

# ENGLAND AND WALES

## Overview

An unusual – though not unique – feature of education in England and Wales is that a measure of school choice on the basis of religion is exercised *within* the state system; it has even been asserted that “we do not have a secular system of public education” (Johnson, 8). Compromises made a hundred years ago to preserve the extensive provision of schooling by denominational groups while greatly expanding provision by local government have continued in effect, with some 7,000 publicly-funded religious schools. Despite all the changes which have occurred in the intervening century, the educational system of England and Wales seems to exhibit the qualities called for by Winston Churchill, in a speech in November 1902: “the educational system of a great free country ought to be large and sympathetic and elastic enough to embrace not only free-thinkers and secularists, but men of all shades of religious thought and opinion” (quoted by Francis Phillips, 178).

This religiously-pluralistic system has not gone unchallenged. An influential report on the schooling of immigrant children, in 1985, suggested that, because of “the real and far-reaching changes which have taken place in the nature of British society particularly in recent years, . . . the time has come for [the government], in consultation with religious and educational bodies, to consider” whether the 1944 law, establishing the pluralistic nature of the educational system, should not be changed (Swann, 514). The present Labour government, however, appears more interested in revitalizing the system through encouraging schools sponsored by religious and other groups.

The state educational system in England and Wales experienced, in the 1980s, the boldest assault on ‘business as usual’ of any of the nations under consideration. Convinced that “education had seen an unholy alliance of socialists, bureaucrats, planners and directors of education acting against the true interests and wishes of the nation’s children and parents by their imposition on the schools of an ideology (equality of condition) based on utopian dreams of universal cooperation and brotherhood” (Knight, 155; see Melanie Phillips for a late but widely-read statement of this theme), Prime Minister Thatcher and her advisers pushed through what were intended to be fundamental changes in the educational system. “This whole set of measures was undeniably meant to weaken socialist power and influence over the education service, especially as it had been seen to grow steadily since the end of World War Two” (Lemosse, 163).

The Conservatives underestimated the capacity of the system to resist such sudden change; they were forced to scale back their emphasis upon a national curriculum tied to extensive testing, and were disappointed by a limited response to the opportunity for schools to become independent of local education authorities. On the other hand, the Labour government which succeeded them has generally not attempted to turn back the clock to the party’s educational policies of the 1970s.

## The Structure of Schooling

Elementary schooling to age 14 had become universal by the first part of the 20<sup>th</sup> century, and some pupils—about 10 percent of the total by 1939--were able, on the basis of a standardized test, to move into a selective state grammar school at age 11. In areas where the supply of county (state) grammar schools was insufficient, these pupils were often given public scholarships to independent schools known as ‘direct-grant’ schools, which also enrolled tuition-paying children who had not passed (or taken) the scholarship examination..

Direct-grant schools . . . played an important if increasingly controversial role in secondary education from 1926 (when their relationship with the [national] Board of Education was formalised) to 1976, when their direct funding by the Department of Education and Science was phased out, and most of them continued as unequivocally independent schools (Johnson, 10).

The continued use of these arrangements came into conflict with the growing interest in a fundamental change of secondary education to a non-selective 'comprehensive' model. Several times in the 1950s the Labour Party endorsed comprehensive secondary education, though little was done to make this the norm for several decades. As secondary schooling became more nearly universal, however, it became clear that the alternative to the selective grammar school, the 'secondary modern,' was an unsatisfactory alternative. "Evidence of a large and seemingly irreducible number of errors in the selection process led to a loss of confidence in its scientific basis, while evidence of a strong and continuing relationship between social class and allocation to selective schools led to a loss of confidence in the objectivity of selection. . . . The 1964-1970 Labour Government also championed the cause of the comprehensive school" (Adler, Petch and Tweedie, 11), issuing the celebrated Circular 10/65, which called upon LEAs to submit plans to reorganize secondary education on a comprehensive basis. The response was halting, because LEAs were faced with a definite lack of enthusiasm for the change among parents of pupils in grammar schools.

The gradual conversion to comprehensive secondary schools was spurred, with Labour back in power, by the *Education Act* 1976, which required local education authorities to "have regard to the general principle that (secondary) education is to be provided only in schools where the arrangements for admission are not based (wholly or partly) on election by reference to ability or aptitude" (in Maclure, 384; see comments in Knight, 117). The process was reversed or at least slowed when Margaret Thatcher's 1979 government removed the requirement that local authorities replace grammar with comprehensive schools.

While in 1960 most pupils at the secondary level attended either selective grammar schools or 'secondary modern' schools and fewer than 5 percent attended 'comprehensive' secondary schools intended to cater to the whole range of abilities, the provision of secondary schooling had changed profoundly—though not universally (except in Scotland) by 1980 (Chitty, 19, 27).

Traditionally, schooling has been provided primarily by local educational authorities (LEAs), with funding support and guidelines from the national government. This arrangement was changed fundamentally during the 1980s, however, toward a bi-polar system with greatly enhanced authority both at the individual school level and also at the national level.

The Conservative government of Margaret Thatcher, concerned about the mediocre performance of English pupils and about the political messages promoted by some LEAs, diagnosed the problem as being that the educational system was "producer-dominated," in the words of the then-Secretary of State for Education, Kenneth Baker, in introducing what would become the 1988 Education Reform Bill. Professional educators were determining what was taught and how, with limited accountability either to parents or to the wider society.

Commenting in 1988 on the Education Reform Act, Stuart Maclure, editor of the *Times Educational Supplement*, observed that the system which had developed since 1944 had failed to produce a homogeneous standard of service and that its chief characteristic had been its patchiness. "It reflected," he added, "an egalitarian ideology within a system of unequal performance" (Lemosse, 166).

The chosen remedy was to put in place "a regime of detailed central prescription and regulation of curricular content" (Meredith, 251), together with measures to promote school autonomy and parent

choice. The national Ministry set very specific attainment targets for schools and put in place a controversial system of national examinations at all levels. The release of these results in the form of detailed “league tables” has been intended to force the pace of school improvement.

Closely associated with this new form of accountability for results has been an emphasis upon enabling parents to choose among schools on the basis of this information or of other factors. As with the movement to national standards, this was in part a reaction to the perceived shortcomings of schools under the comprehensive model. The 1944 Education Act had allowed an appeal to national authorities by parents whose request for a school assignment other than that based upon their residence had been denied by the LEA. “Prior to comprehensive reorganisation, the combined number of appeals to the Secretary of State had approached 100 per year. After reorganisation and into the 1970s, the number climbed to about 1000 per year.” The Conservative Party, in its 1979 ‘Manifesto’ (election platform), made an explicit link between parent choice and the improvement of the quality of education: “extending parents’ rights and responsibilities, including their right of choice, will also help raise standards by giving them greater influence over education” (Adler, Petch and Tweedie, 32, 35). With their subsequent victory in three consecutive elections, Conservatives enacted a succession of laws designed to increase parent choice as well as to set national educational standards. As part of this strategy, the autonomy of individual schools was increased.

LEAs have also lost much power to the legal structure lying immediately below them—the governing bodies of individual schools; the government has pursued a political campaign of consumer involvement and accountability in the context of education, and has sought to promote these ends of enhancing parental and local community representation on school governing bodies and giving them greater control and decision-making power over such matters as staffing and the management of resources at the level of the individual institutions (Meredith, 247).

Expanding parental choice among schools was seen as a way of putting pressure upon schools to become more effective and thus acceptable to families. The primary concern was not educational freedom; this was already provided by the funding of denominational schools as part of the state system. It was the influence of Milton Friedman, introduced in the United Kingdom by a 1964 article by Alan Peacock and Jack Wiseman, that made market forces an element of the Conservative strategy for education reform (Chitty, 181).

As a Conservative philosopher wrote, “My own ideal [for the educational system] . . . is one of variety rather than uniformity, of freedom instead of compulsion. . . . The crux is for all schools, however they are in future to be owned and managed, to become separate education firms, subject like the presently existing independent schools to the incentives and disciplines of the market” (Flew, 5).

## **The Legal Framework**

There is no written constitution; Parliament has virtually unlimited authority to legislate in matters of education.

Education legislation is contained in a series of Acts of Parliament. Education Acts apply to both England and Wales. Orders and Regulations made by the Secretary of State and collectively known as “delegated legislation” may be introduced separately for England and Wales, where requirements differ. Education provision is based on the principle that all children between the ages of five and 16 must receive efficient full-time education. All children between the ages of five and 16 are entitled to free education. Any subsequent full-time education provided in schools or at further education institutions is also free for

students up to the age of 19. Students attending higher education institutions may have to pay a contribution towards tuition fees; this situation has been changing, amid great controversy.

Although subsidies had been provided to denominational and other schools previously, the enactment of the *Elementary Education Act* in 1870 is usually regarded as the first comprehensive government measure to ensure the universal availability of schooling. This was by no means the inception of popular education in England and Wales; much had been accomplished by voluntary (mostly denominational) efforts. The Newcastle Commission of 1861 found that “the Church of England had provided, through voluntary contributions, twice as much money as the State for its schools since 1833,” and by 1890 there were 14,479 “voluntary” denominational schools (Chadwick, 9, 13). Subsequent legislation has continued to make a place for faith-based schools within the public education system.

The act called for setting up elected school boards in areas with insufficient provision of schooling through denominational efforts. Voluntary (denominational) schools would continue to receive a public subsidy. The bill was introduced by W. E. Foster, the son-in-law of the famous Rugby headmaster Thomas Arnold and the brother-in-law of Matthew Arnold, himself a school inspector as well as an essayist and poet. Foster noted that only two-fifths of working-class children between six and 10, and only one-third of those between ten and twelve, were enrolled in state-aided schools. The purpose of his bill, Foster made clear, was not to replace the denominational schools or private initiatives, but to ensure that all children had access to adequate schools.

Our object is to complete the present voluntary system, to fill up gaps, sparing the public money where it can be done without, procuring as much as we can the assistance of the parents, and welcoming as much as we rightly can the co-operation and aid of those benevolent men who desire to assist their neighbours (in Maclure, 100).

The 1870 Act was built upon three essential compromises among denominational and other groups: a conscience clause to excuse pupils from religious instruction, non-denominational inspection of schools, and “compliance with conditions securing secular efficiency” (see Francis Phillips, 21-98).

The system of schooling was restructured, by the *Education Act* 1902, after very extensive debate that reflected deep divisions over the role of religious instruction in schools. The Act created local education authorities (LEAs), superseding around 2,500 school boards and exercising substantial authority, as well, over the secular education provided in some fifteen thousand publicly-subsidized denominational schools. The LEAs assumed much of the funding and oversight responsibility previously exercised by national authorities (see Francis Phillips, 117-177).

The cornerstone of the present system of state schooling in England and Wales is the (‘Butler’) *Education Act* 1944 which established its fundamental structures, including the arrangement under which denominational schools could become part of the state system while retaining a degree of distinctiveness. Clear lines of responsibility were established for the national government and for local education authorities, and the school leaving age was raised from 14 to 15 and eventually 16.

The next major legislative landmark was the *Education Act* 1976, enacted by a Labour government and requiring local education authorities to move away from selective secondary schools to a comprehensive model.

When Conservatives returned to power in 1979, with Margaret Thatcher, a former Minister for Education, as Prime Minister, there was no concerted effort to reverse the conversion to the comprehensive secondary school model. The *Education Act* 1980 required that each individual school

have its own 'governing' body made up of elected parents and teachers in addition to LEA represented and co-opted members, though the authority of these boards, in the case of local public ('county') schools, remained limited. Parents were given expanded rights to request school placements outside of their residential attendance districts, and an appeals process was set up to decide cases in which these requests were denied. Schools were required to provide information about their programs and results.

These provisions were strengthened by the *Education (No. 2) Act* 1986, which expanded the powers of governing boards over "finance, staffing, curriculum, premises, discipline and exclusion of pupils" (Adams, 5).

To this point, the education reform policies of the Conservative government that took power in 1979 had been relatively cautious, but "the third Thatcher administration possessed the confidence and determination to adopt truly radical strategies for dismantling" an educational system that it considered contrary to national interests. A bill filed in November 1987 became law the following July after 370 hours of debate in Parliament (Chitty, 197, 219).

The *Education Reform Act* 1988, with 147 clauses and eleven schedule (nearly twice as long as the 1944 *Education Act*), led to wide-ranging changes in accountability for educational outcomes through establishing a National Curriculum and a highly-controversial system of testing with publication of comparative data on school performance. This the government justified on the basis of raising standards and achieving a uniform level of basic educational provision across the country. For each of the core and other foundation subjects, the Secretary of State was empowered to specify attainment targets, programmes of study and assessment arrangements. The national curriculum gave rise in practice to considerable conflict and the Government was forced to establish a working group (the Dearing Committee) to consider ways in which it could be made less elaborately prescriptive.

With the introduction of the National Curriculum, England and Wales moved from a decentralized curricular formulation process to a highly centralized one (Meredith 1997, 176). "Few other pieces of legislation have attempted so ambitiously to redesign a major public service from top to bottom or faced such bitter and widespread professional opposition. . . critics, pointing to the 415 new powers which the Act conferred on the Secretary of State, saw it as an irreversible shift of power towards the centre, and as the biggest single attack on local democracy this century" (Adler, Petch and Tweedie, 212).

However, the National Curriculum has now been significantly modified and made considerably less prescriptive in content thereby giving teachers more professional discretion (Meredith 200b, 346).

While it centralized responsibility for educational standards, the 1988 Act also extended the self-management of individual schools considerably; Local Management of Schools gave governing boards extensive authority.

The 1988 law also established a process for an individual school to 'opt out' of Local Education Authority control, through a vote by parents of children currently attending, and become an autonomous public school under its own board, with funding provided directly by the national government. The main characteristic of such schools was that they would operate entirely independently of the LEA in which they were located, that they would be funded by grants from the central government department rather than through their LEA, and that their governing body would assume full control over the running of the school and the employment of teachers and other staff, subject to central government regulation and the requirements of the national curriculum. These 'grant maintained' schools were expected, by the Conservatives then in power, to sweep the country; the response was less enthusiastic, in many parts of England and Wales, than had been hoped.

Provisions for becoming grant maintained were spelled out in greater detail, with more incentives, by the *Education Act 1993*, said to be the longest education law in British history, with 308 sections and 21 schedules. The very detailed prescriptions in this law—including many matters that might better have been left to administrative regulations—seems to reflect an intention to leave as little discretion to education officials as possible..

Much of the essential law of education as it relates to schools is now embodied in the *Education Act 1996*, which repealed and consolidated earlier legislation without changing its effect.

The *School Standards and Framework Act 1998*, enacted by the new Labour government, introduced measures to raise standards of school education, and created a new framework of community, foundation and voluntary schools, repealed or modified a number of the provisions of the Conservative education laws, but left intact the key elements of national standards, decision-making by boards of individual schools, and parental choice among schools. A considerable amount of controversy has been generated over the extensive powers of the Secretary of State to intervene directly in the running of LEAs. It was widely thought that the power of intervention would be a measure of last resort and only rarely invoked. This assumption has been proved wrong (Meredith 2000a, 83-85).

According to the *School Standards and Framework Act 1998* there are several categories of schools:.

- community schools;
- foundation schools;
- voluntary schools comprising:
  - voluntary aided schools;
  - voluntary controlled schools;
- community special schools;
- foundation special schools;
- independent schools (private schools, sometimes referred to as non-maintained schools).

Teachers are categorized according to the type of school in which they are employed (Meredith 1998c, 217).

### **Freedom to establish non-state schools**

The *Education Act 1996* defines independent schools as “any school at which full-time education is provided for five or more pupils of compulsory school age, not being a school maintained by a local education authority” (Meredith 1998c, 217). Most independent schools, except City Technology Colleges, receive no state funding and are financed through fees and charitable donations. Through the Assisted Places Scheme, some pupils may have part or all their fees (depending on parental income) paid by the Government. .

The independent schools are subject to inspection requirements and to registration by the Secretary of State for Education and Skills in England and the National Assembly for Wales Education Department in Wales. They must provide satisfactory standards of premises, accommodation, instruction and staffing. Schools must keep registers of admissions and attendance and must make an annual return to the appropriate department which includes statistical and other information.

The *Education Reform Act 1988* created City Technology Colleges and city colleges for the technology of the arts as a category of independent school. They are now governed by the *Education Act 1996*. Each CTC has a separate agreement with the Secretary of State for Education and Skills. They must be in urban

areas, provide education for pupils of different abilities from the age of 11 who are mainly drawn from the area in which the school is situated, provide a broad curriculum with an emphasis on science and technology and not charge fees. Sponsors are required to make a substantial contribution towards the cost of building and capital equipment. The Department for Education and Employment provides an annual grant at a similar level to comparable maintained schools to cover the running costs. These institutions are not entitled to charge tuition fees..

### *Home schooling*

The *Education Act* 1944 required the parent of every child of “compulsory school age” to ensure that the child received “efficient full-time education suitable to his age, ability and aptitude,” either by sending him or her to a school or by some other means. There are an estimated twenty-thousand children being home-schooled (Thiessen, 25).

### **School choice not limited by family income**

Parliament provided its first grant to subsidize denominational schools in 1833, and such provisions have continued in one form or another ever since. They were codified in the *Education Act* 1944, under which

The financial settlement was made more generous to the voluntary bodies. Church schools could choose ‘Aided’ or ‘Controlled’ status. ‘Aided’ schools were to receive grants to cover teachers’ salaries and other maintenance charges; a grant of 50 percent toward toward the cost of alteration of buildings; the cost of all internal repairs and half the cost of external repairs. Other grants at 50 per cent (increased to 75 per cent in 1959) were payable in respect of new school building when a school was transferred to a new site because the existing premises could not be brought up to standard, or where a new school was to be built in substitution for one or more existing schools. [In 1967 this became an across-the-board grant of 80 per cent on all approved Aided school buildings.] In Aided schools, the appointment of staff remained in the control of the Governors or Managers, the majority of whom were to be nominated by the Voluntary [denominational] body. As for Controlled schools, their governing bodies were to include a majority of L.E.A. representatives but denominational instruction was permitted to continue. Their schools became the financial responsibility of the L.E.A. (Maclure, 222).

While Roman Catholic schools (9.8 percent of all government-supported schools) chose the more independent ‘aided’ status, the majority of the Church of England schools that make up 21.3 percent of government-supported schools are ‘controlled’ (12.5 percent vs. 8.8 percent ‘aided’). Much depends, for ‘voluntary controlled’ schools, upon whether the representatives of the local education authority are willing to support the denominational character of the school in curriculum and other decisions (Chadwick, 62).

More than 90 percent of pupils attend schools that are fully state-funded, though some state secondary schools may charge additional fees for supplemental programs and services; section 61 of the 1944 Act prohibited LEAs from charging tuition fees at any of their schools. Parents have extensive rights to choose among these state-funded schools, including many with a denominational character.

There are also fee-charging independent schools, the most elite of which are confusingly referred to as ‘public’ schools. For several decades after approval of a ‘direct grant’ system in the *Education Act* 1953, LEAs were allowed to allocate particularly able pupils into these schools for a quality of education not

available in their own state schools. In 1975, however, the Labour government abolished this provision (Salter and Tapper, 119; Johnson, 88, notes that an earlier form of the 'direct grant' program began in 1926). There was, in fact, considerable sentiment on the Left, expressed in *Education for Democracy* (1972), that "without absorbing the independent, and particularly the public schools, into the state system, any talk of education for democracy remains a mockery" (Rubinstein and Stoneman, quoted by Flew, 79).

The direct-grant independent schools were faced with the choice of becoming comprehensive in their pupil intake, or give up the public subsidies. "About one-third of the schools on the direct-grant list, mostly Catholic schools, accepted voluntary-aided status in particular local authorities, and in due course took part in those authorities' plans for reorganisation on comprehensive lines. But the majority of the schools (some 120 schools) surrendered their direct-grant status and became fully independent" (Johnson, 18).

The status of independent schools was an issue in the 1979 General Election campaigns; "The Labour Party made clear its intention to take the long-awaited step, when returned to office, of removing the charitable status enjoyed by many independent schools." With victory going to the Conservatives, the *Education Act* 1980 included a new program – the Assisted Places Scheme – under which, the following Fall, some 4,000 pupils were able to attend independent schools with a public subsidy (Johnson, 19). Predictably, this arrangement was abolished when Labour returned to power.

As in France, many English parents move their children in and out of the independent school sector, as they judge that one school or another will meet their needs best. In one study, "between them the seventy-two children in the sample made no less than sixty-four exits from one sector to another. Only fifteen of these were clearly due to changes in family circumstances . . . the rest were indications of dissatisfaction, loss of confidence, or the criticism implicit in the belief that what the other sector had to offer was to be preferred. . . . moves from the maintained to the independent sector were three times as frequent as moves from the independent to the maintained sector" (Johnson, 125). This suggests that, as in France, the proportion of families who make use of independent schools at one point or another is considerably higher than the proportion of independent enrolment at any one time.

In addition to the elite independent schools, there is what has been called a "reluctant private sector,"

a loose grouping of more than a hundred small private schools which would, in the main, like to obtain funding from the state. A significant portion of these schools belong to the "new Christian schools movement" . . . Another component of the reluctant private sector is Muslim (Thiessen, 22).

Parent choice within the state sector (which includes denominational 'voluntary' schools) became a cornerstone of Conservative educational policy after the party's defeat in 1974. The 'Parents' Charter' promised to require local education agencies to be responsive to the "wishes of parents." In keeping with this pledge, the 1980 *Education Act* greatly strengthened the right of parents to exercise school choice without paying a financial penalty.

### **School distinctiveness protected by law and policy**

Much of the educational system in England and Wales developed under denominational sponsorship, aided by national and local public funding. The *Education Act* of 1944 continued this pattern, making provision for LEAs to provide support for a category of "voluntary schools," mostly Anglican and Catholic, though also Methodist and Jewish. There are two categories, "voluntary aided" and "voluntary



controlled,” with somewhat different degrees of public control as well as funding. Indeed, the White Paper which prepared the way for the 1944 Act stressed that “the new educational opportunities must not be of a single pattern. It is just as important to achieve diversity as it is to ensure equality of educational opportunity” (in Maclure, 206; see comments in Knight, 12).

This arrangement would, from the perspective of other Western democracies, appear to constitute a semi-public system or even a state-subsidized private sector. The ‘aided’ schools in England and Wales, however, are considered a part of the state system. Their position has not gone unchallenged. “During 1985 and 1986 the Socialist Educational Association worked on the formulation of a future policy for integrating not only the independent schools but also the voluntary schools into a single system of state education.” However, “there were no positive indications that the Church of England (let alone the Roman Catholic Church) was ready to consider giving up running public-sector schools altogether, despite the growing financial cost of keeping these schools going” (Johnson, 143).

The most innovative aspect of the *Education Reform Act* of 1988 was to create a new category of “grant-maintained schools” that gained independence from their LEAs (“opted out”) by means of a vote of the parents with children currently in the school. Upon approval by the national authorities, a school would be incorporated and its property transferred from the ownership of the LEA to that of the school’s board of governors. The school would be funded directly by the national government, with some financial advantages in comparison with schools remaining within LEA control.

This arrangement obviously gave wide scope to school distinctiveness, within the framework set by the national curriculum standards and examinations, as well as creating incentives for schools to profile themselves clearly in order to attract parent applications. In some cases, the schools that chose to opt out of LEA control were seeking to avoid being closed in response to declining LEA enrolments, and had all the more reason to attempt to attract pupils who might otherwise attend other schools.

The Conservative government declared, in the 1992 White Paper *Choice and Diversity*, that its ultimate goal was that all publicly-funded schools would become grant maintained. Not satisfied with the pace of the change, it set up, by the *Education Act* 1993, a government agency, the Funding Agency for Schools, to take over local strategic planning and to fund grant-maintained schools (complete text and commentary in Harris). Although these provisions have largely been abolished by the subsequent Labour government, they have a continuing interest as representing the high-water mark of Conservative attempts to place the educational system upon a new basis.

The Funding Agency for Schools (and the Schools Funding Council for Wales) was appointed by the Secretary, who retained general control.

Not only would they take over responsibility for administering funds to grant-maintained schools, they could be given responsibility . . . either jointly with the LEA or on their own, for ensuring that there were sufficient schools in an area. Once ten percent of the pupils attending state schools in the areas were pupils of grant-maintained schools there could be joint responsibility. Once the proportion had reached 75 percent, the funding authority could be given sole responsibility (Harris, 11).

The purpose of this planning authority was, in part, to reduce the excess physical capacity within the educational system. For the same reason, state schools that had been designated for closing were, by section 23 of the 1993 law, declared ineligible for grant-maintained status.

The board of each state school was required to give formal consideration each year to whether to hold a

parent vote on opting out of the LEA and becoming grant maintained. Grant-maintained schools could also be created by the initiative of the Funding Agency for Schools, when it determined that a need existed (section 48), or by the initiative of a group seeking to found a new school (section 49). Provision was also made for an independent school to close and then re-open as a grant-maintained school (section 50), an arrangement sometimes called “opting in” to the state-funded system.

The board of a grant-maintained school had the authority to acquire or dispose of property (and inherited any property that the LEA had used for the school prior to its opting-out), to enter into employment contracts for staff, and generally to “assume the conduct . . . of the school” (section 68). Funding for the school would be provided by the Funding Agency, based on the amount that the school would have received under LEA control, plus 15 percent to cover costs of services that the LEA would have provided.

Despite the best efforts of the government, fewer than 5 percent of the schools in England and Wales had become grant-maintained by 1998.

The Labour government abolished the Funding Agency for Schools for England and the Schools Funding Council for Wales by sections 132 and 133 of the *School Standards and Framework Act* 1998. Section 20 of that law provided a new typology of schools which led to most grant-maintained schools becoming “foundation schools,” while those which had previously been denominational (“voluntary aided”) resuming that status. In practical terms, this placed the formerly grant-maintained schools back under the jurisdiction of the local education authority, though with considerable autonomy which is also enjoyed by other public schools under “local management of schools,” now known as “fair funding” ([www.hmsso.gov.uk/acts/acts1998/19980031.htm#aofs](http://www.hmsso.gov.uk/acts/acts1998/19980031.htm#aofs); emailed comments from Neville Harris, March 2001).

Was the Conservative effort to make schools responsive to parents – and thus to market disciplines rather than to LEAs – a success or a failure? Certainly the bolder initiatives have been dismantled, but Labour shows no sign of wishing to restore the LEAs to the dominant position that they enjoyed before the Thatcher reforms, and that they continue to enjoy in Scotland. “The overall effect” of the 1986 and 1988 education laws was “to weaken the powers of LEAs so greatly that they are becoming little more than providers of services” (Adams, 23). School governors and head teachers have a greatly expanded authority, and the principle seems now well-established that it is healthy for schools to differ in ethos and educational focus.

In a widely-reported speech in March 2000, Secretary of State for Education and Employment David Blunkett laid out a rationale for encouraging distinctive schools. Coming from the education chief of the Labour Party, which long championed “comprehensive” secondary schools and criticized specialized schools as a Conservative fad, it is worth quoting at some length: He called for “a dynamic and forward-looking framework in which specialisation is nurtured and encouraged...diversity is realisable within the comprehensive system,” and conceded that “comprehensive schooling, which was devised as a way of radically improving a system which consigned 80 per cent of children to a second class education, has not delivered all that its advocates hoped for.”

In a reversal of the position taken by Labour before the party came to power, Blunkett said, “not only do I believe that we were right to welcome Sikh, Muslim and Seventh Day Adventist schools into the publicly-funded sector, the decision to do so has been widely accepted. We have significantly expanded specialist schools and introduced beacon schools.”

Over 480 specialist schools have been designated now and by 2003 we will have 800 of these schools developing expertise in technology, languages, sports or the arts, and helping to improve standards in secondary education as a whole, not just in the designated schools. Evidence is growing that

improvements in standards are more rapid in specialist schools not just in their specialism but more generally. In 1999 specialist school results compared with 1998 improved by two thirds as much again as the average for all other schools; and the average improvement between 1994 and 1999 for the first cohort of Technology Colleges (about 50 schools) was at more than twice the rate for the average of all maintained schools. . . . These are now 250 designated beacon schools. This will rise to 1000 by 2002. These are schools of recognised excellence that are funded to work with other schools to share good practice. It works ([www.dfes.gov.uk/insidedfes/schools.htm](http://www.dfes.gov.uk/insidedfes/schools.htm)).

The publicly-funded specialist schools include 266 technology colleges [upper secondary schools], 71 language colleges, 37 sports colleges and 29 arts colleges.

More than 600 of the publicly-funded secondary schools—about one in four—have a denominational character, and there are signs that the present government supports further development of this faith-based sector. It was recently announced, for example, that the requirement that the sponsoring church provide 15 percent of capital costs for voluntary aided schools would be cut to 10 percent. The Church of England is planning to sponsor two “city academies,” intended to be centers of educational excellence in deprived inner-city areas.

A policy document, the Green Paper *Schools: Building on Success*, promised to “extend diversity within the secondary system, on the basis of high standards, by significantly expanding the specialist schools programme, welcoming more faith-based schools, continuing to establish City Academies, and changing the law to allow external sponsors to take responsibility for underperforming schools against fixed-term contracts of five to seven years with renewal subject to performance.” The government proposed £42 million of public funding toward the capital costs at church schools over the next two years and encouraged churches and other groups to set up new schools or take over the management of those that are struggling.

We will significantly enhance the diversity of secondary education and encourage every secondary school to develop a distinctive mission and ethos. We will enhance diversity by:

Requiring further delegation of funds to school level and expecting every school to be effective in teaching the main subjects of the National Curriculum. . . .

Increasing the number of specialist schools to 1,000 by 2003 and 1,500 by 2006, more than double the number at present.

Broadening the range of specialisms within the specialist schools programme to include engineering; science; and business and enterprise. . . .

Welcoming more schools provided by the churches and other major faith groups where there is clear local demand from parents and communities.

Expanding the City Academy programme to enable sponsors from the private and voluntary sectors to establish new schools to raise achievement in areas of historic underperformance.

Developing a new model which would enable a private or voluntary sector sponsor to take responsibility for a weak or failing school against a fixed term contract, with renewal subject to performance; successful schools would also be able to seek partnership with a sponsor on a similar basis if they chose to ([www.dfes.gov.uk/buildingonsuccess/summary/viewsection.shtml](http://www.dfes.gov.uk/buildingonsuccess/summary/viewsection.shtml)).

The Labour Government's Education Bill 2001 made specific provision for LEAs to advertise for the creation of new secondary schools, with religious and other groups eligible to propose to provide these schools (see <http://www.dfes.gov.uk/educationbill2001>).

The cynical view among Left-leaning academics during the heyday of the Thatcher reforms was that "the ideology of choice has little to do with any desire to increase educational standards but, instead, conceals and makes a mystery of the government's desire to construct a hierarchy of schools with unequal provision into which children can be fitted to best equip them for their preordained roles in society" (Walford, 137).

A more balanced view suggests that the hierarchy of schools already exists, based upon residential patterns, and that those who developed the policy of diversity and choice had a genuine concern to improve education for all children. Nor is this necessarily a partisan position; the commitment to allowing differences among schools was a factor in much of the Labour opposition to the Conservative agenda of a National Curriculum, which Labour claimed would establish a gray uniformity of schools. It appears that there is a degree of convergence on this point.

### *Distinctive character*

There have for many years been state-funded ('voluntary aided' and 'voluntary controlled') Roman Catholic, Anglican (Church of England), Jewish and Greek Orthodox schools, and after much controversy and long delays the first Muslim state-funded schools have been approved, with a state-funded Sikh school opening in 1999. Education Minister Blunkett has praised the "absolute commitment and enthusiasm from parents and families as well as those supporting" such religious schools.

Such commitment is even more necessary for schools that are not part of the 'maintained' system; it is, at least in part, a necessary condition for their continuing existence. "For the headteacher of an independent school, his or her school must have a *raison d'être* which justifies the school's continued existence. In the maintained sector this is less necessary at the level of the individual school" (Johnson, 49).

The distinctiveness of 'maintained' schools is more at risk. One way in which it is protected is that, on the boards of these schools, the number of 'foundation governors' nominated by the sponsoring denomination must form the majority.

How distinctive, in fact, have schools become under these policies? A research team at England's Open University began, in 1990, a study known as *Parental and School Choice Interaction* (PASCI), looking at how choice was affecting schools and how in turn parents responded to school choice in a number of communities of different characteristics. The researchers reported that the increased emphasis upon parent choice as the basis for school assignments did indeed lead to substantive changes in some schools. These changes have generally been limited, however, by the constraints of the National Curriculum prescribed by the *Education Reform Act* 1988 and the increased emphasis upon testing at all levels, which limit the eagerness of schools to experiment with new ways of providing instruction in response to the government's other policy initiative of parental choice (Woods, 5).

The rationale behind the education reforms aimed at enhancing parental choice is that--coupled with pupil-led [that is, per-pupil] funding and local management of schools--*choice will change schools*. It will, it is claimed, alter for the better how schools operate and the kind of service they give. According to the Government: ". . . More diversity allows schools to respond more effectively to the needs of the local and national community. The greater their autonomy, the greater the responsiveness of schools. Parents know best the needs of their children . . ." (Woods, 1).

The conclusions of the study were rather ambiguous. There is no question, the researchers found, that “school decision-makers’ views of parental preferences have been influential in encouraging changes in certain schools.” A secondary school in London, for example, went through an exercise of analyzing its strengths, weaknesses, opportunities, and threats, including a survey of parents and another of pupils ready to select a secondary school, and made various changes to make the school more attractive. “These included provision of a better range of courses at sixth form level, and improvements to the school grounds and buildings.” But were the changes that have been made based upon an accurate reading of what parents are looking for or, rather, upon what school leaders think parents *should* be looking for in their children's schools? The study found that, in general, “schools are more enthusiastic about 'selling' themselves (*promotional activity*) than finding out what parents and others think about the school (*environmental scanning*)” (Woods, 6-7).

Curiously enough, the Open University researchers found that the trend in England may be toward less diversity of schools rather than more diversity. In the post-War years, individual schools had substantial freedom to determine their own approaches to education and their curriculum. The tendency in recent years toward a higher demand for accountability creates pressures for schools to be more similar one to another. School leaders, the study found, tend to respond to developments in other schools rather than to messages they receive from parents. They may more readily interact with and take notice of other institutions in preference to reacting to individuals, reflecting a perception that the school inhabits an environment made up primarily of institutions. School administrators have a keen sense of where their school fits into the local pecking order and of what other schools are doing to promote themselves; they may pay more attention to that than to what parents might be able to tell them about what they're really looking for. This could of course lead, ironically, to a school copying another school in doing something which in fact is totally unrelated to what parents are really concerned about. In one of the districts, the study notes,

all schools attach great importance to having a school uniform and none alone would depart from this – indeed the tendency is to up-grade or re-new emphasis on the uniform and there is almost a ‘ratchet’ effect (as one does it, others follow). Whether this is what parents and pupils want is another matter. Seeing themselves as part of a group of existing institutions, and as occupying a particular place within this, has implications for perceptions of what competitive responsiveness can achieve. Schools do not compete as equals. Some schools suffer from poor reputation, difficult location, financial limitations and other negative factors, whilst others are more positively endowed. It is enormously difficult for the schools with many or all of the most negative characteristics to compete with schools enjoying the most positive advantages. It may be possible for a school, however, to move up the "pecking order" one or two places--to overcome a short gap between it and another school. . . The context formed by other schools interacts with a school's own characteristics and resources to define the scope of competition, responsiveness and achievable change (Woods, Bagley & Glatter, 11-12).

For several decades, parents wishing Muslim education for their children were forced to use the twenty or so independent, tuition-charging Muslim schools. There was considerable resistance to allowing these schools to become state-subsidized, both on the part of Labour and of Conservative policy-makers concerned about the perpetuation of racial segregation or cultural isolation. Much attention focused on efforts, in 1988, by Muslims in the London borough of Brent to take over a school building designated for closing. Despite a waiting-list of 600, the Islamia Primary School was not allowed to have the surplus building. In this case, the Conservative minority on the council supported the request, but the Labour majority insisted that what was needed was an “inter-faith school” with a “cross curriculum spirituality,” what that means (*Times Educational Supplement*, June 17, 1988).

The leader of the group sponsoring the Islamia School pointed out that it was racially mixed and served children of 23 nationalities; the goal of the school was not ethnic or religious but religious. As a Conservative supporter pointed out,

Christians and Jews are allowed to have aided schools but all sorts of reasons are given for stopping Muslims from having them. The ‘suppression’ of equal opportunities for girls, for example, has been cited more than once and yet Muslim girls’ schools have been established precisely because such equality is missing in the state system where untold pressures are brought to bear on devout youngsters, harming their educational progress (Hewitt).

Many Muslim community leaders had become convinced that, as a major government report noted, no accommodation of their beliefs and values was

feasible or indeed desirable within the existing system and in order to provide a true Islamic education for their children, it is necessary to provide Muslim aided schools. . . . a major worry for Muslim parents is the fact that their children soon begin to adopt English standards and ideas. . . . Islam is not something which can be learnt and adhered to overnight. It must be lived, breathed and fostered until it cannot be separated from life itself. Most Muslims acknowledge that Britain is a fair place to live, and in many ways they have come to depend upon it for their livelihood, but it is hard to judge how possible it is to live as a Muslim within the society as a whole. . . . most of the evidence which we have received in favour of Muslim schools stresses the need to create an Islamic ethos permeating every aspect of school life. The major aspiration of such schools is seen as educating children to be first and foremost ‘good Muslims,’ and all the other aspects of education [are] seen of secondary concern (*Education for All*, 504).

From this strongly-articulated perspective, the creation of distinctively-different schools is not simply an educational plus but a fundamental necessity. Parents seeking such an education for their children would not easily be satisfied with a curriculum relativizing all forms of religious expression as interesting cultural survivals. Indeed, there is opposition within the Muslim community in England even to the inclusion of teaching about Islam within the mandatory religious education instruction, unless taught by a Muslim (Zaki).

Is a distinctively-Muslim school necessarily opposed to teaching about the achievements of modernity? Not at all, insist the leaders of Muslim education in England; they teach science and the other subjects in the national curriculum, but from the perspective that God is the ultimate cause of everything. “This permeation of the entire curriculum by one’s religious faith is not singular to Islam,” wrote a sympathetic observer, “the same convictions and consequent dissatisfaction with the provisions of the state education system has produced over 40 ‘Christian’ schools in this country, all independent, where every subject sustains the Christian ethos” (Lodge).

### *Decisions about admitting pupils*

While Section 76 the 1944 Act stated that pupils should be educated according to the wishes of their parents, “so far as compatible with the provision of efficient instruction and training, and the avoidance of unreasonable public expenditure,” the general practice was to assign children to schools based upon their residence and the administrative convenience of the Local Education Authority (Adams, 74-75). An administrative circular issued by the Labour government in 1946, based upon Section 76, defined the conditions which might be the basis for honoring a parent’s request for a school other than the one which the child would otherwise attend. The religious denomination of the school, the provision of specific

instructional programs, and whether instruction was provided in English or Welsh were regarded as strong reasons for approving a parental school request (Stillman, 90).

The courts generally upheld the discretion of the local authorities to decide whether to approve a particular request. In a precedent-making case in 1955, Lord Justice Denning pointed out that

Section 76 does not say that pupils must in all cases be educated in accordance with the wishes of their parents. It only lays down a general principle to which the county council must have regard. This leaves it open to the county council to have regard to other things as well, and also to make exceptions to the general principle if it thinks fit to do so (quoted by Meredith 1992, 30).

A major goal of the Conservative educational reforms in the 1980s was to make it easier for parents to choose among schools, and thus to spur competition for the sake of school improvement. It was assumed that parents would seek to take their children out of schools with low standards or an overly-trendy curriculum.

Access to maintained (publicly-funded) schools must be free of charge. Charging fees in maintained schools is prohibited. LEA must ensure the provision of sufficient schools in each area. But where demand exceeds capacity, local authorities continue to determine in most cases the rules for admitting pupils. The capacity of a school is set partially in relation to its enrolment level of 1979, when the school-age population was high. Where demand exceeds capacity, local authorities continue to determine in most cases the rules for admitting pupils” (OECD, 62).

Under the legislation adopted in the 1980s, “any child may apply to any school, and may not be refused, except in cases of selective schools and church schools. Roman Catholic authorities have expressed concerns about the effects, on the denominational character of their ‘voluntary aided’ schools, if open enrolment required their taking in more than 15 percent of non-Catholic pupils (Chadwick, 69).

Grant-maintained schools were allowed to set their own admission requirements, subject to approval by the Secretary of State for Education.

With the various measures to stimulate parental choice among schools adopted through the 1980s, there was an inevitable increase in the number of disappointed parents who could not get their children into the more popular schools. They have the right to appeal to an Education Appeals Committee, which can overrule the decision and even order a school to ignore its official capacity limit.

On the other hand, the Open University’s PASCI study found, in all three areas where interviews were conducted, that a high proportion of parents were offered their first choice school: 92 percent in one case, 90 percent in another, and 86.5 percent in the third. There is a revealing anomaly in the parent survey results, however: “in each of the areas the proportions considering that they had a real choice is less than the percentage indicating that they were offered their first preference” (Woods 1994a, 15). The fact of receiving the school requested does not necessarily mean that parents are satisfied, given that the supply of schooling is relatively inelastic; new schools or radically-reoriented schools do not spring into existence overnight in response to new market conditions.

‘Voluntary aided’ schools (with denominational sponsorship) may use religious criteria in deciding whether to admit a pupil, according to a 1992 decision:

The court accepted that this school had been established to provide education on Christian and specifically Roman Catholic principles. . . . in circumstances where the number of parental

preferences for application exceeded the number of places available, the school in its admission policy was lawfully entitled to discriminate in favour of Christians and specifically Roman Catholics. . . . This case . . . indicates that religious discrimination, as opposed to racial discrimination, is allowed in certain English denominational schools so that they may retain their character and provide the specific type of education for which they were instituted (Glendenning, 96, citing *Choudhury v. Governors of Bishop Challoner Roman Catholic Comprehensive School*, [1992] 3 All ER 277).

During the twenty years of the Assisted Places Scheme, the heads of independent schools could select the pupils to be admitted, and could use denominational criteria in doing so if that was necessary to protect the character of the school (Salter and Tapper, 193).

The *Education Act* 1997 introduced as a condition for admission of pupils that schools may require as a condition of admission that parents sign a declaration agreeing to a “home-school partnership,” a document setting forth the school’s aims and values, the responsibilities the school intends to discharge and the parental responsibilities expected of parents in connection with their children’s education while at the school.

On the other hand, if independent schools participate in the “assisted places” scheme under which the independent schools remit fees and government reimburses the schools for the fees remitted, the Secretary of State prescribes conditions to be complied with in respect of the selection of pupils for assisted places and the admission of pupils (Meredith 1998b, 348).

#### *Decisions about staff*

As noted above, under the *Education Act* 1944 the boards of denominational ‘aided’ schools retained authority for the appointment of staff, as a guarantee for the maintenance of the school’s distinctive character. More recently, this authority has been extended to other state-funded schools..

Thus the boards of governors of the various categories of state-funded schools have the authority to appoint, discipline and dismiss staff, though within the legal requirements for employment matters and national norms for teacher pay and working conditions..

Boards of schools with a denominational character may use religious criteria in deciding upon staff appointments, in order to preserve the distinctiveness of the school. For example, a Catholic school “may advertise for Catholic teachers if it wishes to do so and make that a condition of appointment” (Adams, 50). Despite this opportunity to take the denominational character of schools into account in making appointments, many observers note a drift away from distinctiveness.

In a 1985 study of Anglican colleges in the United Kingdom, it was found that 27 per cent of the staff had no Christian affiliation. Further, very few of the staff “consider that Christianity should be an important element in influencing the curriculum” (Thiessen, 178).

The recent government Green Paper promises to give successful schools more control over teachers' pay and conditions, building on a successful experiment with this approach in the 46 Education Action Zones (areas with low-performing schools), authorized by section 10 of the 1998 legislation.

Independent schools, even when partially funded under the Assisted Places Scheme, had complete control over the appointment of staff, subject to the non-discrimination and fair treatment protections required of all employers. Typically, the head teacher and the bursar are appointed by the board, and other staff by the



head teacher.

### **Accountability for school quality**

Traditionally, school quality was ensured through the work of Her (His) Majesty's Inspectors, of whom the first two were appointed in 1839. School inspection is now arranged by a new agency, the Office for Standards in Education, set up in September 1992 as "a public agency independent from the Department for Education & Employment. Its principal task is the management of the system of school inspection defined originally by the *Education (Schools) Act 1992*, providing for the regular inspection of all 24,000 schools in England which are wholly or mainly state-funded" ([www.ofsted.gov.uk/about/index.htm](http://www.ofsted.gov.uk/about/index.htm)).

There have been many complaints that the new system of evaluation—and especially the nationwide testing with publicity for results – "tips over into excessive central control and hamstring teachers." On the other hand, "the standards of basic literacy and numeracy are undoubtedly higher. Failing schools cannot so easily hide poor performance from parents, and there has been a helpful examination of what does, and what does not, work in the classroom" (Baker, 48, 36).

The recent government Green Paper promised to continue "the new light-touch inspection regime which places much greater emphasis on school self-evaluation."

National education authorities may prescribe which subjects will be taught and the attainment targets to be assessed on national examinations at four stages of compulsory schooling, but not how much instructional time must be devoted to each (as is the practice in some countries).

The fact that secondary students are preparing for high-stakes national examinations puts pressure upon their schools to cover the materials on which they will be tested, defined in public examination syllabuses.

### *Teaching of values*

Religious education is a required subject in the *Education Reform Act 1988*, but unlike other compulsory subjects it is not detailed in the National Curriculum, nor are there national attainment targets as there are for other subjects. Non-denominational schools follow a syllabus of religious education agreed by the local Standing Advisory Council for Religious Education (SACRE). The syllabus developed by the SACRE must "reflect the fact that the religious traditions in Great Britain are in the main Christian while taking account of the teaching and practices of the other principal religions present in Great Britain" (Department of Education and Science, 1988, quoted by Skinner, 61).

There has been considerable controversy over the extent to which religious education in state schools should take any sort of position toward the ultimate issues which the various religions seek to confront.

Approaches which assume theological relativism are in their own way 'confessional' and have been accused of 'initiating children into agnosticism' (Taylor, 1976). Preoccupation with the outward forms of religion treats RE as if it were social anthropology and misses the point of the truth claims which lie at the heart of religion (Cox, 1984) (Skinner, 63).

In non-denominational schools, pupils may be excused from religious education or request alternative religious education on grounds of conscience, and teachers may refuse to teach it (Skinner, 58).

Denominational ('voluntary aided') schools devise their own religious education syllabuses.

The board of governors of individual state schools have considerable jurisdiction over whether and how to provide sex education as part of the curriculum. "If sex education is to be part of the curriculum then it must have due regard to morals and family life, and it is compulsory for all pupils unless the governors allow parents the right of withdrawal" (Adams, 77). Parents have an unqualified right to withdraw their children from sex education classes in maintained (government-funded) schools.

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Advice was provided by Neville Harris and Paul Meredith, though they have no responsibility for the text.

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