

DfE consultation – Schools that work for everyone

Overview

It is important to note at the outset that while much public attention on the Department for Education (DfE) consultation, *Schools that work for everyone*, has centred on its proposals for selective education, it also sets out the Government's intention to take forward significant reforms in respect of independent schools, universities and faith schools. It is essential that all of the proposals contained in the consultation document are considered carefully, given their potential implications for the state education system. In particular, the NASUWT should continue to make clear that the debate about the document is not just a debate about grammar schools.

The Government's rationale for its proposals is that, notwithstanding the progress it claims to have made in improving the education system, 'for far too many children in England, a good school remains out of reach.' In advancing its intended reforms, the Government notes that demographic pressures mean that demands for school places will continue to increase, limiting access to high-quality education even further.

The three policy objectives identified in the consultation document are:

- **radically expanding the number of good school places, 'not just for those who can afford to move into the catchment area, go private, pay for tuition to pass selective tests or belong to a certain faith';**
- **allowing all good schools to 'expand their offer' to more pupils; and**
- **delivering a diverse school system that 'gives all children, whatever their background, the opportunity to achieve their potential'.**

The consultation document restates the commitment set out in the DfE's White Paper, *Educational Excellence Everywhere*, to continue to focus on the creation and expansion of multi-academy trusts. It should be noted that a cross-cutting theme in *Schools that work for everyone* is the need to secure greater collaboration across the education system.

Schools that work for everyone also focuses on pupils who do not qualify for free school meals (FSM) but who come from households with 'modest incomes'. The DfE believes that the interests of such children have been given insufficient attention in the development of policy. The Government states that it is particularly interested in addressing the needs of children from households with relatively low incomes that are, nevertheless, above FSM-eligibility thresholds. The Government has also set out its intention to develop means by which such children can be identified more effectively than at present.

Key issues for the NASUWT

The NASUWT has maintained consistently that current FSM-based measures of deprivation fail to reflect reliably the full extent of socio-economic disadvantage experienced by children and young people. *Schools that work for everyone* may, therefore, represent an important opportunity for the NASUWT to secure the adoption of more appropriate pupil deprivation indicators.

The NASUWT has established a clear policy position around the need for concerted action to tackle poverty and to promote social mobility. The Union recognises that while schools have a critical role to play in promoting the future life chances of all pupils, it is incumbent on the Government to make sure that wider public policy supports this aim, particularly in relation to the tax and benefits system, housing and the availability of well-paid, high-quality employment. The NASUWT will therefore continue its work to highlight the negative impact of poverty and deprivation on all aspects of children and young people's lives and to campaign for more concerted action by the Government to address these critical concerns.

The NASUWT has remained clear that an education system without an effective, democratically accountable middle tier will face significant barriers to the promotion of equality, diversity and social cohesion. The middle tier plays a critical role in bringing together the family of local schools, enabling schools to collaborate and take collective responsibility for the progress and achievement of all children and young people living in the communities they serve. The middle tier is also central to ensuring that local education systems use available resources efficiently and strategically to meet the needs of materially deprived pupils. The Union's policy document, *Maintaining World Class Schools*, establishes clear principles upon which middle-tier bodies should be established.

High-quality education depends upon ensuring that all children, particularly those from disadvantaged households, are able to benefit from their entitlement to be taught by a highly skilled, well-supported and appropriately qualified teaching workforce. The NASUWT has led work to draw attention to the profound shortcomings in current Government policy in this respect. The Union continues to press for a reformed approach to the workforce that recognises the professionalism of teachers, rewards them appropriately and fairly for their work, and tackles the root causes of the current recruitment and retention crisis.

The NASUWT will continue to hold the Government to account for the negative impact its policy programme has had on children and young people, as well as on the teachers and headteachers who work with them. In particular, the Union will need to ensure that its broader concerns are not lost in debates about *Schools that work for everyone* that may focus exclusively on the desirability or otherwise of reintroducing some form of selective education.

INDEPENDENT SCHOOLS

Proposals

Schools that work for everyone notes that some schools in the independent sector have sought to broaden access to 'ordinary families' through, for example, increasing the availability of bursaries and scholarships. However, the Government claims that independent education has moved further out of the reach of such families as a result of rapidly increasing fees and schools increasing the proportion of 'non-British' pupils they admit.

The Government argues that independent schools should do more to justify their charitable status and the other special privileges they receive, including exemption from business rates. In particular, the DfE wants to ensure that independent schools have a positive impact on the lives of more children and young people than is the case at present.

The main proposals in the consultation document include requiring independent schools, with the capacity to do so, to meet one of two expectations if they wish to continue to receive benefits that derive from their charitable status. Such independent schools would need to either:

- sponsor an academy or set up a new free school in the state sector; or
- significantly increase access to bursaries and financial support for children from non-wealthy households.

Independent schools without the resources to sponsor schools directly would still be expected to support the state sector by, for example:

- providing school-to-school support for state schools;
- ensuring that their senior leaders become directors of multi-academy trusts; or
- sharing expertise and providing access to their facilities.

Key issues for the NASUWT

The NASUWT has never objected in principle to the existence of an independent school sector. Indeed, the Union has established as a key benchmark the need for the state sector to match current levels of per pupil funding in private schools.¹

However, the NASUWT is clear that assertions that private education is superior to state-funded education in all circumstances are not substantiated by evidence.

On this basis, the NASUWT will be concerned by the proposal that all independent schools deemed able to do so should become academy sponsors. The context within which independent schools operate is often very different to that of most state schools and, as a result, practices in the independent sector may not be readily transferable to other schools.

It should be noted in this context that a significant proportion of independent schools, including those identified as elite institutions, are not subject to the same accountability and quality assurance processes as their counterparts in the state sector. It is therefore difficult to identify evidence to support the claim inherent in the Government's proposals that independent schools are more effective than the generality of state-funded schools. There is certainly no evidence that the limited number of projects to date in which independent schools have been involved directly in the leadership, governance and sponsorship of state schools have had any positive impact on standards.

The NASUWT has continued to express significant concerns about the Government's academies and free school programmes and will continue to press for a more effective approach to the organisation of the state school system.

¹ NASUWT (2013), *Maintaining World Class Schools*. Birmingham; NASUWT.

Simply allowing independent schools to participate in such a system alongside other academy sponsors will therefore not, of itself, result in any meaningful change in the academy and free school sectors. Nevertheless, in the event that these proposals are implemented, the NASUWT will want to learn more about the criteria that the DfE intends to apply to independent schools in assessing their potential suitability as academy sponsors.

These considerations emphasise the NASUWT's longstanding view that the Government should establish clear, national criteria and standards for all organisations involved in sponsoring and providing state-funded education. In particular, the Union remains clear that, in light of the extent of poor practice it has encountered across the academy sector, these criteria should set out requirements and safeguards in respect of the workforce.

The NASUWT may wish to gather intelligence on the policies and practices of those independent schools most likely to be identified as potential academy sponsors. The experiences of NASUWT members working in these schools may be helpful in this respect. Information about the practices in these schools may help the Union to identify any that would cause particular problems if they were to become academy sponsors.

The NASUWT has continued to maintain that the unconditional benefits granted to independent schools through the tax system represent a direct state subsidy. The proposal in *Schools that work for everyone* to impose conditions on the right of independent schools to access such subsidies is therefore welcome in principle. While this level of state support remains in place, the NASUWT believes that the state has a right to establish expectations on these schools in relation to the learning entitlements of pupils and the terms and conditions of the workforce.

UNIVERSITIES

Proposals

Schools that work for everyone sets out plans to exert greater pressure on universities to widen access to 'children of more modest incomes and backgrounds' and for them to play a greater role in supporting the state education system, including by serving as academy or free school sponsors.

The DfE intends to secure this objective by making the ability of universities to charge higher tuition fees contingent on the work they undertake, to widen access and their active engagement in the state education system.

It is proposed that, as a condition of charging increased fees, universities must either:

- establish a new school in the state education system, with capital and revenue costs met by the Government; or
- sponsor an existing academy in the state system.

Universities' continued ability to charge higher fees would be dependent on extending over time the number of schools they support and by securing 'good' or 'outstanding' ratings from Ofsted for these schools. However, the consultation document does not refer to reducing the fees universities would be able to charge as a sanction for non-compliance with these provisions. The DfE plans to introduce these requirements in time for the start of the 2018/19 academic year.

Key issues for the NASUWT

The NASUWT is clear that there is an important role for universities in reaching out to communities and playing an active part in the wider state education sector. For example, in the principles for models of local oversight of schools set out in *Maintaining World Class Schools*, the Union has made clear its expectation that universities should be given opportunities to engage in the work of middle-tier bodies. Universities have a particularly important role to play in relation to the provision of initial teacher training and continuing professional development. The NASUWT will want to explore further how closer involvement of the universities sector in the state education system can be taken forward in a way that enhances the quality and availability of this provision.

However, it is not self-evident that encouraging higher education institutions to run schools directly will result inevitably in more pupils gaining access to university than would otherwise have been the case. It should also be recognised that there is no inherent reason why a higher education institution is better suited than any other organisation to lead and manage a state-funded school.

Nevertheless, it should be recognised that universities may be more effective sponsors than others active currently in the independent sector. For example, university education departments may be disposed to promote teaching and learning practices that reflect the NASUWT's core values and that respect teacher professionalism more than some other sponsors active currently.

As with independent schools, in the event that this proposal is progressed, the NASUWT may want to seek to secure suitability criteria that more closely reflect the Union's priorities than those used currently.

SELECTIVE SCHOOLS

Proposals

The consultation document sets out the Government's case for 'relaxing restrictions on selective education.'

Schools that work for everyone draws attention to the relatively small scale of the selective sector in England. Currently, ten local authorities have wholly selective systems, while a further 26 local authorities have one or more grammar schools in their area. Five percent of all secondary pupils nationally attend a selective school, with a quarter of pupils enrolled in grammar schools in local authority areas that are fully selective.

Legislation in place since 1998 prevents the opening of new selective schools, limiting the size of the selective sector to 163 schools. However, it has been established recently that these schools are able to open annexes in other locations. For example, permission was granted in 2015 for the Weald of Kent Grammar School to open an annexe nine miles away from its main site.

While the Government asserts that children from all social backgrounds perform better in selective schools, it recognises the challenges that non-selective schools can encounter in selective areas and that their performance tends to be lower than non-selective schools in wholly non-selective areas. However, the consultation document emphasises that existing evidence on the negative impacts of grammar schools reflects the existing model established in local authorities such as Kent, Buckinghamshire and Trafford, not the revised approach to selection it claims its proposals represent.

The Government's intended approach would, subject to certain conditions, allow:

- existing grammar schools rated good or outstanding to expand;
- new fully or partially selective schools to open 'in response to local demand'; and
- existing non-selective schools to acquire selective status subject to measures 'to preserve [local] school diversity.'

However, in setting out these proposals, the DfE has stated that the creation of additional selective schools must be done in a manner that is 'to the betterment of, not at the expense of, other local schools.' The DfE believes that this test would be met by requiring selective schools to play a role in raising standards in other schools.

The Government states that it rejects explicitly the 'reintroduction of the binary or tripartite system of the past or a simple expansion of the existing selective system.' It insists that collaboration will be at the centre of its approach.

Schools that work for everyone sets out a range of conditions that might be applied to the creation of new or expanded selective provision. The DfE suggests that these conditions may not be applied in all circumstances but does not describe the circumstances in which particular conditions may or may not apply.

The range of criteria includes requiring schools to:

- take an (unspecified) proportion of pupils from lower income households;
- establish a new non-selective secondary school;
- establish a feeder primary school in a relatively socially deprived neighbourhood – although this would require significant changes to the School Admissions Code;
- partner with an existing non-selective school; and
- ensure that there are opportunities for pupils to enroll at grammar schools at ages 14 and 16, as well as at 11.

The consultation document emphasises the importance of new selective schools being held to effective account for complying with these conditions. It envisages that Regional Schools Commissioners (RSCs) and the Education Funding Agency (EFA) would have a key role in this respect. Sanctions for non-compliant schools would include:

- removing access to any additional funding streams to which these schools have access;
- removing the right to select by ability; and
- restricting access to future growth.

These conditions and sanctions would not apply to existing grammar schools that choose not to expand. However, the DfE suggests that 'existing selective schools should do more to support pupils at neighbouring non-selective schools.' The DfE would therefore encourage existing grammar schools to:

- join multi-academy trusts and serve as the centre within these trusts for the ‘most able’ pupils across all constituent schools;
- engage in outreach activity, such as working with local primary schools to identify those pupils who might ‘benefit most from targeted activity’; and
- allocate a proportion of places to pupils from socio-economically disadvantaged backgrounds.

Key issues for the NASUWT

The NASUWT’s longstanding position has been that an appropriate settlement was reached in the 1998 School Standards and Framework Act that prohibited the opening of new selective schools that allowed policy attention to focus on other issues of importance to the NASUWT.

Therefore, any attempt by the Government simply to expand existing selective models would not be consistent with the Union’s established stance on this issue.

However, it is important to note that the Prime Minister, the Secretary of State and the Minister of State for Schools have insisted that the Government’s proposals do not envisage a return to past models of selection and do not seek to impose additional selection. It is asserted that the Government’s aim is simply to give permission for the creation of additional forms of provision.

It will therefore be necessary for the NASUWT to test the assertions made by Government in this respect. In doing so, it should be recognised that there are some differences between the established grammar school model and the system that the Government states that it wants to introduce.

First, as noted above, it is proposed that new selective schools may have to establish arrangements that would allow for the admission of pupils after the age of 11. The established grammar school model allows only for entry at the beginning of Year 7, although in some areas pupils can be admitted subsequently if they were successful previously in the selection assessment and have been attending another selective school within the same authority. The lack of almost any facility for pupils to transfer to grammar schools after the initial admissions round has been a well-rehearsed criticism of the existing selective school system.

Second, under the Government’s proposals, selective providers would be required to take an active role in the education of pupils in the non-selective sector and to admit a proportion of pupils from disadvantaged backgrounds. A persistent critique of grammar schools has been the extent to which they are ‘set apart’ from other schools in the communities within which they are located. Implementation of this proposal could create opportunities to draw existing grammar schools into local families of schools more securely than at present. In this way, all local schools, regardless of status, could be required to collaborate to provide access for all local pupils to a wider range of learning pathways than schools are able to make available individually, and take collective greater responsibility for the quality of local educational provision.

Third, under the DfE’s proposed model, rights to select pupils could be contingent on schools meeting certain conditions, particularly in relation to engagement with other, non-selective schools and broadening intakes. No such conditions exist in the selective system currently.

There is little detail in *Schools that work for everyone* on the way in which these conditions and sanctions might operate in practice. The NASUWT will therefore want to seek further information from the Government on its proposals in this regard.

It will be essential that the NASUWT’s assessment of the Government’s plans in respect of selection are based on a clear understanding of the reforms that are being proposed, rather than an assumption that the DfE seeks simply to replicate existing selective models from elsewhere across the education system.

The NASUWT’s assessment will want to take the following considerations into account:

- a. The NASUWT has continued to emphasise that even in those areas where formal academic selection is prohibited, unacceptable practices in respect of the selection of pupils by schools remain widespread.

The Union has led work to draw attention to the undermining of important provisions in the school admissions system, including the dilution of the statutory Code of Practice on admissions and the removal from local authorities of important responsibilities for scrutiny and oversight of the equity and effectiveness of local admissions

arrangements.² Expansion of the academies and free school sectors has led to an increase in the number of schools able to set their own admissions arrangements, independent of local authority monitoring and oversight.

As a result of these reforms, schools have been able to manage their pupil intakes to their perceived advantage. Practices used by schools in this respect include the gerrymandering of catchment areas, the use of interviews and other face-to-face engagement with parents to screen potential applicants, imposing requirements on parents to purchase expensive uniforms or items of kit and discouraging applications by signaling that attendance at a particular school will incur significant 'voluntary' costs.

It is evident that children's schooling is already divided on the basis of parental income and ethnic background, although this state of affairs lacks the formal imprimatur of Government. Where admissions operate on the basis of children's postcodes, pupils from low-income households face significant barriers to admission to schools in more affluent areas.

The NASUWT will therefore note with profound disappointment that a consultation document that purports to demonstrate the Government's commitment to promoting social mobility and extending opportunity to the most disadvantaged children leaves these issues almost entirely unaddressed.

- b. The Government's proposed conditions on new selective provision would not apply to existing selective schools. Proceeding on this basis would result in two distinct categories of selective school, subject to different requirements on no objectively justifiable basis other than the point in time at which these schools began to offer selective education. It is not clear why the conditions proposed by the Government for new schools could not be applied to existing selective schools.
- c. There is credible evidence that selective education systems in place currently discriminate against children from disadvantaged backgrounds. In January 2016, only 2.5% of pupils attending selective schools were eligible for FSM compared to 13.2% of pupils in all state-funded schools. There is also evidence that the existence of selective schools has a negative impact on surrounding non-selective schools. As noted above, while the Government might insist that this evidence relates to the existing model of selection rather than the model it has proposed, it will, nevertheless, need to set out in more detail how its intended reforms would avoid such effects.
- d. There are concerns about the assessments of pupils used in existing selective systems. Existing 'eleven plus' assessments have been criticised on the grounds that they discriminate against disadvantaged pupils, as performance in these assessments can be improved through access to costly private coaching and tutoring. Such assessments have also been criticised on grounds that they do not produce a valid indication of pupils' academic potential and are therefore not fit for their intended purpose.

Much recent attention in relation to selective education has focused on developing assessments in which pupil performance cannot be influenced by coaching and that are not socially or culturally biased. However, it is worth noting in this context that a revised selection test introduced recently in Buckinghamshire, which its designers at the University of Durham claimed would be 'tutor proof', resulted in even fewer economically deprived pupils gaining access to selective schools than had been the case previously. The team responsible for developing the test admitted that it was as susceptible to coaching as the test it replaced.³

- e. Concern has continued to be expressed that it is not possible to conduct any form of reliable assessment of academic potential for pupils as young as 10 or 11, the age at which children are usually assessed to determine their eligibility for admission to selective schools. While the Government may point to its proposal that entry to selective schools should also be facilitated for older pupils, it would remain the case that assessment to identify the academic potential of upper Key Stage 2 pupils would continue.

Therefore, as a minimum expectation, the DfE should set out in more detail how it believes that reliable assessments of future academic potential can be made of pupils at age 10 or 11.

It might also be noted in this context that in other countries that make use of academic selection, including Germany, Austria and Switzerland, policy is established on the basis that selection can only take place reliably around the age of 15.

² Keates, C. (2015). 'Selection by Stealth' in de Waal, A. (ed.). *The Ins and Outs of Selective Secondary Schools: A Debate*. Civitas; London.

³ Millar, F. (2016), "'Tutor-proof' 11-plus professor admits grammar school test doesn't work". *The Guardian*. (12 September). Available at: (www.theguardian.com/education/2016/sep/12/tutor-11plus-test-grammar-schools-disadvantaged-pupils), accessed on 23.09.16.

- f. In Northern Ireland, where selection is still used widely, teachers in feeder primary schools report pressure to prepare pupils for selection tests, increasing their workload and distorting curricular priorities. The NASUWT will therefore need to raise its concerns about the potential implications of academic selection for the working conditions of teachers and headteachers.

Based on its existing policy, including that set out in *Maintaining World Class Schools*, the NASUWT might seek to apply the following principles in its assessment of the Government's proposals on selection:

- early tracking and streaming of pupils is inappropriate and formal selection for discrete academic learning pathways should not happen prematurely;
- effective action must be taken to tackle existing social and ethnic segregation in the education system, particularly in relation to the operation of parental choice and the way in which admission arrangements are managed and overseen;
- all dimensions of education policy should work to promote community cohesion and foster good relations between different social groups;
- educational provision should ensure that learners can access and, where appropriate, move between different education and training pathways, all of which should have genuine parity of esteem; and
- policy should secure effective collaboration between all local schools, ensuring that they take collective responsibility and share accountability for the progress and wellbeing of all pupils, whether or not they are enrolled in their particular school.

FAITH SCHOOLS

Proposals

Currently, existing voluntary-aided and faith schools (including those that have converted to academy status) are able to select up to 100% of pupils on the basis of faith. However, in May 2010, these provisions were amended so that newly opened schools may not select more than 50% of their intake on the basis of faith. The stated purpose of this amendment to previous admissions arrangements was to 'support inclusivity and tolerance.'

The DfE questions the extent to which this '50% cap' on faith-based admissions has been effective. *Schools that work for everyone* notes that in new academies designed for 'minority faiths' in the English school system (e.g. Islam, Judaism, Sikhism and Hinduism), 'the intake has been predominately of pupils of similar ethnic backgrounds.'

The DfE is particularly concerned that the Catholic Church has not been prepared to open new schools unless they are able to select up to 100% of pupil intakes on the basis of faith. The DfE notes with concern that because of the stance it has adopted on faith-based admissions, the Catholic sector is not contributing to efforts to increase the number of school places.

The DfE therefore proposes that the 50% admissions cap for new faith schools should be revoked, accompanied by 'strengthened safeguards to promote inclusivity.' Proposed measures in this respect include:

- requiring faith schools to demonstrate their inclusivity by gathering evidence that parents of other faiths would be happy to send their children to these schools;
- requiring faith schools to establish twinning arrangements with other schools not of their faith;
- inviting faith schools to 'consider' setting up mixed-faith multi-academy trusts and allowing faith schools to act as sponsors for failing non-faith schools; and
- placing an independent member or director who is of a different faith on the governing body of a new faith school.

It is proposed that new schools not meeting these requirements would lose their right to select pupils on the basis of faith.

Key issues for the NASUWT

It is important to note that the available evidence suggests that schools subject to the 50% cap are no more diverse in terms of their ethnic composition than schools able to select up to 100% of their intake on the basis of faith. However, it is important to acknowledge in this context that ethnicity is an imperfect proxy for faith. Nevertheless, if the aim of imposing a 50% cap was to ensure that new faith-based schools are more diverse than their existing counterparts, then it is correct to note that there is no compelling evidence that this policy has been successful.

Whatever view is taken of the merits or otherwise of state-funded faith-based schools, it is likely that they will continue to have a significant presence in the state education system for the foreseeable future.

Given this assumption, the NASUWT has always been clear that all schools, including faith schools, should play as active a role as possible in securing a diverse and equitable education system, promoting community cohesion and engaging in meaningful collaboration with all the schools in the communities they serve.

Therefore, the proposals set out in the consultation document could create an opportunity to press for more effective arrangements in this respect in ways that respect the faith- or non-faith-based ethos of different schools.

It should be noted that the DfE's proposals would only apply to new schools. If the aim of the reform suggested in the consultation document is to incentivise greater engagement and diversity across the education system, consideration may need to be given to their adoption for all faith-based schools.



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