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## Local Government and Schools

### What role for councils in a 21st century education system?

#### INTRODUCTION

*Tom Shakespeare, Director of Policy and Research, Localis*



In this edition of Policy Platform we discuss what the future role of local government in the education system should be. This is a topic which has divided opinion in the past, so we have assembled three leading thinkers in this field to discuss the topic to establish what the fault lines are, and how they may be solved.

The first article is by Dr Andrew Povey, the Leader of Surrey County Council. He argues that the current system is muddled and ineffective. Instead he describes a model whereby the council takes on a commissioning role, allowing them to create the market, set standards and put downward pressure on cost. He also suggests that as part of this role, the local authority would be responsible for scrutiny of schools. This model, he argues, would provide better clarity to all parties concerned and would put local government in the driver seat for educational attainment.

**“There is certainly a role for local government in the future, but they will have to radically rethink what that should be”**

The article by Matthew Burgess from the Independent Schools Council comes from a rather different perspective. In it he argues that local government encroachment on independent schools is damaging to the schools as it fosters a culture of compliance. He argues that ‘independence and quality go hand in hand’.

In the final article by Rachel Wolf from the New Schools Network, she agrees that local government should step out of the way, and that schools should be independent from both central and local government controls. She makes the point that schools should be accountable for how well they

educate children, not how they do it. She makes the case that innovation and variety are important features of a good schooling system, but also that there may be an important role for local authorities in supporting independence in the future. She outlines a number of reasons why local authorities will be important, but concludes: “Local government must radically rethink its role. They must do it now before events overtake them”

The arguments in favour and against local government involvement in this Policy Platform are not entirely irreconcilable. According to the authors writing here, there is certainly a role for local government to take on a broad commissioning role in the future. There is also a strong case for reducing the burdensome process of assessment of schools, especially around government intervention over processes. It is clear that there is a role for local government in the future, but councils will have to radically rethink what that role is. These articles provide some useful thinking about what that future role might be.

#### DR ANDREW POVEY

*Leader of Surrey County Council*



The current role of upper tier local authorities with respect to education is muddled. It has developed over time with successive central governments displaying mixed feelings towards local government in general and in particular with respect to its role (or not) in the education system.

To create the necessary breakthrough to a sensibly balanced system that takes account of the consumer, the provider and the commissioner, capable of the improvement in standards required for Britain's schools and colleges to be world class, a much greater clarity of role and purpose is required. Commissioning as opposed to ‘providing’ is a role that is already familiar to the upper tier local authorities, eg highways maintenance and social care are normally provided in this way.

It allows the local authority to set the performance/ quality required and creates a market place to drive innovation and performance. It would put downward pressure on the cost of education.



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Alongside the commissioning role, local authorities should be able to scrutinise individual schools or groups of schools with powers to summon head teachers and chairman of governors to appear before public meetings of scrutiny committees.

#### Current Position

The law as it stands creates an obligation on parents to ensure that their children are educated. Most parents meet this responsibility by asking their local authority to provide a school place for their children.

**“The current role of upper tier local authorities with respect to education is muddled”**

The local authority then has an obligation to provide a place and in most cases would give the parent a priority order or means to express a 'preference'. The word 'choice' is avoided as it implies a greater degree of freedom for the parent than is actually possible. Schools have a limited capacity and popular schools are often over-subscribed.

Depending on the type of school (local authority owned, aided, foundation, etc) different partners have control over the number of places available. Local authorities (LA) are the main owner of school buildings and are the legal employer of the staff in LA schools but not in aided or foundation schools.

There is no contract as such between the school and the LA, the admissions process is governed by a national code - fraught with rules and regulations - designed to create an illusion of 'fairness' when places at popular schools are shared out.

Most LAs offer a set of services to schools to which they can 'buy in' if they wish. These range from 'back office' - eg payroll, employment advice - to school performance, standards, curriculum advice. There are not a lot of powers to force improvement - but there are extreme powers in extreme circumstances (eg failing schools).

#### The New Role

If the LA held a commissioning role, it can then contract with a performance based contracts and a quality assurance system. Previously, Surrey County Council was the first authority to create an aided

school sponsored by a private company and with payments tied to a performance based contract. This included, for example, a limit to the number of exclusions, no adverse OFSTED report and the requirement to meet the Surrey average % A-Cs at GCSE level. This was a radical step that has great potential for the future.

In this new model local government as the democratically elected representatives of the people would become champions for the consumer of education, thus providing an essential energy to drive up performance without the current conflict of interest of also being the main provider of education.

The performance criteria can of course be different for each school, reflecting the community served the current performance and the policies of the authority. It could require a nursery intake, extended school facilities, etc, etc. It would be a huge gain in power for local government to drive the education, skills and, to some extent, the social agenda in this way.

There could be no restriction by central government on the places purchased, ie they could be purchased in schools that are run by faith groups, voluntary sector, companies, charities, etc. No schools would be owned by the state, with existing premises either sold off or leased.

School organisation plans (no longer statutory) are state planning documents that do not necessarily reflect consumer choice. Commissioning would need to reflect consumer demand in order to ensure future electoral success.

**“If they council had a commissioning role it can then contract with a performance based contracts and quality assurance system”**

The whole concept of PANs and admissions forums would be redundant; schools would expand or contract according to the number of places commissioned by the local authority; this would in turn reflect consumer demand and price. All schools would be independent of the semi-control currently exercised by an LA, but would be dependent on

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providing a good service to ensure the LA commissions places with them.

The schools budget which is currently ring-fenced would no longer need to be. The duty of an LA to purchase places for a child whose parents required it would remain. It would be for the LA as commissioner to try and achieve the best deal in terms of performance, customer satisfaction, etc, rather than relying on a central government imposed formula.

This reform would have many benefits:

- 1) A much greater *clarity* of the role for local government.
- 2) It would put local government in the driving seat of educational performance.
- 3) It would remove the need for much of the current bureaucracy.
- 4) It supports the performance and quality assurance culture which is being promoted by Surrey County Council.
- 5) As a market place develops, then the public will see increasing value for money.
- 6) The power of scrutiny would allow head teachers and governors to be cross-examined in public.
- 7) Local Government would, as the democratically elected representatives of citizens, become the consumer champion for education and provide added impetus to improving standards.

*Dr Andrew Povey is the Leader of Surrey County Council and a Vice-President of the Conservative Education Society but is writing here in a personal capacity. The views expressed in this article are his own and do not, therefore, necessarily represent the current policy of Surrey County Council or the Conservative Education Society.*

### MATTHEW BURGESS

*Deputy Chief Executive, Independent Schools Council*



Independent schools are a vital part of our education system, both national and local. The Independent Schools Council represents 1,300 schools educating over half a million children – 7% of school age children. Indeed, recent research points to 14% of adults in Great

Britain having attended an independent school during some part of their education. At a time when local authorities appear to be struggling to meet the demographic pressures for state places, independent schools are, more than ever, demonstrating their significance to the local education system.

**“Everywhere one looks, there is evidence of a greater encroachment on school independence by local authorities”**

By definition, independent schools are - or should be - independent of state controls, whether exercised nationally or locally. They operate within a framework of law and regulation appropriate to safeguard the interests of children (hence the applicability of health and safety legislation and vetting and barring rules, for example) but otherwise are free in ways that state-funded schools are not. Free to take decisions on the school's educational philosophy and ethos; its curriculum; which pupils to admit and which to exclude; which qualifications it will make available to its pupils; whether staff are suitably qualified; the conditions of employment of its staff including development priorities and provision; and school governance, administration and management. And free to adapt its curriculum, its management and its delivery of education in a flexible way with minimal interference so as to allow the school to evolve and respond to changing circumstances.

These freedoms can be contrasted, for example, with academies. Academies are defined by statute as 'independent education institutions'; but 'independent' is being used in this context only to imply freedom from relying on local government for funding (as an academy's funding comes direct from the Secretary of State under its funding agreement). The whole range of national educational law and policy applies to academies in the same way as maintained schools.

So if independent schools are genuinely free from state (including local government) controls, what is ISC's perspective on the role of local government in the 21<sup>st</sup> century education system? Here, we have to separate theory from practice. Everywhere one looks, there is evidence of a greater encroachment on school independence by local authorities – and it is



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causing increasing concern to the sector. For example:

- In Early Years settings, the EYFS framework confers a significant role on LAs to pass judgment on, and even intervene in, the performance of independent schools which, for the first time, are having to comply with mandatory curricular requirements – in this case, in the provision of under 5s tuition. LAs have a role in 'moderating' the Early Years profile, completed at the end of Reception, supposedly to ensure that all schools apply the same standards. But our experience has been that moderation visits have been used to express opinions on practice – not their role at all.

**“Independence does not equate to license; rather it imposes responsibilities on schools that go beyond compliance”**

- Also within Early Years settings, LAs control the purse strings to the Free Entitlement to nursery education and use their own criteria to determine the quality of education, rather than relying on school inspectorates. Again, practice appears to vary between LAs, with independent schools and their pupils the subject of a postcode lottery as to whether and on what terms funding is made available.

- Central government's flagship children's database, ContactPoint, will bring independent schools and LAs into a direct relationship as regards pupil information, as each LA will (assuming there is time to roll out the programme before the election) be mandated to collect pupil and parent data from independent schools. Indeed, some LAs already seem to believe that they have the powers to compel schools to sign up to data sharing agreements, collect workforce data and enforce whole suites of security protocols; something ISC vigorously disputes.

- Local safeguarding arrangements - Local Safeguarding Children Boards, Local Authority Designated Officers - are meant to extend participation to local independent schools, but the practice varies. Similarly, the role of independent schools in Children's Trusts is patchy.

- LAs have a direct role in determining whether children with learning support needs obtain a statement and, if so, whether this allows for provision

at a local independent school if that is the most appropriate provider. With the abolition of the "Section 347" kitemark in last year's Education and Skills Act – a national kitemark which effectively endorsed particular schools to make particular SEN provision – the fear is that individual LAs might seek to impose differing criteria on schools, further limiting parental choice.

Ironically, in the delivery of some education-related services, the independent sector is in fact a competitor of local government, and a highly effective one. For example, ISC's own Teacher Induction Panel, ISCTip, carries out the same statutory induction role of teachers as LAs do for maintained schools, and does so more competitively and for a greater number of teachers than any single LA.

ISC's vision for local government mirrors that of its aspiration for national government: recognition that 'independence' delivers educational benefits sought to be emulated across the maintained sector and therefore local and national policies, often founded in the human imperative to assume control, must be moderated to allow independence to flourish. Schools are not looking for special treatment or to be 'above the law'; any school will tell you that rules are a vital part of the smooth-running of the microcosm that a school community represents. Independence does not equate to licence; rather it imposes responsibilities on schools that go beyond compliance. So proportionate safeguarding regulation, for example, is needed together with a

**“ISC believes that independence and quality go hand in hand”**

real partnership between schools and local safeguarding officers. But in the realm of education, ISC believes that independence and quality go hand in hand; that real independence sets Heads and fellow professionals free to excel for the benefit of all. Independent schools operating within an ordered framework can set examples of best practice for others to follow. These should not be controversial beliefs; indeed the recent example of Steiner schools opting out of the Early Years curriculum is evidence of an acceptance that national, even local, controls can never compete in the educational achievement stakes with the autonomy of an inspirational Head.

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**Rachel Wolf**

*Director, New Schools Network*



All three political parties are talking about new schools and parental engagement. All three support an expansion of the academy programme. And all three support greater diversity in the providers of schools.

That is a good thing. The New Schools Network believes that exciting new providers who have the enthusiasm and skill to set up and run schools – particularly in the most deprived areas – should have the power to do so. Those schools should have the freedom to be independent – from central, but also from local government control. They should be accountable for how well they educate children, not the way in which they do it.

We want to see groups of teachers, charities, and parents setting up new independent state schools with the freedom to offer what parents want. Those schools would be expected to offer a high quality education to their pupils and give them new opportunities.

We know the enthusiasm and demand is out there. Since we launched two months ago we have been contacted by people across the country who want to set up new schools or who are looking forward to the benefits of new schools opening. We have spoken to large numbers of teachers who want to set up their own schools - they understand the education system, and know it could serve children better. We are also working with charities who have set up brilliant academies but cannot access areas where they know they could make a difference. And we are helping school providers such as Montessori which provide education around the world – but in England are only allowed to offer education to the richest.

**“We know the enthusiasm and demand is out there”**

We are also talking to hundreds of parents who would like to see a new school in their area. Many would like to work in partnership with existing providers to provide a school which suits their community and is

responsive to their needs. Some even want to set up their own.

We believe in new, independent schools because they deliver better education. Where this has been tried, the results have been staggering. In Sweden and America, new independent state schools have dramatically improved performance, particularly of those children from the poorest families. A recent study showed that New York charter schools reduce the rich-poor divide in test results by 86 per cent.

And new schools give everyone the incentive to improve. A study in Sweden showed that the more ‘free schools’ in a municipality, the better the education system as a whole. This is because all schools had to improve to encourage parents to attend them. Some parents now start applications for new schools as a way of encouraging their local school to listen – and improve.

**“We believe in new independent schools because they deliver better education”**

In England, the academy movement has already produced schools that have transformed standards. Again they have disproportionately helped those who live in the poorest areas in the country. The difference between England and those other countries is that the Government controls when and where academies are set up, and local authorities have an increasing say in whether that happens. This means a pool of potential providers – teachers, charities and international organisations, often in partnership with parents – are shut out from the process.

It also creates geographical bias. If a local authority does not approve of academies then – no matter how great the school might be, and how needy the children in the borough are – no academy will be set up. The pupils in one local authority are no less deserving than those in another, yet they cannot access the same opportunities. This is unjust to those who need the most help – those who cannot afford to move elsewhere to access the schools they want.

Independence is not the only reason the poorest pupils in New York, or Boston, or Chicago have thrived. The creation of new schools has also given all headteachers and local authorities the incentive to



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give parents the education their children deserve. Because new schools must attract parents, they are not only pushed to meet top-down targets, but to give an education which offers not only measurable results but a great preparation for life.

But what does that mean for the traditional provider, the local authority? Do they have a role?

Yes, for a number of reasons.

First although all political parties are moving towards more diversity, a very large percentage of schools will continue to be run by the local authority – at least for some time. Many of those schools are fantastic, and there is no reason why they should – unless they wish to – change their current arrangements.

Second, the local authority should remain the 'educator of last resort' - as they are now. There must be a body which ensures that every child has a school place, and the local authority is best placed to be that body. That means two things – that the LEA ensures there are at enough places, and that pupils who are permanently excluded are given a school place.

Third, the local authority should be the champion of parents and pupils. They should be encouraging diversity, and helping good new providers to take over existing schools which are facing difficulties or found new schools which will provide choices to the parents in the area. They should be commissioners and facilitators, not providers.

**“Local authorities will not, and should not, disappear. But they must radically rethink their role. They should do it now, not wait for events to overtake them”**

Fourth, local authorities should remain, and expand, their role of providing information to parents. As the number and type of provider expand, it is crucial that parents know what each school is offering in as much detail as possible. The local authority must enable choice.

And finally local authorities could be – in the future –

an authoriser for new schools. In New York, for example, there are three bodies

which can decide whether a new charter school can be set up. The state of New York, the City of New York, and the University of New York. Potential charter school providers have the option to apply to any of those bodies, two of which are a form of local government. Local authorities – with their knowledge of local needs and conditions – could be one of those authorisers.

So local authorities will not, and should not, disappear. But they must radically rethink their role. They should do it now, not wait for events to overtake them.

### FOR MORE INFORMATION

Localis is an independent think-tank dedicated to issues related to local government and localism more generally. We carry out innovative research, hold a calendar of events and facilitate an ever growing network of members to stimulate and challenge the current orthodoxy of the governance of the UK .

For more information, please visit [www.localis.org.uk](http://www.localis.org.uk) or call 0207 340 2660.

To find out more about the work of Surrey County Council please visit [www.surreycc.gov.uk](http://www.surreycc.gov.uk). For more information on the Independent Schools Council, please visit [www.isc.co.uk](http://www.isc.co.uk). To find out more on the New Schools Network, please visit [www.newschoolsnetwork.org](http://www.newschoolsnetwork.org).

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