the nominal numbers of schools within the categories of failure, it is also worthwhile looking at the movement of schools between categories. The movement of schools between ‘serious weaknesses’ and ‘special measures’ is shown in Figure 2⁶⁹.

This data is very revealing. It shows a decline in the number of schools leaving ‘serious weakness’, suggesting that although fewer schools may be dropping into this categorisation of failure it is becoming harder to leave. More importantly it shows an upward trend in the proportion of schools in ‘serious weakness’ that are

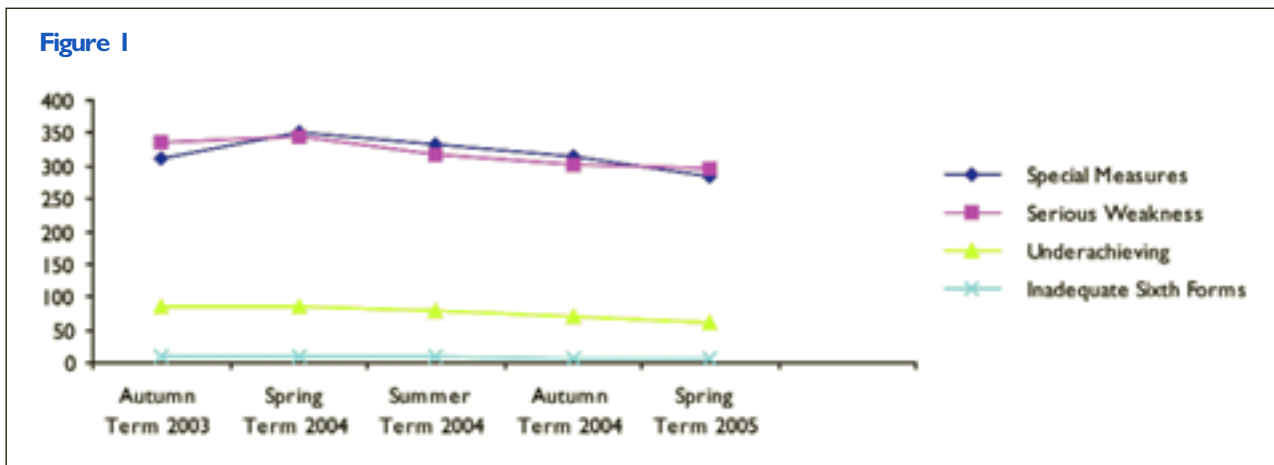


Figure 2

	Spring Term 2004	Summer Term 2004	Autumn Term 2004	Spring Term 2005
Schools leaving ‘serious weaknesses’	58	57	53	42
Schools leaving ‘serious weaknesses’ to move to ‘special measures’	7	9	7	7
% schools removed from ‘serious weaknesses’ to ‘special measures’	12.1%	15.8%	17.9%	16.7%
% of schools in ‘special measures’ that have come from ‘serious weaknesses’	9.2%	19.4%	21.4%	30.4%

actually getting *worse*, not better. This is confirmed in the proportion of schools in ‘special measures’ that have come from ‘serious weaknesses’ and suggests that the first safety net of intervention is losing what effectiveness it had.

A further comment to make is on the very large proportion of schools in ‘special measures’ that were not categorised as weak beforehand. This suggests that there is a problem with what have been termed “coasting schools”⁷⁰ suddenly dropping into failure, schools that might benefit either from competition to force up standards or intermediate intervention or both. According to John Mcleod, Corporate Director of Education at Wakefield Metropolitan District Council, “at any one time, something in a range of eight to twelve per cent of schools need a degree of intervention to help them improve. This does not necessarily mean that they have been put in special measures or serious weaknesses, they will have been identified as in various ways underperforming”.

What causes failure?

The closure rate of weak schools outlined above might be considered relatively low considering the number of schools currently in ‘special measures’ (285) and the estimated total of 1,000 weak schools. Our interviews unearthed concern that schools were not being judged by sufficiently holistic criteria, allowing too many schools to get away with offering a sub-standard quality of education to their pupils. According to David Duttson, a parent and former teacher in Devon, “a weak school shows in terms of lack of ethos, respect, manner and morale before numeracy and literacy rates”. This view is reinforced by Elaine Simpson of Serco, which works for Walsall LEA: “Weak schools aren’t just measurable in terms of exams, but the personnel climate, events, parents’ reports, value added exam results, exclusions, truancy”.

Accordingly, the 2005 Labour Party manifesto⁷¹ proposed to take parental opinion into account through a ballot and allow Ofsted to close schools directly. According to Cllr Grimstone, Cabinet Member for Education in the London Borough of Wandsworth, this idea is “a non-starter”. He explains that, “even the weakest of schools, when threatened with closure, become enormously popular and parents would inevitably see any such ballot as having closure implications”.

The manifesto proposal appears to be a typical ‘quick fix’ and unlikely to have much effect if implemented.

Virtually all our interviewees agreed that the leadership was the most important factor in a school’s success, and that its absence was the primary reason schools failed. Similarly, a successful management team provides the clearest route out of failure for a failing school. According to Michael Barber, Deputy Head of Downside School in Bath, the most important resource is the teaching staff but teachers need support: “A strong leadership team is essential, one which supports the good teachers and roots out the poor ones”.

John Mcleod of Wakefield LEA is unequivocal: “One of the fallacies in much of the current education debate about school quality is that throwing money at schools necessarily improves performance. Much more important is quality of leadership...in all these schools [identified by Ofsted as failing] the leadership and management of the head teacher was criticised and we have needed to secure the resignation or redeployment of three heads and one deputy. All this tends to support the view that unless the leadership team is working efficiently, the school will fail or under-perform”.

Dealing with failure

For all four categories of failure there is a long drawn out process of initial inspection and relaying of findings to and from Ofsted, the DfES, the LEA and the school governing body (governors and Diocesan or other relevant body if appropriate), and the Learning and Skills Council (LSC) if a sixth form is involved. We will look at how the procedure works for schools with the most acute categorisation of failure, those in ‘special measures’.

In the case of ‘special measures’, Ofsted must give a formal written report within six weeks of inspection. Ofsted inspect a school to see if it requires special measures if test results drop dramatically or if it has been in the ‘serious weaknesses’ category for two years. If registered inspectors are used instead of Ofsted, Her Majesty’s Chief Inspector of Schools (HMCI) must ratify the decision, which can take another six weeks and often requires another visit from Ofsted.

After a sequence of notification and formal confirmation from and between Ofsted and the DfES to the LEA, LSC and the school governing body, the governing body or LEA must draw up an ‘action plan’ within 40 days. Guidance for the ‘action plan’ runs to 48 pages⁷². The LEA must then provide an ‘LEA Commentary and Statement of Action’ within 10 days of the ‘action plan’ being submitted. From September 2005 schools are no longer be required to

draw up an ‘action plan’. Instead this should be incorporated into the ‘school development plan’ which schools are expected to maintain permanently⁷³.

The LEA and school governing body are expected to adhere to this plan. Feedback on performance is not provided by Ofsted until around six months after the first school inspection (six to eight months for ‘serious weaknesses’, six to eighteen months for ‘underachieving’ schools). Ofsted can judge that a school is out of ‘special measures’ at any time. It can then either go into ‘serious weaknesses’ or come out of all categorisations of failure depending on improvement.

If a school stays in ‘special measures’ for more than two years it should be closed automatically and a new school set up in its place. This was previously done under the government’s ‘Fresh Start’ scheme, but in future failing schools will be restarted as Academies. Chapter 8 deals with the operation of the Academies programme.

Is the system effective?

If a school is closed due to weakness it is now restarted as an Academy, which brings with it a massive injection of capital, new management and a relaxed regulatory regime. However, as we have seen only a small proportion of those weak schools actually close. The remainder either remain in the categories, yo-yo between them or hover just above. Schools can remain within categories of weakness for up to six years before remedial action is taken – the entire secondary or primary school career of a child.

Other than length of time before decisive intervention, the main reason why many schools fail to improve is the inability or unwillingness of the authorities – Ofsted, DfES and LEAs – to make the one decision that would dramatically improve the outcomes of the school: impose new management. Ron Egan, head teacher of Methodist J&I School in Wakefield, told us that turning around a weak school “needs a complete re-think and often a radical change of direction. LEAs are trapped in a traditional mind set and need to think outside the box”.

Cllr Grimstone of Wandsworth LEA explains the extent of the problem: “The system flounders if the quality of staff in the LEA or a soft-left attitude from the political establishment fails to provide either uncomfortable

challenge or practical support...in some LEAs there is still something of the old attitude prevalent. Some LEAs would prefer to develop cosy relations with the failing schools and find excuses for them rather than offering tough and often uncomfortable challenge”.

Parents, teachers and others felt that there were many more options for turning around weak schools than are presently being used. Questions were raised over the presumption that the LEA take the central role in weak school turnaround and some felt that rigid legislation was reducing the options for school improvement. In particular the system does little to encourage successful school leaders outside the state system to take over failing schools. Although there was interest from independent schools in tackling state school failure, Jan Scarrow, head teacher at Badminton School in Bristol, told us, “government rules would be too much of a disincentive for me to consider taking over the management of a weak school”. This view is backed up by Laura Osei of the Eden School in London, who believes that “targeting leaders within the state limits the spectrum of change that these schools can receive, compared to if the system were opened out to the successful independent leaders”. Steve Sansom, director of Edict, was another of our interviewees who told us that he would be interested in taking over a weak school: “It would be a real challenge and I’d enjoy the chance to make a difference”.

Summary

Despite being up to 1,000 weak schools, only around 2 per cent of these failing schools close per year. The rest are subjected to a range of lengthy interventions that often fail to get to the heart of the problem – poor management. Whole secondary or primary school pupils’ careers can be wasted while the relevant authorities attempt to improve performance. The unwillingness of LEAs to countenance closure, either due to fear of parental backlash or because of “cosy” relationships with the staff of failing schools, leads to an unacceptable number of schools providing sub-standard education. A more successful system would quickly and unequivocally identify failure, replace the management of weak schools and give them the resources and freedom to succeed.

7. Regulate, regulate

State schools are among the most heavily regulated organisations in England. Central control over the curriculum, discipline policies, teachers' pay and school administration has impeded the ability of schools to innovate and improve. Violence in schools has increased while morale among teachers has dropped, leaving to a huge 'brain drain' from the sector.

Introduction

There are four core areas in which the DfES and LEAs seek to regulate the general administration of schools in the state sector. These are:

- The curriculum
- Behaviour and discipline
- Teacher pay and administrative burden

This chapter looks at the ways in which these and other bodies exert control over schools and how it impacts on the quality of education schools offer their pupils.

Curriculum

The National Curriculum was introduced by the Conservative government within the provisions of the Education Reform Act 1988. It was designed to counteract the wild variation in the quality of teaching in state schools, first identified by Jim Callaghan in his "secret garden" speech at Ruskin College in 1976. Uneven teaching quality is one of the main reasons why, despite being the fourth largest economy in the world, Britain has up to seven million citizens who are functionally illiterate⁷⁴.

The National Curriculum covered nine subjects for primary schools and ten for secondary schools and, although it was originally not intended to be too detailed in content and structure, over time it became ever more prescriptive and elaborate. In 1994, Sir Ron Dearing produced a report arguing that the National Curriculum and testing should be severely scaled back. As a result the

post-14 curriculum (Key Stage 4) was slimmed down to five core subjects and each subject was restructured and simplified. Physical Education was then added to Key Stage 4 in 1995, and technology and a modern language in 1996. The current version of the National Curriculum took effect from August 2000 with amendments passed in August 2001 and September 2004. It now encompasses the following subjects:

- **Key Stage 1 (ages 5-7):** English, Maths, Science, Design & Technology, Information Technology, History, Geography, Art, Music, Physical Education
- **Key Stage 2 (ages 7-11):** English, Maths, Science, Design & Technology, Information Technology, History, Geography, Art, Music, Physical Education
- **Key Stage 3 (ages 11-14):** English, Maths, Science, Design & Technology, Information Technology, History, Geography, Art, Music, Physical Education, Modern Foreign Language⁷⁵
- **Key Stage 4 (ages 14-16):** English, Maths, Science, Information Technology, Physical Education, Citizenship, Religious Education, Sex Education, Careers Education, Work-Related Learning⁷⁶

Each of these subjects must be taught according to centrally-determined criteria, which are then reflected in the public exams taken at the end of a give Key Stage. It is interesting to note here that, although the National Curriculum has never been imposed on independent schools, many follow it closely because the main national examinations are based upon it. There must be scope for state schools similarly to vary what they teach, claims Steve Sansom, director of Edict: "It would be good if state schools were not subject to the National Curriculum – or else not so rigidly. Most teachers agree with the recommendations made in Tomlinson's 14-19 education report. It is a shame it wasn't taken on. There should be more emphasis on vocational courses and secondaries should not just be exam factories".

Numeracy and Literacy Strategies

The Labour Party used the lacklustre, albeit improving, standards in state schools as a key campaigning tool in the run up to the 1997 general election. The Labour manifesto contained key pledges to introduce numeracy and literacy strategies to improve standards in primary schools⁷⁷, pledges that quickly translated into government action and targets. The strategies proposed centrally determined teaching objectives in each area, for each school year from reception to Year 6. They also set out minute-by-minute instruction for a daily slot in the school timetable – the ‘literacy hour’ was introduced in 1998 and the ‘numeracy hour’ in 1999. The government gave itself ambitious targets to reach, promising that by 2002:

- 80 per cent of eleven year olds would reach the expected standard for their age in English (from 65 per cent)
- 75 per cent of eleven year olds would reach the expected standards for their age in Maths (from 59 per cent)⁷⁸

These requirements were on top of normal curriculum requirements and applied to all schools, regardless of existing standards and practices. However well intentioned, the strategies provoked huge resentment towards the government for its perceived invasion into teachers’ professional integrity. As Anetta Minard of the Oakmead School in Bournemouth, explains: “Literacy and numeracy and the three-part lesson hours represent an extreme of regulation. We have a lot of capable teachers with flair and originality who have their style stifled by that sort of approach, so I think it has gone too far”.

There were early warning signs that, by heavily restricting what teachers were allowed to teach, the strategies were not succeeding in their aims. This was particularly true of the National Literacy Strategy. A study for the Scottish Office showed that children taught to read for 20 minutes a day for sixteen weeks using a synthetic phonics approach were seven months ahead of their age group, while those taught by methods similar to those prescribed in the literacy hour were six months behind⁷⁹. The problems of the government’s approach were confirmed by the failure to hit the 2002 targets (which cost then Education Secretary Estelle Morris her job), and the subsequent inquiry into that failure⁸⁰. The government responded by merging the strategies into a single National Primary Strategy.

In 2005, Watson and Johnston published an updated report that traced the progress of the same children as they finished their primary education at eleven. The results showed that children taught synthetic phonics first are three years six months ahead of their chronological age in word-reading ability (based on national average) and one year eight months ahead in spelling⁸¹. In March 2005, the Centre for Policy Studies published a pamphlet on teaching reading by Tom Burkard, chairman of educational charity The Promethean Trust. Using figures from the DfES, he estimated that almost 1.8 million children have been ‘failed’ by the National Literacy Strategy since 1998⁸². Furthermore, the report goes on to cite concerns raised by Tony Gardiner, a mathematician from Birmingham University, concerning the validity of the published improvements from 48 per cent to 75 per cent from 1995 to 2000⁸³. The Office for National Statistics also found there to be serious concerns over reliability of the government’s statistics⁸⁴. Whilst the National Numeracy Strategy has not met such controversy, the improvement in standards has stalled and there are a number of critics who contest that *actual* standards in mathematics are still falling alarmingly⁸⁵.

Disapplying the curriculum

Despite its rigidities, heads and teachers may ‘disapply’ the National Curriculum in certain circumstances. Although disapplication was initially intended to be a rarely used tool – earlier guidance stated that it would only be necessary “in exceptional cases”⁸⁶ – the 2002 Education Act has ushered in a more liberal approach⁸⁷. Further relaxations have applied since 2004, with measures to take effect from 2006 concerning Science, Design & Technology and Modern Foreign Languages. This latter guidance seeks to cut down the requirements for Science, making the curriculum more flexible with the intention of rendering disapplication unnecessary. According to Ken Boston, Chief Executive of the Qualifications and Curriculum Authority, the changes are designed, “to increase flexibility for schools to meet the individual needs of their students and to encourage all schools to develop their curricula, as exemplified by the most effective schools”

The curriculum can be disappplied for groups of pupils or the school community to enable curriculum development or experimentation. It can be disappplied for individual pupils:

- For specific purposes in Key Stage 4 (under Section 91 of the Education Act 2002)
- Through a statement of educational need (under section 92)
- For a temporary period (under section 93)

Key Stage 4 is treated as a special case in the National Curriculum because: “For all students it forms the last period of compulsory education; for some it will be the end of formal education...some students may become disaffected, and the rate of exclusions is at its highest during Key Stage 4”. Regulations allow schools to disapply certain National Curriculum subjects at Key Stage 4 for two purposes:

- To allow a pupil to participate in extended work-related learning
- If it will otherwise educationally benefit a pupil

For the most part, Head Teachers decide when and how the National Curriculum should be disapplied. Since pupils are legally entitled to the full curriculum, the head is obliged to consult pupils and parents in making the decision. Parental consent is required before any disapplication can take place. Guidance states that “disapplication should always be in the best interests of the pupil” but this is a decision largely left to the discretion of the head teacher. Schools no longer have to provide annual monitoring data to the QCA on disapplication⁸⁸.

Behaviour and discipline

Under the leadership of then Education Secretary David Blunkett, the DfES proved particularly successful at reducing the number of exclusions, which fell from 12,300 in 1997/8 to 9,880 in 2003/4 – a reduction of almost 20 per cent⁸⁹. The government achieved this dramatic reduction in exclusions through their own legislation⁹⁰ and the use of exclusion appeals panels, which had been set up under the previous Conservative government. Heads were no longer given the final say over who attended their schools; this power was handed to independent Adjudicators. Financial penalties were also introduced for both schools and LEAs that excluded pupils. The same legislation required heads, governing bodies, LEAs, and Appeal Panels to comply with guidance produced by the Secretary of State for Education.

Excluding a pupil

The DfES provides guidance on exclusion procedures on its teachernet website⁹¹. A decision to exclude a pupil can only be made in response to serious breaches of school behaviour policy or if allowing the pupil to remain in school would seriously harm the education or welfare of the pupil or others in the school. Minor incidents like not doing homework or bringing in dinner money, poor academic performance, lateness or truancy, pregnancy, minor breaches of school uniform code and failings of parents are noted as not being sufficient grounds for exclusion.

There are two types of exclusion, fixed period and permanent exclusion. Guidance emphasises that permanent exclusion is a very final resort and should usually only take place after other remedies have been tried. In a few cases, a ‘one-off’ offence can warrant permanent exclusion – this might be in the case of serious actual or threatened violence against another pupil or member of staff, sexual abuse or assault, supplying an illegal drug or carrying an offensive weapon.

Before the decision is made, guidance states that a thorough investigation should be carried out; all evidence to support allegations should be considered; the pupil should give their version of events; a check should be made to see if the incident was provoked; and other bodies, such as the governors, should be consulted if necessary. Only the head teacher, acting head, or teacher in charge of a Pupil Referral Unit is in a position to decide that pupils should be excluded. The governing body must review all permanent exclusion decisions. They have the final say over whether the head’s decision is justified or not. If the governors disagree with the head’s decision the LEA must make arrangements for an Independent Appeals Panel to hear an appeal.

Prevention and alternatives

DfES guidance is at pains to stress that permanent exclusion must only be used as a last resort, and encourages schools to look at preventative and alternative measures. Schools attempting to deal with problem pupils must make use of DfES provided behaviour audit and training materials, which aim to help schools apply their behaviour policies in a consistent, rigorous and non-discriminatory way. There are induction training materials for teachers, teaching assistants and all other support staff, including a module on behaviour manage-

ment. The implications of the *National Agreement: Raising Standards and Tackling Workload* must be addressed, requiring schools to review their arrangements for management of school behaviour policies. ‘Pupils at risk’ panels at LEAs consider referrals of pupils at risk of exclusion and make recommendations for school-level action. LEAs can also offer support through Pastoral Support Teams and Behaviour and Education Support Teams to help schools tackle the combinations of social, emotional and health problems that foster problem pupils.

There are four alternatives to exclusion which should be considered in response to serious breaches of behaviour policy:

- **Restorative justice** – the offender redresses the ‘harm’ that has been done to a ‘victim’
- **Mediation** – through a third party, usually by a trained mediator
- **Internal seclusion** – the same as old fashioned ‘detention’: the pupil is removed from other pupils within the school premises, with appropriate support and supervision
- **Managed move** – to another school, with full knowledge and consent of heads, staff, parents, LEA and governors, if it is deemed best for the pupil to have a fresh start

If, after these lengthy procedures, the school successfully excludes the pupil, the pupil or his or her parents can appeal to be reinstated. Between 1997/8 and 2003/4 the proportion of exclusions that were appealed rose, and the proportion of those appeals that found in favour of excluded pupils rose by more than a quarter⁹². As Eric Henderson, a former teacher from Bristol explained to us, the sheer nature of the exclusions procedure, combined with DfES advice to exclude only as a last resort, puts most teachers off dealing with serious disciplinary problems: “Most of the teachers I know didn’t want to go through all the hassle of the procedure of reporting a problem child. There is so much paperwork and talk between organisations – then you know that at the end of it all, some well-meaning lay person who doesn’t know about being in the classroom at all will say ‘there, there, they’re only a kid, they’ve had a troubled background, he didn’t know what he was doing, give him another chance, let him back in’. Teacher’s hands are tied and the kids know it”.

Violence in schools

Using the procedures outlined above the government had much success in reducing exclusions, but at what cost? According to David Hart, former General Secretary of the National Association of Head Teachers union, “the rising level of abuse, threats and assaults by parents towards our members is totally and utterly unacceptable”⁹³. Almost all organisations involved in the provision of state schooling recognise that as the number exclusions has fallen the level of violence in schools has increased. In February 2005, the Chief Inspector of Schools reported that 9 per cent of secondary schools suffer from “persistent and unsatisfactory behaviour” – a 50 per cent rise since 2000⁹⁴. A survey by the organisation Teacher Support found that 84 per cent of teachers have been verbally abused, 29 per cent have been physically assaulted and 38 per cent have had their property vandalised. In 63 per cent of cases, respondents say that pupil aggression and unruliness had forced them to consider leaving the profession⁹⁵.

There are anecdotal examples of terrible violence in schools. Undercover investigative television programmes, such as Channel 4’s *Dispatches*, give a bleak view of pupil behaviour in the classroom⁹⁶. In July 2005, a teacher raped by a 15 year old pupil threatened to sue her school after it emerged at the trial that another teacher at the school had made a complaint of attempted rape three months before⁹⁷. Former teacher, Eric Henderson, explains the inability of teachers to exert proper discipline in their schools: “There was nothing I could do. A young lad lowering his trousers at me, and then saying ‘you can’t touch me’. He needed some proper common sense discipline, but all I had was some cosy government guidelines – and the kid knew it”.

Interestingly, the schools that have had most success in dealing with disciplinary problems are Academies, which are much freer to set and implement their own disciplinary procedures. This includes being allowed to use behavioural contracts between the school, parents and pupils – very important when 62 per cent of teachers report that parents do not support them on disciplinary matters and 12 per cent claimed they had actually been abused or assaulted by parents⁹⁸. Giving the school the final say on discipline, says David Vardy of the Peter Vardy Foundation, is key: “There is a behaviour code and this is applied with due process with the facility for warnings to be applied. Some students are excluded. Our attitude is that children that break the rules are excluding themselves. Head teachers in LEA-controlled schools say

to us, ‘we wish we could do that because to have a child who refuses to obey the rules but can’t be removed totally undermines the authority of the teachers’”.

Teachers

In 1997 the incoming Labour government promised that there would be no tolerance of bad teaching and pledged to weed out poor teachers from the state system: “There will, however, be speedy, but fair, procedures to remove teachers who cannot do the job”⁹⁹. Yet poor quality staff and a shortage of teachers continue to be cited as a major reason for educational under-performance in schools¹⁰⁰.

It is not that the government has been unsuccessful in attracting teachers to join the profession – a £12 million integrated marketing campaign to encourage graduates to become teachers seems to have had a positive effect, with the Teacher Training Agency reporting receiving 155 calls a day from would-be teachers, and recruits are up to 34,420 in 2004/5 from only 26,271 in 1998/9¹⁰¹. The problem appears to be ‘brain-drain’, both out of the profession altogether and into the independent sector. In 2005 the independent sector’s net gain in teachers from the state sector was 1,216, down slightly from the previous year’s figure of 1,262. More teachers entered the sector via this route than did via Initial Teacher Training and graduate courses – 979¹⁰². The wastage rate of teachers leaving primary schools was 10 per cent in 2004¹⁰³. Why does the state sector find it so difficult to retain staff?

Teachers’ pay

Teachers’ pay in the state sector is set annually. Payment differs according to region (England and Wales, Inner London, Outer London and Fringe) and category. Pay figures are from September 2005 and apply to national salaries outside London¹⁰⁴:

- **Unqualified Teachers** – such as instructors are paid on a ten-point scale ranging from £14,040 - £22,203. The governing body decides where on the scale the unqualified teacher should start.
- **Classroom Teachers** – are paid on the six-point Main Pay Scale (M1-M6). The salary range is £19,161 to £28,005.
- **Upper Pay Scale** – classroom teachers who reach M6 can apply to be assessed against eight national standards to attain the upper pay scale. Around 95 per cent of teachers who apply are successful. The pay scale is on three points (U1-U3). The salary range is £30,339 to £32,628.

- **Leadership Group** – head teachers and members of the leadership group are paid on a 43-point scale from £33,249 to £92,297. Heads’ pay is normally related to group size. Deputies and assistant heads are paid on a five-point range below the head teacher and above the pay of the highest paid classroom teacher.

In addition to the main categories above, there are various fast-track, bonus and incentive schemes including:

- **Management Allowances** – teachers who take on substantial management responsibilities are eligible for one of five management allowances from £1,638 to £10,572 per annum on top of their basic pay.
- **Fast Track Teaching Programme** (only in England) – this is designed for new entrants and existing teachers with high leadership potential. It concentrates on rapid training for professional excellence and school leadership. Newly qualified teachers on the scheme are given an extra point on main scale pay and extra recruitment and retention payment of £2,000 after the induction year.
- **Advanced Skills Teachers** – have their own 27 point pay scale, designed to offer a career path for skilled teachers other than in school management.
- **Excellent Teachers Scheme** – from September 2005, this scheme is aimed at teachers who perform exceptionally well on a number of criteria. Teachers must apply, and if successful are subject to a new pay scale.

Teachers generally progress up the pay scale, subject to satisfactory performance. They can progress by two points if their work has been excellent. Assessment of the teacher is usually carried out by the school itself, although substantial framework guidance has been issued by the DfES. As the government points out, teachers are better paid than ever but the system for rewarding teachers is extremely complicated and makes it very difficult to adequately reward the very best staff. As Jan Scarrow, head teacher of Badminton School in Bristol points out, “the joy of being independent is being able to pay staff appropriately”. Any attempt to deviate from national pay scales to attract high quality staff is very difficult and likely to provoke a reaction from the teaching unions, who are already unhappy with the freedom Academies have to appoint new staff on different contracts to those negotiated nationally by the unions¹⁰⁵. This makes it extremely difficult for the worst schools to attract the

calibre of staff they need to turn around their fortunes, despite the fact these schools are often very well-funded. Limited by the national pay scales they are forced to spend their additional resources on more, often unqualified, staff rather than better teachers, a factor which undoubtedly impedes their ability to improve.

Administrative burden

The level of bureaucracy involved in running a school is enormous. It has been estimated that the DfES issues around 12 pages of paperwork to schools every day¹⁰⁶. As we have seen, expanding the school roll, personalising the curriculum, excluding disruptive pupils and recruiting and keeping the best teachers is highly regulated by the DfES. Unfortunately, the regulation of state schools does not end there. We do not have space in this book to outline all the regulation that schools are subjected to, nor would it make an exciting read. The situation is well summed up by Anetta Minard of the Oakmead School in Bournemouth: “The bureaucracy is madness. For example, we end up giving information to the Learning and Skills Council, to the LEA, to the Department of Education and Skills, various different bodies, when really if the whole thing was streamlined it would ease administration enormously. I think there is no need for all the different layers between us and the government. The LEA is one, but you also have quangos looking at workplace reform; others looking at the implementation of literacy and numeracy; various bodies in-between costing an absolute fortune to run, giving consultation which is not required. There is a tremendous amount of money wasted”.

DfES

Workplace reform offers a good example of the bureaucratic way in which the DfES operates. Following complaints from the teaching unions that the burden of regulation was keeping teachers out of the classroom and impairing their ability to personalise the curriculum to their pupils’ needs, on 15 January 2003 the government and the main unions representing all staff working in schools signed up to a set of workplace reforms. The goal of the agreement was straightforward – to give teachers more time to teach and prepare. However, instead of simply reducing the overall level of regulation to give heads the flexibility to achieve this relatively simple goal, the government took a different, but not unfamiliar, approach.

A list of 25 routine tasks was drawn up that teachers would not normally be expected to do, including copy typing, record keeping and filing, administering teacher cover, minuting meetings and managing pupil data. Teachers are also guaranteed that 10 per cent of their time must be set aside for planning and preparation. An Implementation Review Unit was set up to look at paperwork and bureaucracy and a national change management programme instigated to help heads and governors manage the transition. Heads are required to monitor their school’s success in reforming their workforce. Teachers are able to complain if they carry out proscribed tasks or if they do not have the minimum preparation time. The emphasis throughout all the reforms is on increased rigidity and regulatory redress rather than on more flexibility¹⁰⁷.

LEA

The other body that schools primarily deal with is the LEA, which has varying responsibility for schools according to their status. Community schools are entirely subject to the LEA, which owns the school building and land. The LEA determines recurrent funding, employs staff and controls admissions. Foundation schools own their own land and buildings, manage their assets, employ their staff and establish or join charitable foundations to engage with outside partners. However, these schools constitute only 4 per cent of all schools¹⁰⁸. The LEA also caters for special educational needs provision in their area and is responsible for allocating funding to schools under its jurisdiction. In many cases, the LEA co-ordinates the regional admissions programme (see Chapter 9). Many schools have a jaundiced view of their LEA, which is well summarised by Ron Ludlow from the Beechen Cliff Comprehensive School in Bath: “You want an LEA that doesn’t do anything because when it does it’s a nuisance”.

Summary

The state school sector is highly regulated in everything that it does, impeding its ability to provide good education. This happens in two ways. First, the sheer extent of regulation takes up a great deal of heads’ and teachers’ time, time that would be better spent educating children. Second, the regulation is so prescriptive that it leaves little room to take into account individual circumstances, whether that is tailoring the curriculum to a child’s needs,

excluding a disruptive pupil or providing the rewards required to keep the best teachers in a given school.

These effects combine to undermine the autonomy of the school as an institution and to reduce the morale of teachers. The result is the exodus of teaching staff from the profession, many of who end up in the independent

sector. It is important to note the reasons teachers give for leaving the profession. A survey showed the top three reasons to be workload, pupil behaviour and government initiatives. Pay is only fourth on the list¹⁰⁹. There can be no doubt that the high level of regulation of state schools is harming the quality of education they can offer.

8. Academies

Academies are a new breed of state-funded, independently run school set up to replace failed schools. They are expensive to set up, costing on average £25 million in capital start-up costs, but enjoy considerable freedom over the curriculum, teachers' pay and the organisation of the school. Many state schools would benefit from the operational autonomy they enjoy.

What are Academies?

Academies emerged from two existing government programmes. The first, established under the previous Conservative government, involved the creation of City Technology Colleges, designed to educate and train young people with a predominantly vocational curriculum¹¹⁰. These schools were publicly-funded, i.e. non fee-paying, but run as independent schools with a level of operational autonomy not far below that enjoyed in the independent sector. The second programme was the 'Fresh Start' initiative, under which schools that for three consecutive years failed to achieve five A*-C GCSEs for at least 15 per cent of pupils would be considered for closure and replacement with a new school.

The Labour government recognised that these school closures and replacements offered an opportunity for a central government programme that circumvented the LEAs' obstructionist attitude towards the creation of new schools. The Academies scheme was the brainchild of Andrew (now Lord) Adonis, at the time the Prime Minister's chief adviser on education.

They have the following features:

- Publicly-funded independent state schools
 - Usually established as charitable companies
 - Staff are employed by the charitable company
 - An Academy's land and buildings are normally owned by the charitable company
 - Academies receive most of their recurrent funding from the DfES, but are also eligible for Standards Fund grants from the LEA
- Primary responsibility for admissions falls on the governing body
 - Must teach the National Curriculum core subjects and carry out Key Stage 3 tests but are otherwise free to "adopt innovative approaches to the content and delivery of the curriculum"¹¹¹
 - Academies are all-ability schools. In line with other schools with a specialism they can admit up to 10 per cent of pupils each year on the basis of their aptitude for the specialism
 - Private or charitable sponsors provide around £2 million of the capital costs for each Academy

Role and remit of the sponsor

Academies have become the source of much controversy, much of which is due to the role of the sponsoring individual or body. The amount donated by the sponsor is relatively low, up to £2 million, compared to the overall cost of creating an Academy, which is around £25 million¹¹², and this only covers the capital cost of buildings. The sponsors need not have any connection to education (although if this is the case, it is expected that they employ an education consultant) but they have considerable say over how the school is run: "Sponsors will also make decision about the Academy's vision and ethos and structures for governing and managing the new school. They will appoint a majority of the members of the governing body which runs the Academy". Since Academies are not bound by the national curriculum, sponsors also have considerable say over the curriculum¹¹³.

Objections in principle to the role of sponsors follow two lines. The first is that they represent the privatisation of state education, especially as some notable sponsors have links to commercial organisations such as Reed Elsevier. The second relates to the curriculum and the sponsor's role in controlling it. A prominent example is the Vardy Foundation's Emmanuel College Academy in Gateshead, which has been accused of teaching

creationism. These fears are unfounded, says David Vardy of the Peter Vardy Foundation: “Peter Vardy chairs the school board but has no role in the curriculum. He just provides the resources. We have to prepare our students for the acknowledged and accredited qualifications. The area of education is a very highly regulated environment, and rightly so, because it is so vital”.

Problems with the scheme

In fact, despite the furore that has raged intermittently about the role of sponsors in Academies, the really interesting facts about the Academy programme relate to the operational independence of the schools, the huge level of resources the government has committed to the scheme and the value for money (or otherwise) this outlay provides.

The government fully acknowledges (in words at least) the benefits of being independently run: “Independent status is crucial in giving Academies the freedom and flexibility to succeed”¹¹⁴. Sponsors running Academies seem to be prepared to accept a minimum level of regulation. According to David McGahey, Managing Director of VT Education and Skills, “it would be reasonable to have minimum standards and it is right that institutions should be accountable for public money” but there is a particular problem over staffing regulations. Discussing the Unity Academy in Middlesbrough, Mr McGahey says: “Staffing regulations can be a problem. We inherited a load of bad teachers and found it hard to get rid of them”.

This is a serious problem for the sector. Transfer of Undertakings Protection of Employment (TUPE) regulations mean that it can all but impossible to fire bad teachers. Given that the quality of school leadership and teaching is a major determinant of performance, and that Academies replace schools that have been closed due to poor performance, maintaining the same teaching staff is likely seriously to impair the ability of the Academy to improve its performance. Bob Edmiston, Chief Executive and Chairman of the IM Group, which runs Solihull Academy, complains that it is the difference between working in a government, rather than business, environment: “We work under a trade union framework. I think this is an archaic relic of the days when we used to send the kids up the chimneys. Many teachers, though of course not all, think more about their holiday and terms and conditions. We need power to switch around inadequate staff and also empower teachers”.

The first Academy opened in 2002 and the government is committed to introducing 200 Academies at a total cost of £5 billion¹¹⁵. The Education and Skills Select Committee has noted that at an average capital cost of £25m per academy, with an average of 1,200 students per school, the initial cost per place was almost £21,000 as opposed to £14,000 at most other secondary schools. The Committee also expressed concern that no proper evaluation had taken place before committing to such a substantial investment: “...£5 billion is a lot of money to commit to one programme...we consider that the rapid expansion of the Academy policy comes at the expense of rigorous evaluation”¹¹⁶.

John Mcleod, Corporate Director of Education at Wakefield LEA, expresses a common rebuke for the government’s Academies programme when he says that, “one of the fallacies in much of the current debate about school quality is that throwing money at schools necessarily improves performance. It may do – on a simple level inadequate laboratories hinder the effective delivery of the curriculum – but much more important overall is the quality of leadership and management. The rather stumbling start of the Academy programme is, I think, bearing witness to that fact, and I hope someone, somewhere, is doing some serious study over exactly what impact Academies are having. It is still early, but there are signs that the return on the investment is unimpressive”. This point is reiterated by Steve Samson from education services group Edict, who says that, “I am not sure that there are always the leaders in the education sector. Flooding a school with ICT or nice new buildings doesn’t make a good school”.

Early evidence suggests that the Academies programme is having a genuine upward impact on standards, but according to the Education and Skills Select Committee this evidence is patchy. A full performance review is not expected until 2007, by which time many of the planned Academies will already be open¹¹⁴. The question remains whether they represent good value for money for the taxpayer.

Summary

Academies are a step forward in the provision of state education, paving the way for increased public-private sector liaison and breaking down old barriers. Teachers and children clearly benefit from the operational freedom Academies are allowed to enjoy, although even greater freedom over the employment of teaching staff could

improve their performance further. The main question mark is whether they provide value for the enormous investment the government has made, especially as the main improvements appear to result from the freedoms they enjoy rather than the buildings they inhabit.

It is not clear why, having trusted Academies with near-independent status, the government will not allow all state schools to enjoy this freedom. There is a discrepancy

between the government's belief in the concept of independent management for academies on the one hand and its tight hold on the legislation surrounding 'normal' state schools on the other. The willingness of the government to invest such huge amounts into independently managed schools would appear to be an indication of their belief in the efficacy of independent management. It seems odd that it is not more broadly applied.

Part II

The equity challenge

9. Choosing or chosen?

Parents have a right to express a preference for the school they want their child to attend. However, because there are too few good places, schools are forced to ration them. In effect schools choose children rather than the other way round. When this happens children from lower-income groups invariably lose out, and the current system does little to help them access high quality schooling.

The admissions process – children choosing schools

The process of choosing a school for one's child looks deceptively simple. Depending on the type of school being applied to, the parent applies either directly to the school itself (in the case of foundation schools, voluntary aided schools, City Technology Colleges and Academies) or to the LEA (in the case of all other schools). For primary schools, parents should apply well before the child is 5 years old, and should also be aware that many schools now admit 4 year olds. For secondary schools, parents should apply before Christmas the year before the child is due to start Year 7.

The right of parents to express a preference for their child's school has been established in law since the 1998 Education Act. DfES guidance to parents confirms this right, but it also admits the school system is not able to satisfy all parental preferences: "The law gives you the right to say which school you would prefer your child to go to. However, your right to express a preference does not mean you have a guarantee of a place"¹¹⁸.

LEA Co-ordinated Admissions

"Schools do not control admissions...remove the class capping and give schools responsibility for admissions..."

(Ron Egan, J&I Methodist School, Wakefield)

Some LEAs co-ordinate the admissions for all schools in their area, with only one admissions form for completion.

The form is passed onto those schools that look after their own admissions so that they can make a decision based on their own admissions criteria.

In practice, however, centralised admissions have often not proved a simple and efficient option. In 2005, a new system of place allocation throughout the London boroughs and seven councils around London came into effect. Parents are permitted, under the new system, to list six preferences anywhere in London, which are then 'processed' against available places and admission criteria of those places. It was designed to ensure that all offers were issued on the same day, 1 March 2005, and that each child received only one offer, not several from which they could choose. The system was created to prevent some children holding several offers of admission while others had none, and to let parents of unsuccessful applicants know sooner rather than later that no school had accepted their child so that they could be issued with a list of schools with surplus places.

"We have been told by our LEA that they do not have a place for our daughter anywhere in the borough, let alone an offer of one of our preferences. My daughter has been in tears and asking 'Why don't any of these schools want me, what's wrong with me?'"

(Maria Cheveau, Ealing, London)¹¹⁹

According to the Independent newspaper, up to 70,000 pupils were denied their first choice school through the new admissions procedures¹²⁰. Worse than that, hundreds of children were left without a school place at all over ten days after the deadline¹²¹. Although these children will have been allocated a school place by the beginning of the 2005/6 school year, it nevertheless highlights the potential for drastic error in a centralised allocation system. More importantly, it shows that, whatever the design of the school admissions process,

some children will always lose out when parents are given the ability to express a preference but where there are not enough good schools places.

Aspiration versus reality – schools choosing children

Every parent's aim is to get their child into the school they want them to go to, or at the very least, a school to which they are happy to send them. Sadly this is all too often not the case, as Karen Clark, a parent from Leeds we interviewed, explains: "I was not offered any of the five choices that I made. My daughter has been allocated a place at a vastly undersubscribed school which is approximately five miles away. In our school alone there are 11 families out of 57 that have been allocated schools out of the area and God knows how many that were not allocated a school of their choice". In London it has been estimated that only 75 per cent of parents were offered a place at their favourite school¹²².

Unfortunately for parents, the process of matching their children to a suitable school does not just depend on their choosing a particular school. It also depends on the ability of the schools chosen to provide places to all the children who want them. If every state school were of a high standard, and if every state school had enough places available for every child that wanted to attend it, the admissions process would be relatively uncomplicated. This is not the case in England, and the result is that many schools end up choosing children.

Selection and Oversubscription

Because parents are allowed to express preferences within the state sector, many good schools are now oversubscribed, i.e. they have more applicants than spaces for them. Angie Griffin, a parent from Redhill in Surrey explains the situation: "Reigate and Banstead schools have had 1,526 applications and only 1,268 places available – why?"¹²³ In such circumstances schools are forced to select the pupils they admit. In this situation, the school must operate 'oversubscription criteria' which are published annually in the school prospectus or an LEA booklet. Traditionally, the term selection has tended to connote academic selection, and with it the dual system of grammar and secondary modern schools that was prevalent until the 1970s. However, in today's state system selection encompasses a number of criteria, as can be seen in Figure 3¹²⁴.

Figure 3

Criteria	% schools using criteria
Siblings	96
Proximity to school	86
Medical / social need	73
Catchment area	61
'First preference'	41
Special Educational Needs	39
Feeder Schools	28
Religion	14
Children of employees	9
Difficult journey to another school	6
Children of former pupils	5
Travel time	4
Banding by ability	3
Partial selection by ability / aptitude in a subject area	3
Compassionate factors	3
Children from other religions	3
Children in public care	2
Children with a family connection	2
Partial selection by general ability	1

The weak go to the wall

While nominally income neutral, evidence suggests that these admissions criteria often work to the advantage of better-off families:

- **Catchment areas / feeder schools:** the Nationwide Building Society has found that for every 1 per cent a primary school increases its Key Stage 2 pass rate, the premium for local house prices rises by 0.25 per cent¹²⁵.
- **Distance:** Primary school children from families in the lowest income quintile travel an average of 1.1 miles to school, compared with 2.4 miles for those in the highest income quintile. There is a straightforward reason for this – 50 per cent of families in the lowest income quintile do not have a car, compared to zero per cent in highest quintile¹²⁶.
- **Religion:** higher income groups have tended to display the most commitment to religious practice. This is changing as ethnic minority groups lead a revival in religious attendance, particularly among the lower income groups, but their needs are poorly catered for

through a lack of appropriate denominational state schools – there are only four Muslim and two Sikh state schools in England¹²⁷.

- **Aptitude or ability:** parental involvement is a major determinant of children’s attainment, but the level of parental involvement is strongly influenced by family social class¹²⁸. The result – in 2002, 77 per cent of children in year 11 in England and Wales with parents in higher professional occupations gained five or more A* to C grade GCSEs. This compares to just 32 per cent of parents in routine occupations¹²⁹.

The effect of the use of admissions criteria is clear. The more a school is forced to select its pupils, the more likely it is to discriminate inadvertently on the basis of family income background. As Jane Pickard, a parent from Wandsworth points out, “Lower income groups tend to have less choice in a selective secondary school system – our son did about a dozen practice papers at home before his entrance tests and each pack of papers cost about £10. The primary school only gave one session. The children whose parents couldn’t afford the papers or never thought of buying them had no chance”.

A system in crisis – the appeals process

For parents unable to get their children into the schools they prefer, the admissions system provides a process for parents to appeal against admissions decisions. The DfES informs parents that: “If you are not offered a place at your preferred school or if you are unhappy with the school place allocated to your child, for whatever reason, you have the right to appeal to an independent panel”¹³⁰. There is clear encouragement in this statement for parents to appeal against unfavourable decisions. The result is a large number of appeals – 59,660 in 2003/4 – of which 34.6 per cent (20,630) were upheld, the highest proportion for five years¹³¹.

As Paul Strong, head teacher of the William Farr Church of England School in Lincoln, points out, this has an enormous impact on schools: “I am now faced with a considerable number of appeals which will take up considerable time. In addition, under the present guidelines all these appeals (probably over 50) will have

to be heard before any result can be given”¹³². The appeals process takes time and resources. An independent panel hears the case put by the admissions authority (school or LEA), explaining why the child was not offered a place. If the panel believes that the admissions authority have a good case then the parent must also put their case to the panel. The panel then makes a balancing judgment based upon weighing up the benefits to the child and the detriment to the school of admitting one more pupil. If the parent’s case is deemed to be stronger, it will uphold their appeal and the admissions authority must then admit the child to the school. The admissions authority has a legal duty to offer this right to appeal even if all the places normally allocated have been filled.

In effect, the mainstream nature of the appeal process is both a recognition of the severe failure of the state system to offer an adequate supply of good school places and a gesture of understanding and sympathy to parents. It also provides an opportunity for popular schools to expand their school rolls without recourse to the normal procedures for doing so which, as we have seen, make it very difficult for good schools to expand.

Whether or not parents have confidence in the appeals system is a different matter. In research for BBC Six O’Clock News, 32 per cent of teachers interviewed said that they had been offered financial bribes of as much as £5,000 or had even been threatened by parents desperate to secure a place at the school for their child¹³³.

Summary

Good schools remain heavily oversubscribed due to the existence of choice within the admissions process and a shortage of good school places. These schools are then forced to select the pupils they admit in some way. This selection tends to discriminate against the least well off. The existence of the admissions appeals procedure perpetuates this discrimination, demanding as it does significant financial and social capital to navigate the process. Attempts at reconfiguring admissions have not alleviated these issues because they only deal with the symptoms of a much more fundamental problem – the shortfall in the number of good school places.

10. Money money money

Schools are better funded than ever but more and more of this funding comes from the DfES in discretionary grants. This is problematic because they are only loosely based on pupil numbers and the link between success, measured by school numbers, and funding is being weakened. This provides protection for under-performing schools that are unable to attract pupils. Additional funding to take account of disadvantage is inadequate to compensate schools for the cost of educating hard-to-help children.

Facts about funding

Funding for schools has improved dramatically in recent years. By 2007/8, central government will be spending £12.901 billion on schools through the DfES. Combined with Local government Formula Spending on Education of £31.588 billion, the government will be spending nearly £45 billion on schools by 2007/8¹³⁴. This equates to average per pupil funding (revenue plus capital) of at least £5,500, more than double the 1997 figure¹³⁵.

The type of funding that schools receive can be split into two categories – funding received through the local authority and funding received through the DfES. Although we explore both types of funding in more detail below, broadly speaking the money schools receive from the local authority correlates closely to pupil numbers, whereas money received from the DfES tends to be discretionary and tied to specific actions or programmes. This includes, for example, funding tied to the government's anti-truancy drive distributed through the Standards Fund and capital grants linked to the Building Schools for the Future programme, which aims to upgrade the physical facilities of all state schools by 2015.

Although both funding types have been expanded, much of the increase has been in discretionary spending. In 1999/2000 the DfES spent only £2.273 billion directly on schools, but by 2007/8 this will have increased more

than five-fold to £12.901 billion in nominal terms. By contrast local authority distributed education funding will have increased by only a half, from £20.414 billion in 1999/2000 to £31.588 billion in 2007/8.

LEA funding

LEAs receive a set amount of money from central government called the Education Formula Spending Share (EFSS). This is calculated for each authority through a complex formula which begins with an estimate of the number of pupils in a given area. All the formulae have a basic allocation per child plus top-ups for deprivation or Additional Educational Needs and for areas where it costs more to recruit and retain staff. Some factors that are taken into account are:

- Children in families in receipt of Income Support / Job seekers allowance
- Children in families in receipt of Working Families Tax Credit
- Proportion of primary pupils with mother tongue other than English
- Proportion of secondary pupils in low-achieving ethnic groups
- Low Birth Weight – the proportion of live births with a weight of less than 2,500 grams

The way the formula is constructed leads to enormous discrepancies in the actual funding available to schools in different LEAs. Research by the GMB union has shown that the best-funded LEAs spend more than twice as much per primary school pupil as the worst funded ones. The reasons for these discrepancies may be valid but it should be understood that pupils are not funded equally across the country¹³⁶. It should also be noted that primary and secondary school pupils are not funded equally either. Hampshire County Council, which can be regarded as reasonably typical in its allocation of school funding, provides on average 50 per cent more funding

per pupil for secondary as opposed to primary school pupils¹³⁷.

The EFSS is then divided into two budgets: the LEA Budget, for centrally-run LEA services such as youth and community services, and the Schools Budget, to be allocated to schools according to a number of criteria and factors to cover the actual cost of provision. Broadly speaking around 11.5 per cent of the funding goes into the LEA Budget and 88.5 per cent into the Schools Budget¹³⁸.

In addition to its own budget, the LEA keeps a significant proportion of the Schools Budget (around 10 per cent)¹³⁹ to run services which schools have requested are not delegated to them, for example school meals. The rest of the Schools Budget is known as an Individual Schools Budget (ISB) and is distributed to schools according to certain criteria and factors set out in secondary legislation¹⁴⁰. These are articulated in a 'formula' that the LEA is required to publish annually and for which it is accountable. The LEA is required to publish not only its formula, but exact amounts kept centrally and the budget share for each school.

Around 75 per cent of the ISB should be distributed on the basis of pupil numbers. There are 34 other criteria that can be worked into the formula. These include special needs, admission arrangements, size and condition of the school, facilities at the school, transport to and from activities outside the school, whether school has been altered or is new, whether the school has overspent/underspent its previous budget, school meals, salaries and recruitments, number of newly qualified teachers, pupils from ethnic minorities who may be under-performing, advanced skills teachers employed at the school and permanent exclusions to name but a few.

Around 80 per cent of the budget is accounted for by staff costs. However, schools often need to apply to LEAs for additional funding, which can be problematic, as the head teacher of the Queen Elizabeth Grammar School in Penrith explains: "The way the money is coming through, there is a layer of interference and obstacle which makes it difficult to manage. At my last school we were a beacon school. We got £60,000 extra a year and we had the freedom to spend it as we wanted. We were let off the leash with the funding and achieved regional and national recognition as a result".

From April 2006 funding distributed to schools through the LEA will be ring-fenced – the Dedicated Schools Grant – so that schools know the minimum level

of funding to expect each year. In addition, three-year budgets will be introduced for schools to enable them to plan over a longer period.

DfES funding

There have been massive increases in the DfES schools budget under the Labour government. This spending can be broken down into five categories:

- **Investment in School Buildings** – capital finance for the upgrade of school facilities
- **Programme-specific funding** – this encompasses a number of different strands such as the Standards Fund, School Standards Grant and ICT funding. These are used to support to DfES initiatives
- **Sixth-form funding** – mainly per pupil funding distributed through the LSC
- **Modernising the Teaching Profession** – improving teacher pay through performance-related evaluation
- **Academies programme** – funding the creation of 200 Academies

The key to understanding the DfES spending on schools is that the vast majority of it is not related to pupil numbers. Funding through the capital programme is primarily distributed according to the quality and age of facilities in a given school, not according to the number of pupils in a given school. Much programme-specific funding reverses the link between success and funding entirely – the £885 million spent on anti-truancy measures necessarily targets schools with truancy problems, which are likely to be among the worst performing schools in the country¹⁴¹. This is not to say that children who have the misfortune to attend failing schools should not be given extra funding, rather that by allocating ever-increasing amounts of money to schools without reference to their size – the School Standards Grant gives school lump sums based only whether they are secondary or primary – it featherbeds poor schools, weakens the link between performance and funding and provides fewer incentives for schools to succeed.

Summary

The funding distributed to schools is more dependent on central government schemes and programmes than ever, requiring more and more time from heads to apply for discretionary funding. More importantly, schools are

becoming less reliant on pupil numbers to determine their funding. This weakens the link between success and funding and thereby decreases the incentives for weak or

coasting schools to improve. This change in the nature of school funding has done nothing to promote progress in England's schools.

Part III

Proposals for reform

11. More good school places

State education today

The research carried out for this report shows unequivocally that the English state education system is failing to provide the high standard of education parents expect and children deserve. By erecting barriers to the provision of new good school places within the system, and by concentrating the power to supply education in the hands of cost-driven LEAs and self-interested existing providers, English children are being denied the opportunity to access high quality education in a good local school. Even worse, the introduction of choice within this constrained system has led to further segregation by class and income group as middle-class parents use their social and financial capital to access the best schools. Admissions arrangements for popular schools exacerbate the problem, and the additional resources that are available to disadvantaged children are nowhere near enough to make them attractive ‘customers’ for the best schools.

One government programme, the Academies scheme, provides a beacon of reform and offers a parallel system of state-funded independent schools specifically targeted to areas of severe disadvantage and educational need. The resources being poured into this scheme are, however, huge and the returns on this investment so far are unknown. Only 200 schools, just one per cent of the total number, are likely to benefit from the scheme.

Barriers to change

Our research shows that there are five core problems that prevent the expansion of the number good school places and their fairer distribution.

1. Local Education Authorities

LEAs, thanks to their funding role and cost-cutting culture, do not want to support additional places in existing or new state schools while also supporting surplus places in other schools. Even where shortages exist LEAs show extreme reluctance to support new school places. This occurs because, despite DfES guidance

to take the quality of education on offer into account, there is no link between LEA funding and school performance, and therefore no incentive for LEAs to bring good new schools on stream or scrap bad ones. LEAs have no incentive to turn around failing schools, nor are they incentivised to prevent schools from failing in the first place.

2. School Organisation Committees

Almost all decisions affecting the supply of education within a local authority area are taken by the SOC, committees of existing state education providers set up by the Labour government in 1998. The LEA and SOC jointly determine the need for new school places. SOCs display the classic symptoms of producer capture, i.e. they allow existing providers to protect their own position within the system against the threat of newcomers. Via the SOC, state schools are able to prevent more popular rivals from expanding, or new schools from entering the market, if it “harms” them – i.e. provides competition for places. SOCs are highly resistant to new providers entering the market and, given the power to do so, are highly effective at keeping them out. New and independent schools are regarded with particular suspicion.

3. Regulatory burden

The processes for setting up new state schools, bringing independent schools into the state sector and expanding existing state schools are extremely lengthy, complex, bureaucratic and expensive. This discourages new providers from entering the system. The general burden of regulation in the state sector is very high when compared to the independent sector. This acts as a further disincentive to expanding the supply of good schools places as well as eroding teaching time, impeding innovation and improvement, and undermining the morale of teaching staff within schools. The system for identifying failure is long, time-consuming and involves too many different bodies to be effective.

4. Funding

Funding is generally lower in the state sector than in the independent sector, although a significant minority of small independent schools have similar fee levels. Between 30 and 50 per cent of funding schools receive is unrelated to pupil numbers, featherbedding failing schools against falling rolls and weakening the link between success and funding. Much of the funding to tackle failure is spent on buildings and facilities rather than on improved leadership.

5. Tackling disadvantage

Additional funding to take account of children's additional needs and background is insufficient to make them desirable 'customers' to other schools. No special admissions arrangements exist for disadvantaged pupils, whose parents often lack the social and financial capital to take advantage of opportunities within the system. The lack of school transport restricts their ability to attend good schools that are some distance away.

A different approach

Our research shows that all pupils can benefit from a universal reform programme that rapidly expands the range of choices for all parents while enabling schools to innovate and diversify, pushing up standards and increasing levels of parental satisfaction. However, we must also recognise that even with the lowest regulatory burden, which in any case is likely to be unacceptable to many parents, the additional capacity required to ensure that all parents' choices are satisfied will take time to come on stream. During this transitional period choice will continue to be restricted, and experience shows us that, when this is the case, children from lower income families are most likely to lose out. We believe it is essential that those who have been most failed are targeted for additional help.

A set of viable reforms must seek to address the five core problems identified above. We believe these reforms must be structured on three levels. The first level involves reform to the national administration of education, setting the framework in which all schools must operate. The second level applies to local authorities and effects the local organisation of schooling. The third level specifically addresses the problem of failure and disadvantage within the system.

National reforms

"Regulation is the major problem. The joy of being independent is the flexibility of the curriculum, it can be tailored to suit the pupils, the staff can be paid appropriately...most heads from state schools would love to be independent. The paperwork drives people demented. There is not flexibility, for example, to move pupils of a certain age from their natural year group because it messes up the league tables"

(Jan Scarrow, Badminton School, Bristol)

As we have seen, the primary obstacles to the expansion of the number of good school places at a national level relate to the regulatory burden on existing schools, which prevents schools from innovating and improving, and the high barriers to entry for new schools or school places. The reforms we propose provide a basic national framework for the regulation of state-funded education that is easy to comply with, and which will enhance all schools' ability to bring new good places into the state system:

Core regulations

- A National Curriculum including only English, Maths, Science & Citizenship for two hours each per week with no set syllabus.
- Public examinations at Key Stages 1 to 4.
- Schools must publish all performance data plus annual school prospectus.
- Ofsted inspections but frequency determined by success of schools.
- Schools become self-governing bodies along the lines of Academies or grant-maintained schools.

Admissions

- Schools to freeze current admissions, except for preferential admissions for children attracting the Advantage Premium (see below).
- New schools setting up not allowed to introduce academic selection.
- Independent schools entering the state sector to freeze their admissions arrangements.
- Schools to determine how many of their school places they allot to children attracting the Advantage Premium.

Funding

- The end of all discretionary DfES funding, both recurrent and capital.
- All school funding to be rolled into single per capita funding, to follow the child to the school of their choice.
- This per capita funding to include a capital element to be spent at the school's discretion.
- Funding nevertheless to take account of various disadvantage factors, as outlined in Chapter 10, so that the per capita funding will vary according to local authority area.

A general "right to supply" education

- National planning law should be changed to give explicit support to education provision, with applications to use land or buildings to provide education automatically being granted subject to minimum health and safety requirements.
- The declining school age population means that a number of school buildings will enter into disuse in the coming years. Covenants for educational usage should be placed on these for a minimum of ten years – they may be used for other purposes in the meantime but an application to use them for educational purposes automatically triggers the right to use the buildings.
- Schools would be free to expand as they please, subject to minimum health and safety requirements, with the planning process directed in their favour. Existing schools would have no recourse to appeal through the LEA or SOC.
- New and independent schools should be free to enter the state sector, i.e. accept state funding for all their pupils, providing they adhere to core regulations and admissions arrangements. Again, existing schools would have no recourse to appeal through the LEA or SOC.
- There should be no requirement for pre-inspection of schools entering the state sector.

When designing our proposed reforms, we were mindful of the words of Gill Richards, the head teacher of the Belvedere independent school in Liverpool: "Direction on curriculum would be an unacceptable condition for accepting state funding if it limited choice and diversity". We agree that schools must be free to teach to the subjects their children study in the way they feel is best. However, we also believe – a view that was supported by many of

the people we spoke to – that the system must provide a core curriculum because of the increased mobility of children between schools but more importantly so that all children brought up as British citizens are encouraged to share a core set of academic competencies and cultural values. The key to reconciling these two aims is to secure a commitment from schools to give a proportion of their teaching time to these core subjects while allowing them the freedom to vary their curriculum in the pursuit of excellence. Schools would continue to be held accountable through the examinations system and risk-based Ofsted inspections.

There would be no further general regulations, so it would be up to the heads and governors of an individual school to determine:

- Which teachers and other staff they want to hire
- What qualifications teachers should have
- How staff are paid
- How the curriculum is constructed
- Whether the facilities are used for other purposes outside of school hours
- On what basis children may be disciplined and excluded

This would mean an end to national pay bargaining within the teaching profession and the end of exclusions appeals panels except in cases of racial, sexual or disability discrimination.

All school funding would be distributed on a per capita basis, bringing an end to the discretionary funding that the DfES has used to fund pet projects and featherbed failing schools. The link with success, as determined by pupil rolls, will be re-established. Money would flow straight to the school from central government according to a basic formula of need. This could be based on the current formula used in determining local authority Education Formula Funding Share. Elizabeth Steinthal, head teacher of the Educare Small School in Surrey supports the idea: "I think this would allow lower-income families a wider choice of schools for their children and encourage the growth of small independent schools".

There will be a deadweight cost attached to funding existing independent schools that enter the state sector. We estimate that 145 independent schools have fees at or lower than the state funding level. If half of these schools came over to the state sector initially, this could involve state funding for an additional 20,000 children per year at

a cost of £110 million, around a quarter of one per cent of the total education budget. We believe this is a price worth paying to bring new leaders and teaching methods into the state school family, but more importantly, “many parents who can’t afford to send their children to an independent faith school would be able to do so”. This was the view of Maksud Gangat of the Al Risaala Educational Trust, who went on to point out that “those who are competitive and provide a good service will be in favour of it. Those who don’t, won’t”.

On admissions we believe that, during the transition to a system where there are adequate numbers of good school places, giving schools the freedom to select their intake on the basis of ability could lead to an even less equitable distribution of good school places. As we have shown above, all selection procedures are in some way inequitable apart from those that are lottery-based, and these are very problematic if applied generally. Politicians, academics and think tanks have wrestled with arguments about selection for decades without coming to a satisfactory conclusion. It is our view that selection is, in essence, a secondary issue. Solve the problems of a lack of supply of good school places and it is no longer a problem. This is currently the case in the mature school choice system in the Netherlands.

During the transitional phases of our reforms, when demand still outstrips supply, it will be necessary for schools to ration places. Because we do not believe that there is a solution to the selection conundrum that does not involve increasing the supply of school places, we proposed that schools ‘lock in’ their existing admissions arrangements for children applying to their schools. This is not ideal – in fact, it is no more than the least-bad option. But it has the advantages of maintaining the uneasy status quo on selection that currently exists and therefore avoiding massive upheaval, which is bound to be problematic and unpopular.

New schools setting up would not be allowed to introduce admissions based on academic selection, often the most class-discriminating form of selection, although they would be able to vary their admissions arrangements according to other criteria, e.g. religion, locality, sibling attendance etc. Independent schools entering the system would be able to select on the basis of academic ability if they did before. However, our research leads us to believe that the schools most likely to transfer into the state sector are minority faith schools like the Eden School and the Al-Risaala School, which tend not to use academic criteria for selecting their pupils.

Local reforms

Reforms to the national framework for school administration will be ineffective unless steps are taken to remove the power of LEAs and SOCs to determine the way school education is supplied in their areas. We have seen that the combination of the cost-cutting tendency of LEAs, the producer bias of SOCs and the lack of incentives within the funding system to deal with failure have acted as a brake on the improvement of school standards. The reforms we propose aim to remove the local authority from the supply and funding of school education altogether, and reconfigure it as an advocate for success along the lines of the School Superintendents in the US:

Replacing the LEA with the Pupil Advocate

- LEAs and SOCs to be scrapped altogether – control of school funding and organisation to relinquished.
- The office of Pupil Advocate would be created for each local authority.
- The Pupil Advocate would have no role in funding mainstream education.
- The Pupil Advocate would take over the remaining functions of the LEA (or Children’s Services Department), such as special needs provision and youth training.
- The Pupil Advocate would be a directly elected post, elected on the same cycle as local elections.

Statutory duties of the PA

- To identify buildings and land for possible educational usage.
- Distribute performance and prospectus information to all parents.
- Aid pupils and parents in failed and closed schools to find a new school.

Failing school turnaround

- The Pupil Advocate would take responsibility for dismissing management of failed schools.
- The Pupil Advocate would hire a successful school, a successful company or other organisation to take over the management of a failed school.
- New management of a failed school would have a four-year grace period to turn the school around.
- The Pupil Advocate would be fined for failure and rewarded for success, with its core funding linked to increases or decreases in number of good school places and its success in turning around failing schools.

- Active role of partnership with ‘coasting’ schools to improve education.

A new position of Pupil Advocate, elected by local voters, would be specifically charged with making sure that all parents have access to full information on the schools available to them and would help pupils in failed schools find alternatives. An active role is required according to Sofia Yates, a parent from Lambeth and leader of the Elmcourt School project: “The choice is there, you have to research it so it depends on your background. It’s not given to you on a plate, so switched-on middle classes are at an advantage”.

Roger Lucas of Luton Council believes there is so much more local authorities could be doing to help schools: “The LEA could assist new schools setting up by providing help with issues such as land availability, build costs, access to appropriate facilities such as playing fields, access to support infrastructure, access to business planning, access to loan facilities – these are all extremely difficult, and more so where any new provider would have to compete with existing providers”. We envisage the Pupil Advocate being tasked with identifying suitable educational facilities through the planning system and assisting new schools wanting to set up or enter the state sector conform to the minimum requirements.

One of the problems of the current system is that LEA funding is not linked to success. Cllr Malcolm Grimstone, the Cabinet Member for Education at the London Borough of Wandsworth, summarises the problem: “We need a reward system for effective LEAs, since at the moment there are enormous rewards for poor LEAs with bad schools”. Funding for the core functions of the Pupil Advocate would be linked to the improvement of the quality of education and the number of children being educated in their area. Successful areas would be funded for all their needs by central government; unsuccessful Pupil Advocates would have to raise funding through council tax, directly affecting voters and parents in their area.

Although the Pupil Advocate would have no authority over what was taught in schools, he or she would be expected to act in partnership with schools to help them identify problems, for example on teacher retention, and devise solutions. The Pupil Advocate would be unambiguously encouraged through the funding system to foster a climate of success in local schools.

The Pupil Advocate would have a vital function in the turnaround of new schools. This role is best performed by

a body that knows local schools, says John Mcleod, the Corporate Director of Education at Wakefield LEA: “What is important is the effectiveness of local arrangements to identify and correct potential failures before they have too serious an impact on school and pupil performance”. The Pupil Advocate would be responsible for dismissing the leadership team of a failed school and then appointing new management, motivated by the knowledge that failure to appoint an effective team will impact on its own funding.

We envisage that the Pupil Advocate would be a directly elected post supported by civil servants employed in the ‘Office of the Pupil Advocate’. In local authorities where there is an elected mayor the post would not be an elected one, the mayor assuming the functions of the Pupil Advocate and appointing a senior officer to fulfil them. His status would be analogous to the London Transport Commissioner, who is appointed by the elected London Mayor.

Failure and disadvantage

We believe that the reforms outlined above will produce a dramatic increase in the number of good school places available in state schools. But, as now, there will continue to be losers in the system. There will still be schools which fail and pupils who have the misfortune to attend those failing schools. Ofsted estimates that around 1,000 schools pupils are in failing schools in any given year – this equates to around 325,000 pupils. We propose a set of reforms that will produce a rigorous process for diagnosing failure and which will give pupils who have been failed by the system extra opportunities to access good school places:

Judging failure

- A school is failed if, having fallen beneath the performance benchmark in Year 1, it is judged by Ofsted to still be failing by the end of Year 2.
- If Ofsted does not fail the school and it goes below benchmarks again Ofsted is fined.

Advantage Premium

- A pupil at a failed school becomes eligible for extra funding and special admissions arrangements once the new management has taken over or if he or she goes to another school.
- This funding, known as the Advantage Premium, will be worth on average £5,000 on top of normal per capita

funding in the first year, tapering off to zero after four academic years.

- Because of the funding discrepancies between primary and secondary schools, the Advantage Premium would be worth £4,000 for primary school pupils and £6,000 for secondary school pupils. Pupils moving from primary to secondary school would receive an uplift in their Advantage Premium to secondary school levels.
- The mature scheme will cost £4.1 billion per annum to operate, which will be achieved by scrapping four DfES schemes.
- It will operate for a period of ten years, until the expansion of good schools places in the state sector is complete.
- Pupils with the Advantage Premium also become eligible for lottery admissions in other schools, which themselves set out up front how many of these children they want to attract each year.
- Independent schools that have not transferred to the state sector can also participate if they fund the fee shortfall – only children with the Advantage Premium may take advantage of this scheme.
- Schools admitting pupils with the Advantage Premium will be able to discount their results in their next Key Stage public examinations.

The first step to an efficient system of dealing with failure is to identify it quickly. The current system leaves too many schools languishing at the bottom of the performance tables for too long. Our system would set hard benchmarks for alerting the authorities to possible failure in the first year, for example through Key Stage achievement targets, and then allow Ofsted to inspect these schools and judge them on a number of sub-benchmarks, for example on attendance or roll numbers, throughout the second year. Schools judged as failed would then be subject to the turnaround procedures outlined in the previous section. To prevent Ofsted from taking a soft line it would be fined if it did not fail schools which, at the end of the second year, did not achieve the hard performance benchmarks again.

Children unfortunate enough to attend a failing school would become eligible for additional funding, the Advantage Premium. They would become entitled to this additional funding when new management had taken over the school or if they left the school to go elsewhere. The funding would be phased out over four years. The purpose of the Advantage Premium is to compensate those children for having attended a bad school by giving

them additional resources. It is also designed to make these children attractive in the school marketplace so that existing schools actively recruit them, and new providers are drawn to areas of failure because the extra funding will enable them to afford good facilities and teaching staff. As one Lambeth parent we spoke to, Devon Allison, said: “The government needs to face the arithmetic. It will be expensive to fix the mistakes made in the past 20 years in education. It will be more expensive not to fix them”.

However, for children with the Advantage Premium, i.e. those who have been failed by the system, we recognise that there will be a tendency for schools to seek to ‘cream skim’ the best. Allowing this to happen would not only be inequitable, it undermines our whole approach of making sure that the most failed get the best chances. To that end, we propose that children with the Advantage Premium should be selected by a lottery-based system. This is the most equitable system and, because it would only be applied on a small scale, would avoid the problems outlined earlier.

In practice this would mean that each school would decide in advance how many children with the Advantage Premium it will admit per year group and then, if oversubscribed, select these pupils through a lottery to ensure fairness. Many schools are put off attracting hard-to-teach pupils because of the impact on league tables, so we propose that schools would be able to omit these pupils’ results from their Key Stage performance tables for the duration of the child’s Advantage Premium funding.

Independent schools, which otherwise would not be able to accept state funds, would also be able to accept pupils with Advantage Premium funding provided the school makes up any difference between their fees and the funding that child brought with him or her. They would also be expected to fund the child throughout his or her school career, not just during the four-year period for which the child attracted the Advantage Premium. The system must be simple and transparent, as Simon Patton, a parent and Director of MOSAIC-Educational, explains: “It has merits if the family have real choice. It will be killed dead if it is at all bureaucratic, for example like child tax credits”.

The Advantage Premium would be paid for by scrapping a number of central government schemes and funding streams that are themselves mainly directed at funding failure. We have worked on the basis that there are 1,000 schools not making sufficient progress, as Ofsted has suggested, and that there are on average around 325 pupils per school¹⁴². Approximately 325,000 pupils would become eligible for this additional funding.

Our research suggests that setting the value of the Advantage Premium at between £4,000–£6,000 per annum for primary and secondary school pupils respectively, would make a huge impact on the attractiveness of pupils failed by the system to new providers. The additional funding these pupils attract would taper off after four years. The mature scheme would cost around £4.1 billion once it had reached maturity, as shown in Figure 4.

In addition, the deadweight cost of educating children at independent schools transferring into the state sector could amount to £110 million per year, giving a total cost of our reforms of around £4.2 billion. We would fund this cost by scrapping the following schemes (with costs for 2007/8, the furthest forward date for which the DfES has budgeted):

- **Standards Fund (non-capital grants):** £1.905 billion
- **School Standard Grant:** £1.062 billion
- **Information & Communications Technology:** £0.618 billion
- **Academies & Specialist Schools:** £0.781 billion

The total saving through scrapping these schemes is £4.2 billion. The Standards Fund, School Standards Grant and Academies programme are the main discretionary programmes used to target failure within the DfES budget, which is why we have selected them. In addition, we propose scrapping the designated ICT budget, leaving it to schools to decide on their own ICT needs and budget for them within the per capita funding they will receive. We envisage the scheme lasting ten years, a similar period to that required to fund the Academies and the amount of time required to allow our reforms to transform the state education sector by expanding the number of good school places.

School transport

We believe that the provision of an integrated system of school transport, similar to the yellow bus networks that exist in much of North America, is vital to the effective

operation of school choice. It would enable more children to access a greater range of schools, and would especially benefit children from disadvantaged families whose lack of private transport or physical distance from good schools currently impairs their choices. Policy Exchange, together with the Social Market Foundation and The Sutton Trust, has published research containing proposals for an integrated system of school transport which we believe would give all children better access to good schools. We believe the introduction of a comprehensive national school bus network will help disadvantaged pupils make more of the new opportunities that will become available to them under our reforms. The key lies in the service being affordable to all parents, which is why we have proposed that children receiving free school meals should travel for free but that other parents should have to pay no more than £1 per day to use the service¹⁴³.

Summary

Implementing the reforms outlined above will dramatically expand the number of good school places available to parents and children within the state sector. Within our system children who have been at weak schools will become eligible for the Advantage Premium, providing them with extra opportunities by giving them more buying power and fairer admissions arrangements. New and independent schools will be free to set up with minimal levels of compliance, and good schools will be able to expand as they wish. Radical cuts in regulation will free teachers to teach and heads to run their schools as they see fit, as is currently the case in the independent sector. And instead of being impeded by local bodies, the reform process will be speeded up and enhanced by new Pupil Advocates, clearly incentivised to improve the quality of education on offer in their local area. We believe these reforms can transform the quality of state education in England.

Figure 4

	Year 1	Year 2	Year 3	Year 4
Year 1 cohort	£1.625 billion	£1.21875 billion	£0.8125 billion	£0.40625 billion
Year 2 cohort		£1.625 billion	£1.21875 billion	£0.8125 billion
Year 3 cohort			£1.625 billion	£1.21875 billion
Year 4 cohort				£1.625 billion
TOTAL COSTS				£4.0625 billion

12. The Education White Paper – the Emperor’s new schools

Summary

The 2005 Education White Paper is an important milestone in education reform. It demonstrates that the government is moving in the right direction and shows that market-based reform is now the consensus position in the debate on how to improve English schools. But although it is undoubtedly radical in the context of the Labour movement’s traditional approach to the provision of state education, a deeper analysis of the White Paper’s proposals shows that they will fail to transform either the delivery or quality of state education. This failure is due to its inability to deal properly with the barriers to reform we identified in Chapter 11. By failing to deal with these problems, the White Paper provides neither the necessary expansion in the supply of good school places nor their fairer distribution:

- **SOCs** – their abolition is an important step, reducing the ‘producer capture’ utilised so effectively by existing state providers to protect their own position. But their power to organise school provision is not abolished, merely transferred to the LEAs
- **LEAs** – their position at the heart of state provision is unchallenged. They will continue to control the funding of schools, school expansion, and the entry of new and independent schools into the state sector. Their ‘cost not value’ mentality, rather than parental demand, will still dominate state school provision.
- **Regulatory burden** – no schools gain automatic freedoms as a result of the White Paper, and the new freedoms they will enjoy are compromised by more central direction in other areas. New and independent providers will continue to be deterred from operating within the state sector by the burden of regulatory compliance.
- **Funding** – the White Paper proposes no changes to the

system of funding schools, which will continue to be controlled by LEAs and the DfES, rather than by parents. Between one third and one half of school funding will still be unrelated to pupil numbers, protecting failing schools from falling rolls.

- **Tackling disadvantage and failure** – a strong and positive commitment to dealing with failing schools is not matched by a similar response to dealing with the consequences of failure. Extra operational flexibilities will be unevenly spread, increasing educational inequality. Children attending failing schools will be given no additional funding or extra chances.

Background

On 25 October 2005 the government published the White Paper *Higher Standards, Better Schools for All*, its first significant education policy document since the 2005 general election. It brought forward a number of pledges made in the Labour Party manifesto, which proposed giving more power and flexibility to heads while increasing parental power and choice. In a keynote speech prior to the launch of the White Paper, the Prime Minister described its publication as a “pivotal moment” for education reform that would transform the quality of education available within English schools.

In this chapter we look at the proposals contained within the White Paper and examine whether they will be able to deliver the promises made on their behalf. The government sets itself a number of challenges in the White Paper. How successfully will its actual proposals be in meeting these challenges? How successful is the White Paper in removing or neutralising the five major obstacles to change we identified in Chapter 11?

The White Paper

The government set itself a number of challenges in the White Paper, based around four themes:

- Granting more **operational freedoms** for schools – “freeing up schools to innovate and succeed” [executive summary]
- Giving greater **power to parents** – “parents having a real say in how schools are run” [executive summary]
- Encouraging **choice and diversity** in the state school system – “we need to expand choice, create real diversity of provision” [1.29]
- **Raising standards** in all schools – “ensuring that coasting, let alone failure, is not an option for any school” [executive summary]
- *A right to discipline* – heads and teachers will be given a legal right to discipline pupils and introduce parenting contracts before exclusions occur.
- *Admissions banding* – schools will be allowed to introduce academic banding into their admissions arrangements, allowing them to recruit pupils of all abilities.

Operational freedoms

The language of the White Paper is unequivocal: in order to succeed, heads and teachers need greater autonomy in deciding how and what they teach. It envisages a state school system where “every school has the freedoms and flexibilities it needs to be responsive” [1.40] and is “free to develop a distinctive ethos and to shape its curriculum, organisation and use of resources” [2.7]. The White Paper proposes the following reforms to make this a reality:

- *Foundation status* – every secondary and primary school will be entitled to achieve foundation status. This allows the school, rather than the LEA, to control its own assets, employ its own staff and set its own admissions criteria (in line with the Admissions Code of Practice).
- *Trust schools* – schools will be able to form their own trusts or join existing ones. Trusts are not-for-profit charitable companies, similar to those that control each Academy, with the power to appoint the majority of the governing body and offer additional assistance to their schools, for example through access to facilities or management expertise.
- *Schools Commissioner* – a new office with responsibility for helping schools to start or join trusts, particularly focusing on disadvantaged areas.
- *LEAs* – a new role for LEAs as commissioners, rather than providers, of education. They will be made responsible for planning and supporting new provision where there is demand for it, as well as for closing failing schools and organising competitions to replace them.
- *Reducing bureaucracy* – multi-year budgets, a Dedicated Schools Grant, and an end to bidding for small amounts and separate funding streams to help heads lead their schools more effectively.

Power to parents

The White Paper pledges that “putting parents and the needs of their children at the heart of our schools system” [executive summary] is a core element of the government’s strategy, utilising parental pressure and demand to raise standards in state schools. The White Paper proposes the following changes:

- *Parent Councils* – all schools will be able to establish Parent Councils to represent the wishes of parents. Trust schools where the trust appoints the majority of governors will be obliged to do so.
- *New schools* – where parents demand it, LEAs will be under a new duty to establish a new school to meet a lack of faith provision, to tackle underperformance or to promote innovative teaching methods. These will be funded either through LEA formula funding, existing DfES capital budgets or a new dedicated capital fund.
- *Parental consultation* – LEAs will have a new duty to consult parents at failing schools to determine their preferred course of action.
- *Ofsted inspections* – Ofsted will be given a new statutory power to investigate where parents have voiced a legitimate concern over the way a school is being run.

Choice and diversity

The government claims that increasing choice and diversity are fundamental to its reforms: “we need a diversity of school providers ... bringing in educational charities, faith groups, parents and community groups and other not-for-profit providers to run schools” [1.30]. A lack of good choices should act as an impulse to open up the system to new providers: “if local choice is inadequate ... a wider range of good quality alternatives must be made available” [1.35]. A number of reforms are proposed to make this a reality:

- *School Organisations Committees (SOCs)* – these will be abolished so that existing providers will no longer be able directly to prevent the creation of local school places.

- *School expansion* – the system for enabling and financing oversubscribed schools to expand will be made simpler and quicker. The abolition of the SOCs will facilitate this.
- *Competition for new schools* – when a new school is required, non-LEA providers will be able to compete against each other to operate that school. All new schools will be self-governing, rather than LEA-controlled.
- *Independent schools* – subject to compliance with the essential requirements of the state system, the abolition of the SOCs will make it easier for independent schools to enter the state sector.
- *Information advisers* – LEAs will be required to work with all parents, but especially those from disadvantaged backgrounds, to help them decide which school is best for their child.
- *School transport* – disadvantaged children will be given a right to free transport to any of the three “suitable” secondary schools closest to their home.

Raising standards

The purpose of all the proposed reforms outlined above is to “raise standards for all, especially among the least advantaged” [1.18]. The White Paper proposes further reforms that aim to “ensure that every pupil, gifted and talented, struggling or just average, reaches the limit of their capability” [1.28]:

- *Frequent inspection* – schools will be inspected every three, rather than every six, years.
- *Tackling failure* – schools graded during inspections as ‘inadequate’, the lowest possible grade, could be closed immediately if their problems are particularly severe. Even the least problematic schools in this category will be given a maximum of two years to improve before being closed.
- *School Improvement Partners (SIPs)* – every LEA will appoint a SIP, a nationally accredited expert, to work with all schools to identify areas of weakness and to spread best practice.
- *Tailored teaching* – schools will be given additional guidance and support to help them tailor the curriculum to the needs of all children. This includes more use of setting and grouping by ability.
- *Children who fall behind* – £325 million in 2007/8 to provide small group and one-to-one tuition for children falling behind, with an additional £60 million per year for the hardest to help children.

Analysis

Given the weeks of leaks, briefings and rhetoric that preceded the publication of the White Paper, it was always going to be difficult for it to live up to the hype. In many ways the contents reflect the awkward position of the government itself – desperate to reform public services along market lines, its best intentions are restrained by the more trenchant members of the Parliamentary Labour Party and the influence of the party’s representatives in local government. The policy proposals that result represent a change in direction but very little actual movement.

Operational freedoms

The creation of self-governing trust schools is the centre-piece of the White Paper’s reforms. Giving schools more say in their own destiny is a positive step, and the introduction of trusts to operate individual schools and chains of schools opens up the sector to new expertise. But the government’s approach fails in two important respects:

- *Few extra flexibilities* – “the National Curriculum, the assessment regime and the usual provisions on teachers’ pay will apply” [2.26]
- *Non-compulsory* – because it is not compulsory, not all schools will benefit from the advantages of being self-governing

Far from a situation where “every school has the freedoms and the flexibilities it needs to be responsive” [1.40], schools will enjoy little more autonomy than they do now. Trust schools will not, as a matter of course, be able to enjoy the same flexibilities as Academies. Instead, they will have to apply to the Secretary of State for special dispensations. In fact, as the White Paper acknowledges, the right to achieve foundation status already exists, and the only change is that it will also apply to primary schools. There is no great scope to vary the three most important aspects of running a school – what children are taught, how it is taught and who is teaching it.

What extra autonomy schools do enjoy, either through special flexibilities or through the use of multi-year budgets, could well be reversed by other changes proposed in the White Paper. Despite a pledge to reduce bureaucracy, the government proposes to “provide guidance and assistance to schools” [2.67] to tell them how to use their newly freed up time and resources. The Training and Development Agency for Schools will

“ensure there is a coherent approach to change and development” [8.17] of teaching practices across the sector. Workforce remodelling involves a list of 25 tasks teachers should not perform, and heads will have to monitor compliance. Schools will still have to take note of the latest government initiatives while drawing up their school plans, and funding will continue to be ring-fenced within the Dedicated Schools Grant. A new legal right to discipline pupils is a positive step, but the introduction of a National Behaviour Charter shows once again that what the White Paper may give by reducing bureaucracy, it takes away through increased centralisation.

The government’s approach also risks widening educational inequality, with under-performing schools falling further behind. Those schools most in need of these opportunities – under-performing LEA-controlled community schools – will be those least able to take advantage of the reforms. The introduction of a new quango, the Schools Commissioner, to help schools to form or join trusts may help, but it is likely to meet with stiff resistance from LEAs in areas where they continue to control a number of schools.

Nor is it obvious that the introduction of academic banding will help to spread opportunities. By allowing schools to select from outside a catchment area it goes directly against what parents want most, i.e. a good local school. It also provides further opportunities for middle-class parents to play the system, encouraging their children to under-perform in tests so they can gain access to non-local good schools through lower-ability bands. Furthermore, it is unlikely to be effective. Schools with higher-ability intakes will still lack financial incentives to admit lower-ability children. Schools attracting lower-ability children may well be keen to attract more able children, but as these schools tend to be among the least successful it is unclear why parents would choose them for their children.

Parent power

The government is right to try and harness the power of parental demand to drive improvement within state education, and the White Paper’s proposals to get parents more involved in their children’s education are welcome. But by failing to tackle the issue of funding, and by failing to give parents automatic rights rather than rights mediated by the local authority, the White Paper fails to harness effectively the power of parents to improve state schools:

- *Funding* – LEAs, not parents, will have the final say on whether to fund new schools or new places in existing schools
- *Limited rights* – although they will have a duty to consult parents, LEAs will not be required to follow parents’ wishes when organising local school places

In Holland and Sweden, where enough parents demand funding for a new school, the state is legally obliged to provide it. This has led to a massive increase in the range and diversity of schools. The White Paper’s proposals offer parents no such entitlement, leaving cost-cutting LEAs to decide whether or not to fund new schools. Furthermore, the White Paper does not change the way in which schools are funded. Annual funding will continue to be distributed through LEAs, loosely based on pupil numbers, rather than being distributed on a per capita basis following parental choices.

The White Paper could have compensated for its failure to put spending power in the hands of parents by giving them much greater legal rights in the way schools are run and school places organised. Again, however, it fails. Parent Councils will be ineffectual because they will have no legal power. Parents are already entitled to representation on governing bodies, and the White Paper itself recognises the important role already being played by Parent Teacher Associations in state schools. The government still expects parents “to have exhausted local complaints procedures, including the local authority” [5.16] before contacting Ofsted to complain about failure. An uncooperative local authority would still be able to frustrate the best efforts of parents to improve their schools, particularly if that school is run by the LEA.

Choice and diversity

By identifying the SOCs, committees of existing state school providers, as a fundamental obstacle to reform and promising their abolition, the government has taken a bold step to improve the diversity of school places. Government guidance “will make clear that there should be no arbitrary obstacles preventing good school expansion or federation” [9.12]. This change alone will make it easier for new and independent schools to operate in the state sector, and help successful schools expand. The introduction of school transport and choice advisers for disadvantaged pupils also removes some of the barriers to choice that currently exist, and should therefore be welcomed. But key obstacles to reform still exist:

- *Planning the system* – LEAs will continue to organise the provision of state school education
- *Operational restrictions* – limiting the freedoms schools may enjoy reduces innovation and will deter new providers from entering the system

The removal of SOCs abolishes one obstacle to reform but, as the White Paper makes clear, their duties will not be abolished, merely transferred to LEAs. Instead of removing these bodies from the supply and organisation of school places altogether, LEAs will continue to wield enormous power over the state school system: “Local authorities will need to plan how many schools their local area needs, where and how big they need to be, what kind of schools will serve their area best, and who those schools should serve” [9.9]. They will continue to provide the majority of funding for all schools, as well as employ the teachers and own the assets of schools that choose not to become self-governing. LEAs, not schools, will control expansion. LEAs, not parental demand, will determine where and what new schools are needed. LEAs will judge whether an independent school may enter the state sector. LEAs will have no direct incentives to increase diversity and choice, and ultimately their primary focus is likely to continue to be on cost instead of value.

As we have outlined above, even self-governing trust schools will be subject to a heavy regulatory burden and a high degree of central direction. The main issue that deters new and independent providers willing to provide an education for less than the per pupil cost of state schools from operating within the state system is the lack of operational autonomy. There is little in the White Paper to ease this problem. Trusts that run individual schools and chains of schools will not be able to make a profit, further restricting the pool of non-traditional providers who will be willing to engage with the state sector.

Raising standards

The most useful proposals put forward by the White Paper deal with identifying and dealing with failing schools. The government recognises that the entrenched

culture of under-performance within failing schools can only be dealt with by swift and decisive action, and the prospect of new providers entering the sector to replace failed schools is a positive one. Likewise, partnerships with SIPs will help coasting schools identify areas of weakness and encourage improvement. However, the proposals are not unequivocally positive:

- *Uniformity* – the high degree of central direction will continue to stifle innovation and improvement
- *Compensating for failure* – there is little extra help for pupils who have had the misfortune to attend failing schools, meaning that they will be left further and further behind

Tailored teaching and extra use of grouping and setting seem like positive steps, but we must be wary of these promises. We have already seen that schools will continue to be subjected to a rigid regulatory regime and that, even if there may be some extra flexibility over what is taught, this is accompanied by further direction on how it should be taught and who should teach it. Despite the claim that “we will not dictate from the centre what additional support should be provided” [4.16], the White Paper proposes that teachers will be instructed on the best ways to use one-to-one and small group teaching rather than being allowed to innovate themselves. Similarly, SIPs will need to show flexibility in their approach to schools to avoid uniform solutions being forced on schools with very different problems.

The additional funding available for hard-to-help children is welcome but in comparative terms it is a drop in the ocean; just one per cent of the annual schools budget. Nor is this funding directly targeting failure – pupils who have had the misfortune to attend failing schools get no right to additional funding despite the fact that they will require extra help to give them the education to which they are entitled. Nor do they benefit from special admissions arrangements to help them avoid the covert class-based selection that occurs in state schools. There are still far too few incentives in the state sector for successful schools to take on hard-to-help pupils.

Notes

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The report identifies five key barriers to reform:

1. **Local Education Authorities (LEAs)** – whose 'cost not value' focus makes them unwilling to support the creation of new good school places
2. **School Organisation Committees (SOCs)** – committees of existing state school providers, who act in their own interests to prevent new providers entering the sector
3. **Regulation** – the enormous regulatory burden on state schools deters new providers, prevents schools innovating and improving, and undermines the morale of teachers
4. **Funding** – at least one third of school funding is unrelated to pupil numbers, featherbedding failing schools against falling rolls and weakening the link between success and funding
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