

BHA BRIEFING: Education Bill, Lords 2nd Reading

8th June 2011



Briefing from the British Humanist Association (BHA)

The Education Bill implements proposals set out in the Schools White Paper, *The Importance of Teaching*. We believe that some measures proposed within the White Paper and taken forward in this Bill represent a serious threat to children's rights, while at the same time a number of opportunities to protect those rights seem to have been missed.

Suitably amended, this Education Bill could be an opportunity to make the schools system fairer, more inclusive and more responsive to local communities.

As it stands however the Education Bill:

- **Encourages the proliferation of unaccountable 'faith' schools including Academies and Free Schools that divide communities and discriminate against local people**
- **Creates a new, centralising power allowing the Secretary of State to permit new and widespread religious discrimination in employment in Academies 'converted' from voluntary controlled schools**
- **Permits religious discrimination in school admissions including by new Academies and Free Schools, while at the same time removing important powers of scrutiny and modification of school admissions arrangements from local people and the schools adjudicator**

The Education Bill also:

- Increases the role for religious bodies in deciding if schools should take on Academy status
- Removes the duty of Ofsted to inspect how schools, including 'faith' schools, contribute to community cohesion
- Fails to free schools from the central dictate that they must hold a daily act of collective worship that must be 'broadly Christian' in character

1 Proliferation of unaccountable 'faith' Academies and free schools

Clause 36 and Schedule 10

The Education Bill amends the Education and Inspections Act 2006 to require local authorities which think a new school needs to be established to seek proposals for the establishment of an Academy. In effect, this introduces a presumption that when local authorities set up new schools they will be Academies or Free Schools.

This new requirement to prefer Academies and Free Schools is likely to aid a proliferation in the setting up of state-funded religious Academies and Free Schools. Academies and Free Schools are particularly attractive not only to mainstream religious groups but also to minority groups. This is because they are largely unregulated and there is nothing to stop groups with extreme agendas from applying to run these state-funded schools.

The Department for Education (DfE) has begun to publish the names of applications to run Free Schools and a high proportion of those have come from faith groups. For example, in a recent tranche, seven of the ten Free School applications have religious or 'spiritual' connections. Among the approved applications are a school which teaches 'consciousness-based education' including 'transcendental meditation', an Islamic boys' school, and a school run by a group set up by an 'Ordained Minister of the Free Church'. Moreover, the Education Secretary Rt Hon Michael Gove has said that applications from creationist groups would be considered¹.

Academies and Free Schools with a religious character are able to discriminate against students and parents in admissions, and against staff on the grounds of religion or belief. They can also opt out of the national curriculum and choose not to provide even the most basic sex education in biology or choose to teach creationism.

We are concerned that this new requirement on local authorities to prefer Academies and Free Schools when creating new schools will lead to a proliferation in largely unregulated and unaccountable state-funded religious schools.

2 Increased religious discrimination against staff in schools 'transferring' to Academy status

Part 6, Academies

The Education Bill effectively imports the rules governing the employment of teachers at voluntary controlled schools with a religious character, allowing those schools to discriminate on religious grounds and have 'reserved teachers', up to a fifth of staff including the principal.

Clause 58 introduces a new power for the Secretary of State to override by order those rules (which we believe are unnecessary and unjustified in any case) and permit new and wider discrimination, so that the Academy school may apply preference in the appointment, promotion or remuneration of all teachers at the school in accordance with the tenets of the religion or religious denomination of the school.

As 15% of primary schools in England and 3% of secondary schools are voluntary controlled schools with a religious character², this clause has the potential to have profound implications on the employment situation of potentially thousands of teachers.

Minister of State for Schools Nick Gibb has stated that 'As with maintained schools, the Secretary of State would only allow this change when a strong proposal was made and a thorough consultation was carried out.'³ However, we do not agree that any state-maintained school, including Academies and free schools, should be able to discriminate against teachers or staff on grounds of religion, and there is no statutory guarantee that future Secretaries of State will not simply allow all schools to make this change. We urge that the Bill be amended to prevent such unnecessary and unjustified discrimination.

We can see no legitimate justification for permitting potentially wide and new discrimination against teachers in an Academy school which has transferred from a voluntary controlled school with a religious character. **The new power allows the Secretary of State for Education to grant permission to extend discrimination on religious grounds to many posts where such restrictions had never previously applied.**

¹ DfE 'Free Schools Conference', 29th January 2011

² DfE *Statistical First Release: Schools, Pupils and their Characteristics*, January 2010

³ Letter from Nick Gibb to MP following representations by a supporter of the BHA, May 2011

We believe that the Bill must be amended urgently to revoke this power and protect potentially thousands of teachers from schools converted to Academy status against new, unnecessary and unjustified religious discrimination.

3 Less scrutiny of admissions practices

The Education Bill does nothing to address the ability of state-maintained schools with a religious character, including Academies and free schools, to discriminate against prospective students on the basis of their parents' religion.

In 2008 a report by the schools adjudicator found that 3,500 'faith' schools were in breach of the admissions code. Allegations included families being asked questions about their family situation as well as being asked by the school for money. The ongoing need for scrutiny was demonstrated in evidence to the Education select committee in February 2011 by the Chief Schools Adjudicator that reported on continuing discrimination against poorer families, as published in the Office of the Schools Adjudicator's annual report in 2010, which was critical of the complexity of some faith schools admissions criteria as favouring white middle-class areas.

Discrimination against pupils of the 'wrong' or no religion infringes their rights by assuming their beliefs are identical to their parents'. It is well evidenced and established that discriminatory admissions practices lead to segregation along religious and socio-economic lines – 'faith' school populations are often far from representative of their local communities.

In light of the push by government to increase vastly the numbers of religious Academies and Free Schools which can all discriminate in their admissions, it is particularly remarkable that the Education Bill contains provisions which will actually decrease scrutiny of school admissions policies.

Part 5, Clause 34

The Education Bill removes the duty of local authorities to report on the admissions criteria of schools in an area and to establish an Admissions Forum. It also curtails the powers of the Schools Adjudicator who will no longer be able to make a modification to a school's admissions arrangements, even in response to a complaint. Instead it will be up to admissions authorities to act on the Schools Adjudicator's determinations. But as most 'faith' schools are their own admissions authorities, and as 'faith' schools have consistently been shown to act irresponsibly in determining their admissions arrangements, we feel that this change will make it harder to tackle discriminatory 'faith' school admissions arrangements.

We believe that, at a time of a potentially large expansion in the numbers of state-maintained 'faith' schools, that there should be more scrutiny of admissions arrangements, and power for local communities to influence the admissions arrangements in schools, not less.

4 Decreased role for communities - increased role for religious bodies

Despite the government's stated commitment to involving parents and communities in education, the Bill does nothing to address the non-existent channels for real consultation of local people on new education provision. Under the Bill, providers of new Free Schools and Academies are required only 'to seek the views of such persons as the person carrying it out thinks appropriate'.

People without the time or connections to establish a Free School are left without a voice. This is particularly important in relation to proposals for new 'faith' schools, which are opposed by a majority of the general population and are often controversial locally.

It is vital that the Bill is amended to ensure that local communities are not shut out of the decision making process about the provision of education in their area.

Part 6, Clause 53

The Bill also introduces a new requirement for the government to consult 'the appropriate religious body' when converting a maintained school with a religious character into an Academy, despite existing provision to ensure that trustees and others in charge of the management of the school will be consulted.

This clause serves exclusively to hand further control over education to religious authorities and stands in stark comparison with the lack of provision to consult the wider community when transforming a community school into an academy or when opening a new free school or academy.

5 Removal of duty for Ofsted to inspect community cohesion

It is disappointing that the Bill will remove the requirement for Ofsted to inspect on how schools contribute to community cohesion. Although difficult to achieve meaningfully by schools that segregate students along religious lines, it must be remembered that the requirement was introduced in response to evidence, reported in research such as the 2001 Cattle report, which suggested segregated schools were contributing to increased tensions across cultural lines in some communities. The government must be forthcoming with how they will ensure that schools will not contribute to community tensions.

6 Failure to repeal compulsory collective worship

We are disappointed that, despite high profile opposition from education practitioners as well as a government commitment to freeing schools from prescriptive rules and regulations, a repeal of the duty for all schools to participate in a daily act of worship that is 'broadly Christian' in character is not, as yet, included in the Bill.

This law impedes schools' ability to provide good inclusive assemblies, is prescriptive and in practice is widely flouted by schools. In addition, the rule violates the human right of freedom of belief of children.

This Bill is an ideal opportunity for the repeal of this outdated and restrictive law.

About the BHA

The British Humanist Association (BHA) is the national charity working on behalf of non-religious people who seek to live ethical and fulfilling lives on the basis of reason and humanity. It is the largest organisation in the UK campaigning for an end to religious privilege and to discrimination based on religion or belief, and for a secular state.

Our expertise lies in the 'religion or belief' equality strand, which includes non-religious beliefs such as Humanism, and how that strand relates to and intersects with other protected characteristics. We also work closely with others on wider equalities issues in a range of forums. The BHA is a member of the National Children's Bureau Sex Education Forum (SEF) and the Children's Rights Alliance for England.

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