

**Open Report on behalf of Debbie Barnes, Executive Director of Children's Services**

Report to:	<b>Children and Young People Scrutiny Committee</b>
Date:	<b>21 October 2016</b>
Subject:	<b>Schools that work for everyone – Government consultation</b>

**Summary:**

This report is a summary of the key proposals in the consultation document '**Schools that work for everyone**' (Published by the Department for Education (DfE) 12 September 2016) and includes a proposed response to the consultation for the Committee to consider and comment upon. The consultation closes on the 12 December 2016.

**Actions Required:**

The Children and Young People Scrutiny Committee is invited to receive this report and consider and comment on the proposed response to the consultation document.

## **1. Background**

1.25 million children in England attend schools that are not yet good. At the same time demographic pressures are increasing; primary pupil numbers grew by 11% between 2010 and 2016 and are projected to increase by a further 4% (that is 174,000 more pupils) between 2016 and 2020. Secondary pupil numbers are projected to increase by 10% (that is 284,000 more pupils) between 2016 and 2020.

In order to address these issues the government has produced a consultation which proposes a threefold approach:-

- 1) Increasing the number of good schools places available to all families
- 2) Giving schools with a strong track record the "right incentives" to expand their offer to more pupils.
- 3) Delivering a "diverse school system".

The consultation identifies four institutions for which creating new school places or improving existing schools is either not incentivised or is actively prohibited by current regulations. Those institutions are: independent schools; universities; selective schools; and faith schools. The document goes on to propose a series of reforms to encourage these institutions to help improve the quality of school places

in the mainstream state sector. Underpinning the proposed reforms is the intention of making the benefits these institutions enjoy conditional upon them doing more to drive up the quality of schools locally or increasing the number of good school places in the system. It is proposed that this could be achieved by partnering with existing schools or setting up new state schools.

The benefits enjoyed by these four institutions are described as follows:

- Independent schools have the benefits conferred by charitable status,
- Universities are able to charge higher tuition fees (above £6,000 p.a. if they agree Access Arrangement with the Director of Fair Access) on condition they widen access to lower income students,
- Selective schools have the benefit of being able to select a proportion or all of their intakes on the basis of academic ability,
- Faith schools have the benefit of being able to prioritise the admission of children from their faith when they are over-subscribed. Voluntary-aided faith schools benefit from being able to select up to 100% of pupils on the basis of faith.

It is also worth noting that the green paper re-affirms the government's ambition that **all** schools ultimately benefit from the autonomy and freedom to innovate and to meet the needs of their community that academy status brings.

### **Families who are just about managing**

The reforms proposed in the document are aimed at children from low income families (eligibility for free school meals - FSMs) and children from "families who are just about managing" (falling just above the eligibility threshold for FSMs). The document claims that children from these "families who are just about managing" are not necessarily well-served by the education system.

A child is eligible for Free School Meals (FSMs) if their family is in receipt of income-related benefits and income is not above £16,190 per annum. In January 2016, 14.3% of pupils were eligible for FSMs. Schools receive Pupil Premium for these pupils and any pupil eligible for FSMs in the last six years.

This consultation states that the government wants to develop a way to identify "families who are just about managing" and measure their attainment and progress in the school system.

### **Independent schools**

There are currently 2,300 independent schools in England, educating 425,000 pupils aged 5-15 outside the state system. Approximately half these schools are registered with the Charity Commission as charities and must therefore demonstrate that they meet the 'public benefit' rules which state;

Those with the "capacity and capability" should either

- Sponsor academies or set up new free schools in the state sector (capital and revenue costs would be met by the government). There is

- a clear expectation that these schools would be judged good or outstanding within a certain number of years. Or,
- Offer a certain proportion of places as fully funded bursaries. (The number of places funded in this way would have to be considerably higher than that offered currently).

The proposed sanction is that the government will consider a change to the Charity Commission's guidance to independent schools on how to meet the public benefit test, stripping those not meeting expectations of the status.

It is noted that smaller independent schools which may not have the capacity or capability to meet the expectations will be expected to play a role in improving schools in the state sector by doing one or more of the following;

- Provide direct school-to-school support with state schools (possibly by joining Teaching School Alliances),
- Support teaching in "minority" subjects (e.g. further maths, coding, some languages and classics),
- Senior leaders become Directors of Multi Academy Trusts (MATs),
- Provide access to their facilities (e.g. labs, drama, sports),
- Provide sixth form scholarships to a proportion of pupils in Year 11 at local schools.

### **Universities**

Universities wishing to charge the higher rate fees will be expected to do one of the following two things;

- Establish a new school in the state system (capital and revenue costs met by government). Or,
- Sponsor an academy.

In both cases, the school would be expected to be good or outstanding within a certain number of years.

The proposed sanction if they do not either of the above, is that the Director of Fair Access could refuse to renew an Access Agreement, meaning that the university could not charge tuition fees at the higher level (above £6,000). Legislation in a future Parliamentary session may be brought to require sponsorship of a school.

The government intends to implement this reform immediately by setting out new guidance to the Director for Fair Access in early 2017 in time for inclusion in the Director for Fair Access's own guidance to universities for access agreements that come into force for 2018/19.

### **Selective schools**

There are 163 grammar schools in England educating around 166,000 secondary pupils. Ten LAs have wholly selective education systems and a further 26 LAs have one or more grammar schools in their area. The 1998 School Standards and Frameworks Act prohibits the establishment of new selective schools and prevents existing non-selective schools from becoming selective. Existing grammar schools

can expand in annexes or satellite sites providing that the offer to pupils on the separate sites is fully integrated with the teaching and learning in the rest of the school.

The consultation briefly acknowledges that there is some evidence that children who attend non-selective schools in selective areas may not fare as well academically – both compared to local selective schools and comprehensives in non-selective areas. Some studies go further and suggest that the poorer educational consequences might be equivalent to one GCSE grade point. The consultation also acknowledges the very small proportion of children eligible for FSMs attending selective schools (2.5% compared to 13.2% for all state funded schools).

The proposed reforms will allow:

- The expansion of existing selective schools
- Establishment of new selective schools
- Permitting non-selective schools to become selective

The conditions on new or expanding selective schools may vary but will be drawn from the following menu of options:

- Take a proportion of pupils from lower income households
- Establish a new non-selective secondary schools (capital and revenue costs paid by government)
- Establish a primary feeder in an area with high density of lower income households (capital and revenue costs paid by government)
- Partner with existing non-selective schools within a MAT or sponsor an under-performing, non-selective academy
- Ensure there are opportunities to join the selective school at different ages e.g. 14 and 16 not just age 11

It is proposed that all of the above would be monitored through the work of Regional School Commissioners (RSCs) and the Education Funding Agency (EFA) and existing data collections.

The **proposed sanctions** that the government will consider entail:

- Removing access to any additional funding streams (for new pupils or programmes)
- Remove the right to select by academic ability (temporarily or permanently)
- Restrict access to future growth (by barring expansion)

Proposers of new selective schools would be expected to work with the relevant local authorities, RSC or central government as appropriate in considering where best to locate a new selective school. The location of new selective schools would be in areas where there is local demand and a need for additional good schools places.

Existing selective schools must do more to support children in non-selective schools by doing the following:

- Encourage MATs to select within their trust. (**This is already permissible because pupils are identified as ‘most able’ after they have been admitted through a non-selective admissions process.**) This may be done by establishing a single centre in which to educate their ‘most able’ pupils
- Require existing selective schools to engage in outreach activity (including financial support for transport and uniforms for lower income households in order to ‘remove the barriers’ to them to considering a selective education for their child)
- Fair admissions and access – ensuring the pupils admitted are representative of their local communities. Legislation would require selective schools to prioritise the admission of, or set aside a number of specific places for, pupils of lower household income in their oversubscription criteria. The School Admissions Code of December 2014 already makes this a possibility for all schools but the pace at which selective schools are ensuring fair access needs to be increased.

### **Faith schools**

There are 7,000 faith schools (67% Church of England; 29% Catholic). The “vast majority” of which are high-performing although there is no analysis of why. The consultation questions the effectiveness of capping faith admissions which was introduced in order to support inclusivity and tolerance. (A faith-based oversubscription criterion can only be applied to first 50% of places.)

The proposed reforms see the cap replaced with a series of strengthened safeguards to promote inclusivity, thereby allowing up to 100% faith-based admissions. These safeguards would be written into funding agreements, and inspected by Ofsted.

The paper states that new faith Free Schools could be opened if;

- There is proof that parents of other faiths would be happy to send their children there (demonstrated via local consultation and signatures)
- They establish twinning arrangements with other schools not of their faith
- They consider setting up mixed-faith MATs, including becoming a sponsor for under-performing non-faith schools
- They consider placing an independent member/director who is of a different faith (or no faith) on the governing body of new faith Free Schools.

The proposed sanction if these conditions were not met would mean that the school would lose the right to admit on the basis of faith and become a non-faith school.

## **2. Conclusion**

'Schools that work for everyone' proposes a number of changes to the education system. The premise of this proposal is to increase and spread best practice, develop greater places and capacity within the system for anticipated need in the future, and ensure disadvantaged pupils are treated with greater equity in the secondary education system.

Although, specific impact analysis is difficult to predict, the proposals merit careful consideration within the educational agenda of Lincolnshire and the impact this may have on communities. Appendix A is a draft response to the consultation to be discussed and amended as appropriate.

### 3. Consultation

The DfE consultation period ends on the 12 December 2016 and the specific departmental contact details are held within this document.

#### a) Policy Proofing Actions Required

n/a

### 4. Appendices

These are listed below and attached at the back of the report	
Appendix A	School That Work For Everyone: Proposed Consultation Response

### 5. Background Papers

The following background papers as defined in the Local Government Act 1972 were relied upon in the writing of this report.

Document title	Where the document can be viewed
Schools that work for everyone	<a href="https://consult.education.gov.uk/school-frameworks/schools-that-work-for-everyone/supporting_documents/SCHOOLS%20THAT%20WORK%20FOR%20EVERYONE%20%20FINAL.pdf">https://consult.education.gov.uk/school-frameworks/schools-that-work-for-everyone/supporting_documents/SCHOOLS%20THAT%20WORK%20FOR%20EVERYONE%20%20FINAL.pdf</a>

This report was written by Martin Smith, who can be contacted on 01522 552253 or [martin.smith@lincolnshire.gov.uk](mailto:martin.smith@lincolnshire.gov.uk).