

The Education and Inspections Act 2006

On November 4th Royal Assent was finally given to the Government's Bill which was first introduced into the Commons on February 28th, some eight months earlier. The Act provides the legislative framework for policies contained in the White Paper – “Higher Standards, Better Schools for All”, which was published in the Autumn of 2005.

The documentation supporting the Act is voluminous but there are a number of key elements which impact directly upon Governors and upon both their schools and upon the Local Authority.

Firstly the governing body of any maintained school is required to take account of ‘any relevant children and young people’s plan’. As it is the responsibility of the Local Authority to prepare and publish such a plan, this simply points to a requirement on the governing body to ensure that their school acts in accordance with this plan. Governors therefore should ensure that they are thoroughly briefed on the contents of this (local) plan – this applies equally within Dudley as within any Local Authority area. Clearly it will be focussed around the five outcomes enshrined in “Every Child Matters”.

The second statutory duty is that the governing body must ‘have regard to any views expressed by parents of registered pupils’. It would be an unusual governing body which did not do this but the Act is formalizing the responsibility; possibly therefore a governing body should include this item at one of their meetings in order to consider the ways in which they might better communicate with parents. The likelihood is that Ofsted will specifically quiz governors about how they achieve this (two-way) communication.

Local Authority Issues

Local Authorities are now required to have:-

- a duty to promote choice, diversity, high standards and the fulfilment of potential for every child (which, surely, the local community would have *assumed* to be a standard requirement for any such Authority – nonetheless this is specifically stated in the Act as though it were a new responsibility)
- a duty to respond to parental concerns about the quality of local schools
- a responsibility to make sure that young people have a range of “exciting things” to do in their spare time (that surely has many

interesting connotations, but will inevitably place pressure on extended schools)

- a duty to provide positive activities for young people.

In addition, one outcome of the Act is to repeal the statutory requirement for all Local Authorities to maintain a Schools Organisation Committee. Given that this body provides for a local and independent arbiter to do with such matters as closure of schools and the expansion of “popular and successful” schools DAGB has recommended to the Council that it retains such a body even if it is no longer a legal requirement to do so – better that than have to accept the judgement of a Schools Adjudicator on such matters when such a person may have absolutely no local knowledge at all.

Fair Access

In order to ensure that access to schools (that is the admissions process), is as fair as possible, the Act:-

- reaffirms the ban on any new selection by ability
- places a ban on interviewing in the context of admissions to a school
- has enhanced the status of the Code of Practice on School Admissions so that schools must act in line with its requirements rather than, merely, “having regard to it”. Indeed a new consultation on this Code has just taken place – however Dudley has a very good implementation of the Code and it is therefore unlikely that any changes will be necessary.
- brings in new powers for Admissions Forums such as that of submitting objections to the Adjudicator about admissions within their area – such as, for example, about admissions arrangements at schools which are their own admissions authority
- extends the duty of Local Authorities to provide free transport for the most disadvantaged families.

In Addition

There are a number of additional elements contained within the Act. For example it:-

- requires Governing Bodies to ensure that relevant policies to promote good behaviour and discipline on the part of a school’s pupils are actively pursued. A policy must be written, enshrining general principles, created following consultations with the Headteacher, those employed at the school, parents of registered pupils and a sample of

the pupils themselves. The Headteacher is required to set the measures (including disciplinary penalties) needed to promote good behaviour and s/he is required to inform staff, pupils and parents of the contents of such a policy at least one per year

- creates a power whereby all paid staff in a school may discipline pupils This, for example, explicitly legalizes the use of detentions outside of normal school hours.
- extends the scope of parenting orders and contracts. Currently these exist in cases of truancy and exclusions but the extensions encompass cases where the behaviour of a pupil is such as to disrupt the education of others or where it may “cause significant detriment to the welfare of the pupil in question or other pupils”
- improves the provision for excluded pupils
- establishes an entitlement to specialized Diplomas for young people within the scope of the 14 to 19 provision
- establishes new standards of nutrition for food and drink served in all maintained schools – this will extend beyond school lunches (the present situation) to all food available within a school, for example during break or from vending machines
- merges several existing inspectorates into a single inspectorate to cover the full range of services for children and young people as well as life-long learning
- enables (indeed requires) that Local Authorities intervene early in cases where a school is deemed to be underperforming, whether following an Ofsted Inspection or otherwise.

Trust Schools

Perhaps the one element of the Act that has caused the most reaction during the progress of the Bill through Parliament relates to the provision of Trust Schools. Since we have all been aware of the creation of Academies during recent years, many will initially identify the two together – perhaps the one thing that they do have in common is that both represent a break with the traditional way(s) in which a school may exist.

Academies involve a company or an individual benefactor providing a cash injection (£2 million) as sponsorship with the Government providing the balance of the capital and all of the running costs. Academies are independent schools, created to replace failing schools or in areas of underachievement or disadvantage; as such each is set up as a company

limited by guarantee and with charitable status. Their intake should be effectively the same as the school they are replacing. The Director of Childrens' Services has indicated that there is no current intention for academies to be created within this Borough.

On the other hand a Trust School is a Foundation School which is supported by a charitable foundation or "Trust". They are not independent of the Local Authority although they are able to employ their own staff, set their own admission arrangements (whilst still acting in accordance with the Admissions Code) and manage their own land and other assets. Their funding is on exactly the same basis as other local authority maintained schools. Unlike Academies, capital costs are totally met by Government (or through other Local Authority sources) – but businesses and other partners can support a school through a Trust and take a role on the Governing Body – but not take it over.

Trust Schools still have to adhere to the requirements of the National Curriculum and be inspected by Ofsted. At least one third of the members of the Governing Body must be parents; however only one of these must be *elected* – the rest may be *appointed* by the Trust.

Within the Borough, three secondary schools, Windsor, Earls and Leasowes are Pathfinder Trust schools and are working with Halesowen College to explore and work towards Trust status and, with the implementation of the whole of the 14 to 19 Agenda, the combination would appear to have much to commend it. Also locally, Haybridge High School in Hagley is exploring the possibility of Trust status, as is Four Dwellings High School in Quinton, Birmingham. There is copious evidence that the Government is seeking for Trust Schools, alongside Academies, Foundation and Voluntary Aided Schools to be the only categories of schools in the future. Note too that there is no reason why Primary or Special Schools might not seek Trust status; it is not restricted to the Secondary sector.

It is too early to make any judgement on these proposals, one way or the other. At a Conference in Birmingham earlier in 2006 the then-Chair of the National Governors' Council is quoted as having asked the question "What is the problem to which Trust schools are the solution?" to senior ministers and DfES officers – and no answer was forthcoming. Certainly, to date, the Government has failed to produce real evidence that schools which have Trusts (and many have existed for many years) are more effective than schools which do not. Cynically one might be forgiven for asking what can be achieved through the use of a Trust that

could not be achieved through “old-fashioned” ideas such as co-operation. It will be interesting to see how this concept works out and the progress of the Halesowen quartet of educational establishments may give us all a guide on the viability or otherwise of the scheme.