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## Education Policy, Law and Governance in the United Kingdom

In this contribution, we present an overview and discussion of the key policies, trends and issues in UK education. The focus in the initial sections is more on the school system of early and compulsory education. Later sections focus also on post-compulsory and higher education, and links to the world of work. There are four home countries in the UK – England, Northern Ireland, Scotland and Wales – with increasingly divergent education systems. Where possible and relevant we distinguish these systems, especially at the start of the chapter. However, it is not possible within space constraints to provide detailed discussion of the distinctive legislative framework in *each* home country and for the purpose of this chapter we have focused primarily on England, which is the most populous of the home countries.

### 1. Historical and societal context

#### *1.1 Cornerstones of the present structure*

In the UK, Acts of Parliament relating to education are increasingly regular, with perhaps increasingly diminishing impact. Looking back over the past 70 years or more, however, two such Acts and a further ongoing process perhaps stand out in their legacy of impact on the present structure of schooling. These are the increasing devolution of policy in the four constituent parts of the UK, the 1944 Education Act, and the 1988 Education Reform Act. By 1900 free elementary education was (near) universal in the UK. In 1944, secondary provision was less homogeneous and the vast majority of children left formal education at or before the age of 14. The Education Act tried to change that, but it also did much more. It was part of a total reform of the welfare state and included wider measures such as free transport to school, free medical examinations for all children at school, and free milk at break times. Local authorities, via their schools, were required to attend to the spiritual, moral, mental and physical development of their charges. This meant, in addition to the provision of milk and hot meals, the inclusion in schools of physical and religious education and a daily act of ‘collective worship’.

Local authorities had to ensure the provision of ‘appropriate’ education for all children up to the age of 15, which meant a rapid growth in the size and number of schools. The Act did not specify what type of secondary schools should be provided, but the government at the time made clear that they expected at least three types of schools. Technical schools were, as their name implies, intended to provide a largely non-academic, craft and trade preparation education. Very few of these emerged or lasted and so the system actually became mostly bipartite. Grammar schools were intended for the most academically able (regardless of social origin). Admission was via an examination at the end of primary education – the 11+ – designed to pass around 10% to 15% of each cohort. In fact, considerable variation ensued. Adjustment was made for the sexes, so that girls did not ‘swamp’ the grammar schools. In rural areas some ‘grammar’ schools took 40% to 50% of the cohort because there were not enough local pupils to maintain the five or more schools needed for a 20:80 split, or schools simply adapted to different tracks for pupils deemed of different abilities. ‘Secondary-modern’ schools were intended for the bulk of pupils, who were not considered likely to continue in education past the age of 15 and so were given a mixed academic, general and vocational curriculum.

Much of the earlier Victorian development of both primary and secondary schooling in the UK was pioneered by charitable, missionary and religious foundations. This was recognized in the post-1944 settlement by allowing schools to retain their faith-based origins (Church of England, Wales, or Scotland; Roman Catholic; and Jewish). Pupils with clear additional needs were labeled 'non-educable' and generally taught in separate special schools and hospitals. In addition, there has always been a small but thriving private fee-paying sector of 'independent' schools. This means that there has long been considerable diversity in and between the school systems of the four home countries of the UK. And the 1944 Education Act made explicit provision for parental choice in the allocation of school places (Gorard et al. 2003). In general, parents could choose fee-paying or state-funded provision (mostly dependent on income), technical or secondary-modern (where the former existed), whether to allow their child to sit the 11+ (many did not), and they could stipulate a religious requirement (again dependent upon local availability). Since the Act specified education but not schools, parents could also choose to educate their children 'otherwise', in practice mostly at home as long as they could demonstrate the child would still receive a broad and balanced education.

Raising the school-leaving age to 15 was a big step, but even so further continuation in formal education remained rare. Pupils left school for work, often without further or on-the-job training. Some became apprentices. Further and higher education were largely the preserve of children from professional and non-manual occupation families. For example, in 1940 around 8% of non-manual origin pupils attended university as undergraduates compared to 2% of manual and unskilled origin (perhaps 3% of the age cohort overall). However, numbers increased rapidly after the 1944 Act. By 1960, over 9% of the age cohort attended university – 27% non-manual and 4% other (Gorard et al. 2007).

### *1.2 Reform and innovation over the past 30 years*

The last 30 years have been a case of 'robbing Peter to pay Paul' – as more funding and attention was channeled into schools, early years provision, and eventually further and higher education. Funding and attention moved away from community adult learning, libraries, liberal evening classes, and even political and workers' education. It is only a slight exaggeration to say that, if it did not lead to certification of the kind that could drive up international league table positions, then it was not considered real learning and not funded by government. In a period when ICT began to allow development of earlier innovations such as the Open University (based on radio and television broadcasts), and made informal learning at home or drop-in centres a reality for many, it is ironic that respect for autodidacts tended to decline (Gorard and Rees 2002). Most local authority adult provision is now about how to use ICT itself, but the 'silver surfers' who emerge often have little idea what they would use ICT for (Selwyn et al. 2006).

From the 1960s onward, local authorities converted most secondary schools into comprehensives, which are all-ability schools mixing the intakes previously sent to grammar and secondary-modern schools. The community comprehensive remains the underlying model for most secondary schools in the UK today. Scotland and Wales moved more quickly to comprehensive intakes, perhaps for political and geographical reasons. A minority of authorities retain selection for grammar schools in England, and the system is still moving towards comprehensivisation in Northern Ireland, where selection (and considerable religious segregation) was retained throughout the twentieth century. With these changes came pressure to provide courses and qualifications appropriate for all. Whereas in 1960, less than 20% of the

school intake took General Certificate of Education O (ordinary) level qualifications, by 1990 more than 80% in England and Wales took at least one General Certificate of Secondary Education (GCSE) qualification, created in 1986 by combining the pre-existing GCE for the most able with the Certificate of Secondary Education (and variants) for those considered less able. This equalising measure was intended to allow pupils to portray what they knew, rather than making teachers judge beforehand whether to enter them or not. GCSE (or equivalent) scores in all home countries are higher year-on-year, and more evenly distributed over time by social group such as class, ethnicity, sex (Gorard 2000). GCSEs are intended to be taken by pupils at the end of the year in which they were aged 15 at the start, and this was made possible by the successful raising of the compulsory school-leaving age from 15 to 16 in 1972. In England and Wales, students might continue to the study of A or Advanced Levels (or AS levels) in years 12 and 13 (known as 'sixth form'). In Scotland, the 15-year-old examination is called Standard Grade, and sixth formers can study Intermediate, Higher or Higher Advanced Grades.

The 1988 Education Reform Act was probably the most influential piece of relevant legislation since 1944 (certainly for England and Wales). It established or promoted a wide array of changes that are now taken for granted. It created a National Curriculum where none existed before, defining a minimum educational entitlement for all compulsory age pupils, in terms of a specified but flexible 'broad and balanced curriculum'. The curriculum was divided into four Key Stages, from age 5-7, 7-11, 11-14 and 14-16. There is now also a Foundation Stage for ages 3-5. Each of the Key Stages ended with assessments (SATs) by teacher or written tests, and the levels expected to be attained were pre-specified by criterion referencing (which had by now purportedly replaced the statistical norm-referencing of the O level era). Key Stage 4 ended with GCSE examinations (or increasingly with newer alternative qualifications, see below). Standards of teaching and learning were to be maintained by a reorganised school inspection system (under the auspices of OFSTED in England), able to identify, label, and eventually close poorly 'performing' schools.

Schools were given greater independence from local authority control ('Local Management of Schools'), specifically in relation to their budget. Schools were allowed to opt out of authority control completely (becoming grant-maintained), and a new form of independent state-funded school was created (City Technology Colleges). Another form of diversity comes from growth in popularity of own-language education in Scotland and particularly Wales (the successful *Ysgolion Cymraeg*). The rights of parents to express a preference for their child's school were extended, and subsequent case law decided that they could request a place in any school they wanted (even outside their authority) and that a place must be given if available. In this way it was, perhaps, imagined that local authorities would wither away to nothing (or merely have charge of peripatetic music staff and similar services), parents would face a greater diversity of schools, and as a consequence of these choices successful schools would thrive while unsuccessful ones would improve or close.

In fact, very little has changed. 'Successful' schools are, almost by definition, over-subscribed and preference is usually given to the nearest families, who in schools located in or near affluent areas are often those able to afford to live there. Parents, in the main, do not want different schools, they seek better ones, and so choice is not linked to diversity. After about six years of increasingly socially mixed intakes (in general, middle-class families already lived closest to 'good' schools, so it was poorer families who gained most from freedom of choice in the short term), the situation levelled off (Gorard et al. 2003). In terms of equity perhaps one lasting benefit of the 1988 Act has been for pupils having to move between schools and areas, who will have found the standardisation of the National Curriculum and Key Stages comforting

(even though their teachers may have found it restrictive). In that sense at least, it no longer mattered so much *where* a pupil went to school. This is part of the continuing comprehensivisation of the process of education, laid on top of the pre-existing structure of comprehensive schools, as intended by the minimum entitlement.

As part of the increasingly public inspection regime for schools, test and examination results were made public after the 1988 Act. These were rapidly given the misnomer of school 'league tables' because of the way the results were presented in the press (from highest scoring schools downward). These were, at least partly, intended to help parents choose good schools, so encouraging such schools with more funds and bad schools to improve to get funds (or be closed). In fact, these tables and scores generally told parents little that was not already known locally, because the scores are largely determined by the intake to schools, not the schools themselves. Grammar schools, selecting their intake by ability via the 11+, were inevitably near the top of all tables, for example. In response, the home countries reacted differently. England is attempting to create increasingly sophisticated (and so undemocratic) league tables which take the school intake into account via techniques such as contextualised value-added analysis. This does not work, and the relevant government department (for Children, Schools and Families) threatens one group of schools with closure for low scores (raw scores) while at the same time rewarding others for their value-added scores (Gorard 2006). Confusingly, around one third of the schools in the first group are also in the second. The other home countries, led by Wales and Scotland, adopted the simpler (but also perhaps undemocratic) path of amending legislation so that the national figures are not made public.

The Further and Higher Education Act 1992 (separately for England, Scotland and Wales) brought all sixth form and further education colleges into one independent sector, funded by the Further Education Funding Council – now the Learning and Skills Council. Similarly, all higher education institutions became part of one body in each home country, funded by the Higher Education Funding Councils for England/Scotland/Wales. Those that had been universities before the Act are now sometimes referred to as 'pre-92' institutions. The other higher education colleges and polytechnics are now also all universities (sometimes known as 'post-92' bodies). This has effectively doubled the number of universities. In 1992, around 28% of young people went on to HE, 40% from non-manual backgrounds and 14% other. Now, around 40% or more of each cohort go to HE, 50% of those with non-manual backgrounds, and around 22% other. The easiest way to widen participation to universities is to provide more (places at) universities (Gorard et al. 2007).

The last stop in this necessarily brief and selective tour of 30 years of reform concerns curricular reform, such as the new Curriculum for Excellence in Scotland, the Welsh Baccalaureate, and the 14-19 Reforms in England. In one sense these quite radical changes to the 'national' curriculum for the late secondary phase are an admission of defeat. The social class stratification of educational participation and outcomes has outlasted the onset of universal secondary education, the raising of the school leaving age, the decline of grammar schools, the introduction of the National Curriculum, the establishment of (some) parental choice and national inspections, among other things. The 14-19 Reforms for England in 2008 (see 3.3 below), for example, suggest that the traditional liberal curriculum is not suitable for all, and begin to provide high level vocational courses (diplomas) intended to have at least parity of esteem with GCSE and A levels. These diplomas are required to be delivered in co-operative partnerships, creating a tension with policies such as league tables that are competitive and institution-specific. The reforms raise the participation age to 17 (in school, college, or training), creating one of the longest compulsory educations in Europe, with most pupils now attending

formal educational establishments from age 3 to 17 as a minimum. And they move away from, at least theoretically, universal national comprehensive provision within schools and colleges towards 'personalised' learning and greater student autonomy.

### *1.3 Geographical, political, economic and cultural context*

There is a UK parliament in London (Westminster) which deals with UK issues and, confusingly, also with England. The civil service departments associated most closely with the Westminster parliament, such as the Department for Children, Families and Schools, actually deal only with England (for the most part). There is a legislative parliament for Scotland in Edinburgh, which currently has no tax-raising power but is responsible for the completely separate school system. There are representative Assemblies for Wales and Northern Ireland (in Cardiff and Belfast) with more limited powers than the Scottish Parliament, and which retain some (diminishing) links with the civil service in England. However, both Assemblies are responsible for expenditure and so policy on schools. Given the remaining similarities in the history and populations of the home countries, the imperfect and ongoing process of devolution has provided opportunities for natural experiments on the impact of policy changes. Higher education is also funded by the home countries, although the tax to pay for it is collected by a UK-wide body and the process of student application and acceptance is still largely handled as a UK-wide process (by UCAS).

The UK has one of the highest population densities in Europe, but this overall figure masks considerable variation between the home countries, the areas around the four capitals of London, Belfast, Edinburgh Cardiff, other major cities, and mountainous areas, rural farmland and the National Parks. Sometimes the topography makes access to public services difficult even in less remote areas, such as where a river separates a city or mountains separate adjacent valleys. The remote areas are where the use of information and communications technology (cable television, wireless networks, mobile phones and so on) could be most effective in helping communities maintain access to education. But these areas are also precisely where the technologies have poorest coverage, and which are playing catch-up with innovations (Selwyn et al. 2006).

The UK population has long been in a state of flux with considerable out-migration more than matched by in-migration. The origins of immigrants change over time with economic and other factors in play (Caribbean labour, expelled Asians from Africa, Eastern Europeans as economic migrants, increasing numbers of non-returning students from Pacific Rim countries, and so on). Their immediate destinations also vary over time, with mode of transport, and where there are already areas of similarity. Authorities near ports, airports, asylum centres, and cities like Bradford, deal with relatively large numbers locally (even though the numbers overall may not be large). This has short-term implications for school resourcing, especially of non-English speakers. Over time and generations, individuals and families from these areas tend to move out across the UK but are often replaced by new arrivals. The historical and economic conditions of different groups arriving are at least part of the explanation for the apparent under- or over-achievement of some minority ethnic groups in the UK. The groups were from different educational and occupational backgrounds on arrival and some of these differences may take a few generations to disappear.

Social class remains the key variable associated with educational participation and opportunity in the UK, as assessed by parental occupation and education. There is considerable reproduction of status and education within families, and a vigorous debate is ongoing about whether this reproduction is decreasing, increasing or staying still (Gorard 2008). To some

extent the picture of social mobility depends on the datasets used, the analytical assumptions made, and the measures chosen (such as income, attainment, occupational group, or ‘cultural capital’). The definitions of classes, and the distribution of population between them changes over time, but the role of class remains a strongly plausible determinant of attainment. Concern over this has driven many of the education reforms outlined above. One of the motivations behind pioneering reforms such as the 1944 Education Act was to remove this influence of family background, and create educational careers open to talent. Ironically, 64 years later, schools are looking increasingly to parents to help them with learning delivery, attendance, and citizenship.

In a similar attempt to drive up ‘standards’, teaching has become an increasingly professionalised activity from nursery education through higher to adult education. Initial qualifications, both in specialist areas and in pedagogy, continuing training and development, and inspection and audit regimes are common. All staff working with children must have a clear criminal records check. The social standing of teachers appears to have declined at the same time, whether as a consequence or not. The increase in training and inspection is almost a reproach for past perceived failures. Nevertheless, there are now more teachers in the UK than there ever have been, and in some subject areas such as mathematics the profession takes a clear majority of all graduates (Gorard et al. 2006).

## **2. Basic Data, Organisation and Governance of the Education System (England)**

### *2.1 Current leading ideas and principles in education politics and policies*

Education in England is provided to over 8 million pupils in approximately 25,000 schools (DCSF/National Statistics 2008g: table 2.1; all statistics in this paragraph are taken from this publication and relate to 2007). Approximately 18,000 are primary schools (catering for the age from 4 or 5 to 11); 3,400 are secondary schools (catering for young people aged 11 or 13 to 16 or 18), of which nearly 2,900 are classed as ‘specialist’ schools; 56 are academies or city technology colleges (catering for same age ranges as secondary schools); 450 are pupil referral units (an alternative provision for children excluded from school or for whom ordinary schools are unsuitable); 1,000 are special schools (catering for pupils with learning difficulties or disabilities – although a majority of these children are educated in primary or secondary schools); and 2,300 are private (or ‘independent’) schools. Most of the above schools may be both co-educational (mixed) or single sex schools: there is no requirement for either kind, but local authorities must ensure that, as between boys and girls, there is an equal opportunity to receive single sex schooling in the area (see Harris 2007, ch. 4). In recent years schools in the state sector have been encouraged to enter into co-operative partnerships with further education colleges, universities, businesses and independent schools. There are also a small but growing number of all-age schools.

There is considerable diversity across the schools system, a feature that has broad parental support (Ivens 2008). This diversity reflects both the long-standing accommodation of religious preference as a basis for choice in education and an ideological commitment to different models of school governance. For example, just under 20% of secondary schools and over 33% of primary schools in the state sector are denominational schools – schools with a religious character and linked to a particular religion. Most of these denominational schools are Roman Catholic or Church of England schools, but there are also 37 Jewish schools, seven Muslim, and four others (e.g. Sikh). Schools differ in terms of their internal structures of governance and

degree of autonomy from the local authority. There are six categories of maintained school: 'community', 'voluntary aided' (VA), 'voluntary controlled' (VC), 'foundation' (of which there are now two types), 'special' and 'foundation special', plus two additional forms of school for children aged 11 or over: city technology colleges and academies, which are located in urban areas and are sponsored by outside bodies although they receive most of their funding from the state. Denominational schools (above) will be either in the VA or VC category. A majority of pupils (71% of those of primary school age and 84% of secondary school age) are taught in schools with no religious character. Only 5% of the pupils attending state-maintained secondary schools attend schools which are permitted to select their pupils on the basis of their academic ability ('grammar schools'). A growing number of schools are permitted, in principle, to select some of their intake on the basis of aptitude in specific curriculum areas.

Although when the current Labour Government came to power (as 'New Labour') in 1997 it proclaimed that, in relation to education, 'standards matter more than structures' (Department for Education and Employment 1997a), it understood that without altering parts of the basic framework of the education system it would be unable to achieve the broad objectives of its reforms, which included an improvement in overall pupil achievement levels and especially among disadvantaged groups (those which experience or are at risk of 'social exclusion'). Nevertheless, in implicitly undertaking to preserve the structural status quo it was perhaps seeking to allay concerns that there might be any return to the massive interference with the governance of education which had occurred under the previous 18 years of Conservative government, especially the significant diminution in the role and power of local education authorities. Local education authorities (there are 150 in England and they are now generally referred to as 'local authorities') had enjoyed control over the secular curriculum and staff appointments in schools and budgetary control over individual schools, but the Education (No2) Act 1986 and Education Reform Act 1988 changed that. At the same time, there was to be no real reversal of the centralising of power and policy direction that occurred prior to 1997, nor in the way that schools themselves were governed at grass roots level. While, in essence, this vision has materialised, important changes have occurred to some structural areas and in particular to many key *processes* within the administration of education, such as those governing changes to the pattern and organisation of schooling; the allocation and admission of pupils to schools; school discipline; and the regulation of schools and local authorities through inspection, reporting and other mechanisms (although the official categorisation of the school at the end of this process, as failing or underachieving, has continued). Above all, the trend towards increased regulation of education and its governance has accelerated over the past decade, particularly in areas such as standard setting, assessment and reporting. As Balarin and Lauder (2008: 13) recently commented: 'government control has strengthened to a point never seen before'.

Regulatory and policy direction is in the hands of central government, namely government Secretaries of State and other ministers. The central government departments under their control are, since 2007, known as the Department for Children, Schools and Families (DCSF) and the Department for Innovation, Universities and Skills (DIUS). However, the quasi-autonomous statutory bodies responsible for funding and quality assurance in all sectors of education, such as the Learning and Skills Council for England (covering further education, which is full-time education for people aged 16 or over and any education for people aged over 18 which is not higher education), the Higher Education Funding Council for England (HEFCE) and the Office for Standards in Education, Children's Services and Skills (Ofsted), also exert regulatory control. The scale of central regulation within the education system in England is truly phenomenal. In addition to the processes mentioned earlier it extends into every facet of education, including

the way that: institutions are financed and governed; the curriculum in schools is structured and delivered; standards of provision are monitored and accounted for (including the setting of targets for levels of pupil attainment); ancillary services (such as meals, transport and student financial support) are provided; and staff are appointed, promoted, remunerated and disciplined. The Secretary of State has statutory powers, enforceable in the courts, to issue directions to the bodies with responsibilities for educational provision if they fail to carry out their duties or exercise them unlawfully. In addition, citizens often resort to litigation or various appeal processes to challenge the actions of such bodies and, since 2000 (when the Human Rights Act 1998 came into force), many of their legal arguments have centred on alleged infringement of their rights under the European Convention on Human Rights (see Harris 2005a).

## 2.2 Legislative framework of the education system

Legislation underpins the central control and direction of the English education system. *Primary* legislation, in the form of Acts of Parliament (statutes), is a dominant feature and a key instrument of educational reform. The politics of education have made rapid reform a constant feature of the past three decades, reflected in the growth in new primary legislation. The Education Act 1944 (discussed in part 1) not only remained the principal statute on education until the 1980s, it was virtually unaltered over that period. But over the past decade in particular, many statutes of considerable length and intricacy have been introduced affecting the organisation and governance of education and making the legislative framework highly complex (for a detailed discussion, see Harris 2007). The key measures have been the School Standards and Framework Act (SSFA) 1998 (294 pages), the Learning and Skills Act 2000 (135 pages), the Education Act 2002 (221 pages), the Education Act 2005 (153 pages), and the Education and Inspections Act (EIA) 2006 (262 pages). The pre-1997 law was consolidated into the Education Act 1996, the longest ever education statute, which remains in force. At time of writing, another very long bill is before Parliament, the Education and Skills Bill. The complexity of the law is reflected not only in the high level of detailed prescription within the statutes but also the way that new Acts amend existing ones as well as introducing new free-standing provisions of their own. In addition, a particular feature of all UK social legislation is the way that statutes set out powers to make *secondary legislation*, such as regulations or orders, exercisable by members of the executive (Secretaries of State and Ministers of State). This form of delegated legislation can be made rapidly, often with little Parliamentary scrutiny or debate. In the field of education it adds considerable further detail to the already highly elaborate legislative framework contained in statutes.

## 2.3 Governance of the education system

The way that legislation is used to regulate the governance of education in England is exemplified by the position of governing bodies of schools. Under the law, each school must have a governing body, which has separate corporate status. It will have overall control and responsibility for the running of the school. Under the 2002 Act the conduct of a school 'must be under the direction of the school's governing body'. The day-to-day running of schools and their management are undertaken by the head teacher and senior staff. The governing body has financial management responsibility for the school, whose budget has to be delegated to it by the local authority (see below). The constitution of the governing body is determined partly by regulations,<sup>i</sup> which prescribe various categories of school governor, and partly by the school's 'instrument of government'. A community school must have between 9 and 20 governors of whom at least 33% must be parent governors, no more than 33% and not less than two



governors must be staff governors, 20% must be local education authority governors and not less than 20% must be community governors. Parent and staff governors must be elected in accordance with the prescribed procedures (but if the head teacher chooses to be a staff governor he or she will not need to be elected), community governors must be appointed by the existing governors, and local education authority governors are appointed by the authority. Separate regulations specify the procedures to be followed by the governing body at meetings.<sup>ii</sup> The grounds on which a person may be disqualified from being a school governor, such as where they have a criminal conviction, are also set out in regulations.

These requirements concerning school governing bodies represent only the foundations of the broad regulatory framework for the running of schools. But even they are liable to be changed in accordance with education reform agendas. For example, the Education and Inspections Act (EIA) 2006 amended the general duties of school governing bodies. These amendments in fact tell us a great deal about the Government's current policy concerns. First, governing bodies must now exercise their role concerning the conduct of the school in such a way as to 'promote the well-being of pupils at the school' and 'promote community cohesion'. This duty reflects both a commitment by government to improve children and young people's well-being and promote their welfare (Department for Education and Skills 2004a) – there are particular concerns about pupils' mental health arising from social stress and the impact of bullying by other pupils, and obesity – and a concern about racial tension, especially arising from social segregation. Secondly, the governing body must now have regard to the 'children and young people's plan' for the area. The drawing up of this plan is the responsibility of a local children's services authority (which is, in effect, part of the local authority) and it covers education and social welfare. It reflects the integration of local authority services for education and social care under a framework prescribed by the Children Act 2004; one facet of this is the power under the EIA 2006 for the Secretary of State to re-categorise the 'local education authority' as simply the 'local authority', which would mean that the relevant functions would cease to be exercised by a separate legal entity. These developments are intended to contribute to a more coherent and holistic approach to support in this field, under a broad policy known as 'Every Child Matters' (Chief Secretary to the Treasury 2003). The children and young people's plan must indicate how the authority will seek to improve, among other things, children's education, welfare and 'contribution to society'.<sup>iii</sup> In addition, a national *Children's Plan* was published in 2007 by the DCSF, setting out a wide range of policy goals, including closing the gap in educational achievement levels for children from disadvantaged backgrounds (DCSF 2007). Measures such as this, which are intended to improve the well-being and opportunities for all children, are particularly intended to help children from socially disadvantaged backgrounds. Regulation has in fact been used to give education a central place in tackling social exclusion through measures to, for example: reduce the rate of exclusion from school; improve achievement levels among pupils from disadvantaged backgrounds; increase the proportion of the youth population above compulsory school age staying on in education; widen access to higher education; and ensure that opportunities for the effective exercise choice of school are extended across all social groups, for example through improved provision of school transport and arrangements for parents to be assisted by publicly funded school choice advisers (see Department for Education and Skills 2003; 2005b; 2007).

Returning to the above example of school government legislation, a further amendment to the general duty of school governing bodies made by the EIA 2006 is that they must now 'have regard to any views expressed by parents of registered pupils'. This is an interesting development because although to some extent it follows in the tradition of extending consultation duties owed to parents and in some case school pupils over matters concerned

with the organisation and management of education, such as changes to a school, it is the first time that parental views on the general conduct of a school have had to be taken into account by law. It complements a duty introduced under the 2002 Education Act that local authorities and school governing bodies must have regard to central guidance on consultation with *pupils* over matters affecting them, guidance which ‘must provide for a pupil’s views to be considered in the light of his or her age or understanding’<sup>iv</sup> (thereby reflecting a general obligation under Article 12 of the UN Convention on the Rights of the Child).

In the past, school governing bodies have had to hold an annual parents’ meeting to provide an opportunity for discussion of their annual report and the way they have conducted the school. This is being replaced by a duty to maintain a web-based record, but in neither case has there been a specific duty to take parental views into account. Complaints by individual parents or groups about schooling have, in contrast, long been covered by a separate procedure requiring their determination. Taking into account parental views does not mean adhering to them. While parents enjoy some direct participation rights, for example a right to vote on whether a school should retain admission on the basis of academic ability, and to serve as a parent governor, the extent of their collective empowerment over schools (particularly if they come from disadvantaged social groups) is limited. Indeed, their participation in school government is regarded as having been marginalised by the increasing need for managerial competence and professional expertise in the running of schools (Hallgarten 2000). So although the promotion of a ‘partnership’ model for parental participation in children’s education represents a policy continuity (see Moon and Ivens 2004) and is re-emphasised in the *Children’s Plan*, which promises new legislation guaranteeing parents regular information from, and contact with, school staff, and new ‘parents councils’ to ‘ensure that parents’ voices are heard within the school’, it has an individualised focus. Parents’ collective role in the governance of education remains limited.

However, another facet of government policy to improve the educational opportunities of children at risk of social exclusion is to foster increased responsibility on the part of parents. Indeed, while promoting, on the one hand, the ‘empowerment’ of parents through the exercise of parental choice and participation (Harris 2005b), the Labour Government has simultaneously pursued a firm policy objective of holding parents to account for their children’s behaviour and promoting increased parental involvement in their children’s learning. In so doing, it has been argued, it has placed some of the pressure for raised levels of educational achievement by children on parents (Allred et al 2002). As discussed more fully in part 4 of this chapter, the parental duty to ensure children attend regularly at school and behave well while they are there are reinforced both through relatively ‘soft’ measures, such as voluntary home-school agreements, first introduced under the School Standards and Framework Act 1998, and harder measures, such as the penalty notices issued by schools and parent orders or criminal law sanctions including fines and even imprisonment (reintroduced as a sanction in 2000) imposed by the courts. Parental rights in education concerned with decision areas such as those involving the exercise of choice and access to information have, rather than empowering parents, tended to increase their responsibility for the children’s education. The pressure on parents to make the right choices for their children has grown as these rights have extended. For example, the school admissions process, in which parents have conditional rights of choice, was found to be ‘far from being... empowering’ but rather ‘a time-consuming cause of much distress in the lives of many families’ (House of Commons 2004). In 2006-07, 80,010 appeals were brought by parents over admission decisions, of which approximately one-third succeeded (DCSF/National Statistics 2008a, Table 1).

Administration of the school admission appeal system is one of the continuing functions of local authorities. The role of local authorities as the dominant partner in the provision of education post-1944 and an important democratic element in the shaping of local educational provision has, as noted earlier, been radically diminished, particularly as a result of the mandatory delegation of financial management to individual schools (noted above). The role of local authorities today in connection with educational provision is predominantly a planning and promotional one, although they retain statutory responsibilities in the key areas of enforcing school attendance and ensuring that children with special educational needs are identified and receive the appropriate provision, including provision arranged by the authority itself. The current government views the local authority as having a strategic role in deciding when and where new schools are needed, but as 'commissioning rather than providing education' (Department for Education and Skills 2005b: 103). The Government actually contemplated largely removing authorities' power to establish new schools and leaving it to community groups and other organisations to compete for the opportunity to establish a school in the area, although subsequently they backed down and agreed to enable local authorities themselves to be competitor. Local authorities also retain powers to intervene in problematic schools, including withdrawing a governing body's control over its budget; they therefore operate as a long stop when management control has broken down in a school. Their duty under the Education Act 1996 to 'contribute towards the spiritual, moral, mental and physical development of their community' by ensuring that 'efficient' primary, secondary and further education are available in their area continues, as does their duty to ensure that there are sufficient schools making appropriate provision for the local population. In ensuring such provision authorities must (since 2006) aim to 'secure diversity in the provision of schools' and increase opportunities for parental choice.

Reflective of the general trend towards the limited empowerment of parents, noted above, is a new statutory duty for local authorities to consider any representations made to it by a parent about how the authority is fulfilling its above mentioned 'sufficient' schools duty and to respond in writing to them, although arguably what is contemplated is a kind of individual complaints process rather than an opportunity for collective parental influence to be brought to bear. Local authorities have also been placed under a new duty by the EIA 2006 to exercise their functions with a view to 'promoting high standards... and the fulfilment by every child concerned of his educational potential'. The latter, somewhat aspirational, requirement – one that in fact seems incapable of enforcement – is clearly linked in policy terms to a broad government emphasis on 'personalised learning' (a 'tailored education for every child and young person': Department for Education and Skills 2005b: 4.1). The Children Act 2004 has also given local authorities a specific duty to promote educational achievement by 'looked after' children.

#### *2.4 Financing of the education system and its infrastructure*

Local authorities receive central government funds for educational provision based on the calculations within 'standard spending assessments' which form the basis of each authority's allocation, but they also receive grants under specific schemes such as the Ethnic Minority and Travellers Achievement Grant (see 4.4 below), or for the provision of sixth-form (post-16) education, or to enable them to pay education maintenance allowances to support young people continuing their education post-16. Most of the funding that authorities receive in respect of schools expenditure is delegated to individual schools. Maintained schools are for the most part wholly dependent on this funding (although some supplement their income through sponsorship arrangements with companies in the private sector). Schools receive a delegated 'budget share' from part of the local authority's 'individual schools budget', which is the budget

available for distribution to schools (on the basis of prescribed criteria) after the local authority has deducted various central costs, such as administration and specialist support services. Although all local authority maintained schools are guaranteed state support, 'voluntary aided' schools have to fund 10% of their own capital expenditure.

Higher education institutions in England, mostly universities, are awarded funds by the HEFCE for teaching and research but also have to raise a substantial portion of their income through student fees and external research income (from the Research Councils or from public, private or tertiary sectors). Further education colleges largely depend on allocations from the Learning and Skills Council; the Council prescribes the courses or kinds of provision for which it will provide funding (see part 3 below).

### *2.5 Public and private sector relationships*

As illustrated in each section of this chapter, public education in the UK is largely funded by the taxpayer, but retains a complex and generally tolerant relationship with a small private sector. A substantial proportion of pre-school and nursery care is privately provided, but only around 6% to 8% of the subsequent compulsory age cohorts attend private schools. Private schooling is most prevalent in England, with as little as around 2% in Wales and 1% in Scotland. There are about 2,500 private schools, although the figure is very volatile as schools frequently open, close and merge. The volatility is caused largely by very small schools, affecting very few pupils, often emerging from home schooling or schemes built around curricula for minority religions or sects. In the next tier of private schools are the small proprietorial schools run as businesses, often in converted residential accommodation. Finally there are the Public and Preparatory schools and their imitators, run as charitable foundations, sometimes with a long history. St Peter's school in York, for example, had a Roman headmaster in the fifth century, and in the eighth century a head teacher who was also a Chancellor to Charlemagne. There is in addition, a large and probably unmeasurable industry of crammers and tutors ranging from services provided by individuals advertised in local shops to after-school programmes such as Kumon maths.

In the last decade, there has been a growth of private supply and intervention in the publicly maintained sector of schools. These include partnership arrangements between businesses and schools, business sponsorship of one of the new types of 'independent' state schools, such as Academies, and even private takeovers of education authorities deemed 'failing'. Private schools are now sponsoring some state-funded Academies. Perhaps the most visible and contentious change has been the Private Finance Initiative (PFI), started in England, and now copied in many other developed countries. PFI is used by the government in a number of public policy areas, including health and education, to help provide the scale of resources needed to rebuild public infrastructure. In summary, firms in the private sector generate finance for capital building projects, such as new school buildings, which are then leased back over 30 years by the local authority. The project is then managed by the private company for profit. Advocates claim that the projects are more likely to be delivered on time and budget, but opponents then suggest that this an expensive kind of loan for the taxpayer (Green 2005).

The private sector in higher education is even smaller than at school level. Buckingham advertises itself as the only private university in the UK. However, there is a small number of other recognized institutions in the private sector, operating on a commercial basis. One of them, the College of Law, which is a commercial provider of professional legal education, recently became the first non-university body outside the state education system to be permitted

to award degrees. In addition, a small but also hard to measure number of UK residents will study at a distance or by correspondence with overseas private universities or colleges of variable quality.

### 3. Structure of the Education System – an Overview

#### *Introduction*

The ages of compulsory education in England are basically 5-16; under the Education Act 1996, parents' duty is to ensure that their child, if of compulsory school age, receives an efficient full-time education suitable to his or her age, ability and aptitude and to any special educational needs he or she may have, at school 'or otherwise'. There is legislation in prospect at time of writing (the Education and Skills Bill) that will, in effect, increase the upper age, although young people will have the option of training, including work-based training, as an alternative to attending school or college education. This reform is based on the rationale that:

'Continuing in education or training has benefit for individuals, increasing their skill levels and better preparing them to find and succeed in employment. It is also important for the economy, which will increasingly demand more highly skilled employees and benefit from individuals' increased earnings' (Department for Education and Skills 2007: 2.2)

A young person would have to remain in such education or training (or an apprenticeship) until his or her eighteenth birthday. So far as the entry age of five is concerned, in practice many children are able to start school before their fifth birthday (whether in a nursery education or in a primary school 'reception' class) and, through Government promotion, there is an expectation that education will start well before the child turns five. Indeed, since 1997 the Government has placed a considerable emphasis on 'early years' education (below).

Local authorities and schools have discrete responsibilities in respect of children with 'special educational needs' (including those with physical or mental disabilities). Although many of these children are educated in the mainstream, alongside other children, it is appropriate to discuss the distinct requirements applicable to them separately (see below).

#### *3.1 Elementary level ('early years' education)*

A range of developments has taken place over the past decade in connection with the education of children below compulsory school age. The SSFA 1998 began this process by requiring local authorities to ensure that their area has sufficient places (whether in local authority or other establishments) for education ('nursery education') suitable for children aged four and to establish an 'early years development partnership' with responsibility for preparing an 'early years development plan'. Since then, a government-funded nursery education place, giving up to 12.5 hours per week of education (or, since April 2007, up to 15 hours in some authority areas), for 38 weeks of the year, has become guaranteed to all three-year-olds as well as four-year-olds. Most four-year-olds receive this education in state-maintained nursery or primary schools, but in the case of three-year-olds a majority (55% in 2007) receive their education in the private or voluntary sector (DCSF 2008b). A 'foundation stage' for children aged 3-5 receiving nursery education was added to the statutorily prescribed National Curriculum in England, under the Education Act 2002. The 'early learning goals', 'educational programmes'

and ‘assessment arrangements’ which were laid down for this new stage had to be implemented by all those who provided nursery education funded by local authorities (including, of course, local authorities themselves).

The policy of integrating education and childcare provision for young children, on the basis that good quality provision in both areas is needed ‘to enhance children’s social and intellectual development in a safe and caring environment’ (Secretary of State 1998: 1.4.), led to other changes under the Education Act 2002. The above plans were renamed ‘early years development and childcare plans’ and a corresponding change was made to the name of the partnerships responsible for them. This integrated approach was reflected in other child policy developments, including: the Government’s *Every Child Matters* policy (2003) (see part 2 above); the associated ‘Sure Start’ programmes, which provide advice and support on health, early years education and parenting; the amalgamation of education and child welfare services provided by local authorities (see above); and the establishment under the Children Act 2004 of Children’s Trusts, which are local partnerships drawn from education, social care, careers services, youth offender support and community and voluntary groups (HM Government 2004). Moreover, the Government’s Five Year Strategy for Children and Learners promised ‘educare’ so that childcare would be available outside nursery education sessions (Department for Education and Skills 2004).

The Childcare Act 2006 has placed local authorities under a duty to ensure that childcare, which is defined by the Act as including education, is available free of charge for children aged between three and compulsory school age. Non-maintained-school providers of childcare must be registered. All providers must implement the requirements for children’s welfare, learning and development prescribed by law.<sup>v</sup> A new Early Years Foundation Stage replaced the ‘foundation stage’ for this age group under the National Curriculum (above) with effect from September 1, 2008. It covers ‘welfare requirements’ and ‘learning and development requirements’. Both sets of requirements are prescribed by secondary legislation made by the Secretary of State. The 2006 Act says that the learning and development requirements must cover (a) personal, social and emotional development; (b) communication, language and literacy; (c) problem solving, reasoning and numeracy; (d) knowledge and understanding of the world; (e) physical development, and (f) creative development.

### 3.2 Primary education

Primary education is, essentially, full-time education suitable for children who have not reached the age of ten and a half years and those aged under twelve whom it is expedient to educate alongside them. Generally it is provided in primary schools, the exception being ‘middle schools’ which usually cater for children in the range of around 8-13 years. Research has revealed that there are wide variations in the level of funding for primary education across England and suggested that it is less generously funded than secondary education (Noden and West 2008).

Regulations made by the Secretary of State may determine the length of the school day and school year;<sup>vi</sup> however, they merely stipulate that the school year should comprise 380 (half-day) sessions (in effect, 190 days) and that there should be a break between two sessions on the same day. Government policy emphasises the principle of ‘flexibility over the length and size of individual lessons and the school day’ (Department for Education and Skills 2002: 4). The dates of school terms and holidays must be fixed locally, by the local authority or governing body, depending on the category of school. The timing of school sessions – in other words, the times

at which school sessions start and end – must be determined by the governing body. The DCSF made *recommendations* on the length of the school week, in terms of teaching hours per pupil, nearly 20 years ago and has not amended them since. The guidance says that the aggregate minimum lesson time per week should be 21 hours for 5-7 year olds and 23.5 hours for 8-11 year olds (DES 1990). However, it seems that successful primary schools generally provide in excess of these minima (Office for Standards in Education 2002). The Secretary of State is, in effect, precluded by the 2002 Education Act from specifying the amount or proportion of school time that is to be devoted to a particular subject or subjects under the National Curriculum (below).

The school curriculum is the subject of general requirements, in Part 6 of the 2002 Act. These are that it must be ‘balanced and broadly based’, promote pupils’ spiritual, moral, cultural, mental and physical development and prepare pupils for the ‘opportunities, responsibilities and experiences of later life’. The school must have, as its basic curriculum: religious education (even in non-denominational schools) and the National Curriculum. There is no National Curriculum in Scotland but there is one in Wales. The list of National Curriculum subjects is prescribed by the 2002 Act but can be amended by secondary legislation, which is also used to prescribe the attainment targets for pupils in each subject, the programmes of study and the assessment arrangements for the key stage in question. There are four ‘key stages’: key stage 1 (KS1) comprises children aged six or seven, while KS2 covers children aged between eight and eleven years. The other key stages relate to secondary education (below). The National Curriculum for KS1 and 2 in England comprises three ‘core’ subjects – mathematics, English and science – and seven other ‘foundation’ subjects (design and technology; information and communication technology; physical education; history; geography; art; and music). It is planned that by 2010 all pupils in KS2 will also be entitled to learn a modern foreign language other than English. Sex education is not a compulsory element of the basic curriculum until KS3, but ‘personal, social and health education’, which may include elements of sex and relationship education, is provided, on a non-statutory basis. Pupils must also take part in a daily act of collective worship in school, but a parent has an unconditional right to withdraw the child from religious education and/or collective worship in school.

Pupils are assessed at the end of KS1, through a summative teacher assessment of speaking/listening, reading, writing, mathematics and science, and the completion of externally-set tests or tasks (‘SATs’) in mathematics, reading and writing. Since 2005 only the teacher assessments have had to be reported, although they are informed by the pupil’s performance in the tests/tasks. The proportion of children reaching the expected attainment level (level 2) or higher at the end of KS1 varied from 80% in writing to 90% in mathematics. Girls outperformed boys in all the assessments (DCSF/National Statistics 2007). Further, more broad-ranging assessments take place at the end of KS2. The results of this assessment are published and widely reported. The KS2 results for 2008 (DCSF/National Statistics, 2008b) show that the expected level of attainment (level 4) or better was achieved by 81% of pupils in English, 86% in reading, 67% in writing, 78% in mathematics and 88% in science. Mathematics was the only subject in which boys outperformed girls.

### *3.3 Secondary education for young people aged 11-18*

Secondary education is mostly provided in secondary schools, city technology colleges (CTCs) and Academies (above). Secondary education is full-time education suitable for young people aged 12-18 (inclusive) and for those aged at least ten and half years educated alongside others from that older age group. Those who attend an institution principally providing education for young people aged 16-18 are in secondary education if their institution is maintained by the

local authority; this means that those receiving education suitable for people aged over compulsory school age will in many cases be receiving 'further education', not secondary education. In some cases young people attend school for part of the time and are taught in a further education college for the rest of the time. They too are classed as being in secondary education if the college provision is of a kind available in schools.

Some secondary schools are permitted to select their pupils for admission wholly or partly on the basis of their academic ability, but the circumstances are limited and the law provides that no schools which do not already operate selection may be permitted to do so in the future. Such selection is, however, possible for entry to classes for those aged above compulsory school age. In any event, the way that school admission policies operate, particularly through the use of residential zones ('catchment areas'), has effectively imposed entry barriers to some schools and a degree of social segregation notwithstanding the general bar on selection by ability/attainment and legislation affording parents an opportunity to make a preference for a school (see Harris 2007: ch 5).

The legal requirements concerning the length of the school year and number of sessions noted above in relation to primary education apply also to secondary education. However, the recommended minimum hours of class time per week are higher (for example, 24 hours per week in the case of pupils at KS3 (ages 12-14)). Nevertheless, the recommendation is somewhat meaningless given the extraordinary demands placed upon secondary schools to deliver a very broad curricular programme. Certainly schools face a challenge to structure school time to accommodate the relevant curriculum requirements and statutory collective worship, although guidance has been issued by the DfES (now DCSF) and Qualifications and Curriculum Authority (QCA) (see, for example, DfES/QCA 2002).

The basic requirements of the curriculum outlined in relation to primary education above, including religious education, apply also to secondary education. Secondary schools must also include sex education as part of their basic curriculum. While CTCs and Academies are not covered by the statutory requirements on the curriculum they are obliged by their agreement with the Secretary of State which sets out the terms on which they are to operate, to ensure that these are met. The National Curriculum applies to up the end of KS4 (pupils aged 15-16 years). The normal expectation is that pupils will sit public examinations (the General Certificate of Education (GCSE) – a 'level 2' qualification) at the end of KS4. Typically between 5 and 10 GCSE subjects will be studied by a student, assessed by examination and/or coursework. At present, the core subjects of the secondary National Curriculum are mathematics, English and science. The other foundation subjects are, at KS3, design and technology, information and communication technology, geography, history, geography, music, physical education, art, citizenship, and a modern foreign language. At KS4 there are the above core subjects plus the further foundation subjects: ICT, physical education and citizenship. However at KS4 the National Curriculum also includes prescribed 'elements' (which include work-related learning) and an 'entitlement' to follow a science-based course which leads to a prescribed qualification.<sup>vii</sup> The 'entitlement areas' can be extended when relevant provisions are brought into force.<sup>viii</sup> But in any event this is a transitional period, as the curriculum for young people aged 14-19 is in fact being substantially reformed.

Among other things, the 14-19 Reforms (Department for Education and Skills 2005a) aim to enable pupils to opt for level 1 (Foundation), 2 (Higher) or 3 (Advanced or Progression) diplomas across a range of vocational areas in place of part of the more academic elements (such as GCSE or Advanced level ('A'-level)). A third qualification route is an Apprenticeship, led by



employers; places will inevitably remain limited but the Government is committed to increasing the number available. Those facing the greatest barriers to learning and who may not be ready for a diploma programme, most likely to be those with learning difficulties or disabilities, will enter the 'Foundation Learning Tier' which will provide them with 'progression routes' leading towards, for example, to a Foundation Diploma or an Apprenticeship; it is being introduced, initially on only a 'small scale', from September 2008 (DCSF 2008: ch. 6). The new diplomas are the key reform. The reform will be phased in, initially within some areas only, from September 2008, when five subjects, ranging from 'Construction and the Built Environment' to 'Society, Health and Development', will be available. All 17 diploma subjects will be introduced by 2011 and full implementation of the new curriculum will be in place by 2013. The reform will also carry through into the post-compulsory school age group. Students will, for example, have a choice of traditional academic 'A' level courses at 17 and 18 – usually three or four 'A' levels are taken – or level 3 post 16 diplomas. However, the new 14-19 curriculum will also enable students to take GCSE or A level courses alongside diplomas.

One of the key features of the new diplomas, which may include work-based learning, will be an emphasis on skills – 'functional skills' and 'personal, learning and thinking skills'. The aim of the age 14-19 Reforms is, according to the Government to provide

'an attractive learning route for young people at all levels of ability who find practical learning related to the world of work more motivating and engaging than purely theoretical learning, but who want to keep their options open through taking an educational programme rather than training for a specific occupation' (Department for Education and Skills 2007: 4.6; see also DCSF 2008).

Although the diplomas and qualifications are meant to have an equivalence to standard academic qualifications (the Advanced Diploma is meant to be equivalent to three and a half A levels), the Nuffield Review of 14-19 Education and Training (Nuffield 2007) has highlighted the risk that the diplomas will be regarded as the 'poor relation' to the traditional academic qualifications.

The diplomas will be new qualifications leading to an external award – that is, an award made by an outside body and not a school or employer. In order to be properly recognised as having national standing, and for schools to be permitted to provide a course leading to them and for authorised bodies (such as local authorities) to be permitted to fund them, all such external qualifications require formal approval (accreditation) under the statutory framework set out in the Learning and Skills Act 2000. A body known as the Qualifications and Curriculum Authority (QCA) advises the Secretary of State, who formally grants approval for qualifications. Any body which awards the qualifications must also meet regulatory requirements imposed by the QCA, relevant to recognition of the awarding body. There is a wide range of awarding bodies, in respect of both academic and/or vocational qualifications (such as AQA, Edexcel, City and Guilds, OCR, LCCI, UCLS and so on). Under changes planned to be introduced, with QCA support, under the forthcoming Education and Skills Bill, organisations will be able to be given the power to award or authenticate qualifications, thereby making it unnecessary for them to seek formal approval for them from the Secretary of State via the QCA. This will facilitate employers, for example, being recognised as awarders of qualifications (QCA 2008). The QCA itself is also being restructured. Its above regulatory functions are currently performed by the Office of the Qualifications and Examinations Regulator ('Ofqual') operating within the QCA. Future legislation may give Ofqual an independent status. It is also proposed that a new independent committee will be established to advise on the provision and associated funding of individual

qualifications, known as the Joint Advisory Committee for Qualifications Approval (DCSF 2008). This committee will provide termly recommendations and conduct biennial assessment of qualifications being offered. It is expected that this will lead to a streamlining of qualifications, with those taken by only small numbers of pupils likely to be recommended for discontinuation of approval. The QCA itself will be re-styled into a development agency, the Qualifications and Curriculum Development Agency. The QCA's various powers under current legislation (the Education Act 1997, as amended), include enforcement powers where conditions attached to recognition or accreditation are not being met.

### *3.4 Education for children and young people with special educational needs*

In 2008, 17.2% of the children in schools in England had special educational needs (SEN) of various kinds (DCSF 2008e). SEN are legally distinct from disabilities per se. The Education Act 1996 Part IV covers the former and states that a child aged five or over has SEN if, and only if, 'he has a significantly greater difficulty in learning than the majority of children his age' or has a disability which prevents or hinders him or her from making use of standard educational facilities within the area. A child aged under five will have SEN if he or she is likely to have one of these forms of learning difficulty when he or she is aged five or over. The three most common classifications of SEN are 'moderate learning difficulty', 'behaviour, emotional and social difficulty' and 'speech, language and communications needs'. Under the 1996 Act, local authorities and schools have a wide range of duties concerning identification of the children with learning difficulties, the assessment of their needs and the funding of the required provision. Parents (who are regarded as 'partners' with the authorities in working towards meeting children's needs) have various rights, such as to information and to appeal against various decisions. There is a *Special Educational Needs Code of Practice* (Department for Education and Skills 2001); the purpose behind this is to maximise consistency of approach between different local authorities, which (along with schools), have a statutory duty to have regard to the code.

There continue to be both private and state 'special schools' providing education for children and young people with SEN. Note that special education is not divided into 'primary' and 'secondary' education/stages, as children's development does not tend to conform to standard age expectations, although some schools cater for particular age ranges. However, there is in this field of education a long standing principle of 'inclusion'. This is based on the idea that, wherever possible, children with SEN should be educated alongside other children in mainstream schools, not special schools,. When the National Curriculum was introduced from 1989 in England it was made clear that children with SEN should have access to it. Moreover, there is a well established principle that, wherever possible, children with SEN should 'engage in the activities of the school together with children who do not have [SEN]'. Also, following the amendment of the law by the Special Educational Needs and Disability Act 2001, local authorities have been under a duty to ensure that children with SEN are educated in mainstream schools, as long as the child's needs are not such that the authority needs to prepare a formal 'statement' of them. If there is such a 'statement' for the child there is still a statutory presumption in favour of a mainstream statement; but such a placement is conditional on it being compatible with parental wishes and with the efficient education of other children in the school.

Statements are made following a formal assessment in which account is taken of a variety of professional views. In many cases it will be decided that a statement is not needed and that the arrangements for meeting the child's needs can be described in an 'individual education plan' prepared by the school. At the start of 2008, approximately 16% of the children with SEN, or

2.8% of all children, had statements. Of these 'statemented' children, 56.6% were being educated in mainstream schools, 36.9% in state special schools and 3.6% in independent (private) schools (DCSF/National Statistics 2008f). Independent schools often provide highly specialist forms of education, catering, often with residential provision, for children with particular forms of disability such as cerebral palsy or severe behavioural problems. These schools can only be the specified placement in a child's statement if they have been approved by the DCSF. However, this private provision can be very expensive. Any educational provision specified in a child's statement must be funded by the local authority (although increasingly the funding for such provision is being delegated to schools). This is a major reason why disputes between the parents and the local authority over school placement are common, especially since the statute gives parents conditional rights of choice (Harris 2007). Often disputes concern the issue of mainstream-versus-special school placement. The First-tier Tribunal hears appeals over these and other SEN disputes. The tribunal also hears complaints about disability discrimination, which is covered by the Disability Discrimination Act 1995, although relatively few cases have been brought since this jurisdiction commenced in 2002. A 'disability' under the 1995 Act is defined as a 'physical or mental impairment which has a substantial and long-term effect on [the person's] ability to carry out normal day-to-day activities'. In practice, a child or young person with a disability for the purposes of this Act is highly likely to have SEN under the 1996 Act; but not all children with SEN would be classed as disabled under the 1995 Act (see Blair and Lawson 2003).

Local authorities are under duties to review statements annually and, in any event, parents and schools have a right to request that a formal assessment of the child is carried out and to appeal if the request is refused. The annual review in year 9 (when the child will normally be 13-14) must include the drawing up of a 'transition plan' setting out proposals concerning the next phase of the child's education. The SEN Code of Practice advises that the views of the young person himself or herself should be fed into the review. Subsequent reviews must focus on the plan, which is particularly concerned with what will happen when the child leaves school. The annual reviews will consider the child's progress and could lead to a proposal to amend a statement so as to alter provision. The placement could, for example, change from a special school to a mainstream school.

### *3.5 Further, adult and higher education*

For the past decade Government policy has been directed at increasing the levels of participation in further or higher education, both among younger participants and adults, for whom the promotion of 'lifelong learning' is a specific policy area (Department for Education and Employment 1997b; 1998). This policy has been underpinned by the introduction of targeted financial support for particular groups, such as adult learners and those from disadvantaged backgrounds (Harris 2007: ch 4).

*Further education* is defined by the Education Act 1996 as full-time and part-time education for people over compulsory school age which is not secondary education (essentially, education in a school) or higher education. However, further education colleges provide courses leading to many of the post-16 qualifications which are provided in schools and the line between secondary and further education is an increasingly blurred one. The responsibility for ensuring proper provision of facilities for further education and training essentially lies with a government agency, the Learning and Skills Council for England (LSC). The LSC has a new duty, added by the Further and Training Act 2007, to act with a view to encouraging diversity in the education and training made available to individuals and to increase opportunity for individuals

to exercise choice. The LSC also allocates funds for courses provided by further education institutions, which gives it considerable leverage over institutions' activities. Moreover, once the 2007 Act is brought fully into force, the LSC will have considerable powers of intervention in respect of any failings by institutions. The institutions which provide further education are primarily established as 'further education corporations', which means that they are essentially independent bodies with their own board of governors. In general they operate inclusive policies, making diverse provision for those beyond compulsory school age from the most basic academic level to foundation degree level (which means that some higher education provision (below) actually takes place in further education institutions).

Figures for 2007 show that 79% of 16 year olds, 67% of 17 year olds and 44% of 18 year olds were in full-time education, around one-third of whom (in each age group) attended a further education institution (DCSF/National Statistics 2008c: Table 2). By the age of 18, 24% of young people in full-time education have progressed onto a higher education institution.

*Adult education* has become a relatively low priority in recent years. While adult students are commonly enrolled in further education courses, whether vocational or academic, adult education per se – that is courses on subjects of general public interest, such as art history or 'keep fit' – have either been phased out from the further education sector as funding has been withdrawn or have become restricted in availability due to the need to charge fees for attendance. Many older people are nevertheless enrolled on basic skills courses which can lead onto higher level academic or vocational courses.

*Higher education* covers first or higher degree courses as well as courses leading to various professional diplomas and qualifications. It includes part-time courses, such as professional development courses for groups such as nurses and teachers and master's degrees. The pattern of the UK's degree courses already conformed broadly to that adopted within the EC Bologna process, with full-time first degree courses typically involving three or four years of study and a master's degree one year. Most of the higher education institutions (HEIs) in England are heavily dependent for their funds on HEFCE (above), which allocates funds for teaching and research. There are 130 HEIs receiving funding via HEFCE. The total funding allocation by HEFCE for 2008-09 is just under £7.5 billion, of which £1.4 billion is specifically allocated for research. The allocation to a higher education institution (HEI) of income based on research reflects a range of factors including the quality of research activity, as measured by a range of performance indicators, including doctoral completion numbers and rates, external research grant income and how departments' publications are rated by assessment panels.

Most HEIs are classed as universities; others are higher education colleges. The Further and Higher Education Act 1992 enabled institutions known as 'polytechnics' to be reclassified as universities (they are often still referred to as 'new' universities). There is a procedure by which the title 'university' may be bestowed upon an institution and a separate power granted to enable them to award degrees. Among the institutions recognized is the Open University, which offers distance learning towards a wide range of degrees and has played a key role in 'lifelong learning'. A list of institutions which are recognized is prescribed by statute; people who run institutions which are not recognized and offer unrecognised ('bogus') degrees can be prosecuted by law.

Although the Government originally had a target participation rate of 50% among 18 year olds for higher education by 2010, it acknowledged that that was over-ambitious and that participation was likely to increase 'towards' that figure by that year (HM Treasury et al 2004:

89). It currently stands at around 43%. Financial support for students is acknowledged to be very important in ensuring participation, even though the courts have held that such support is not guaranteed under the right to education contained in the European Convention on Human Rights.<sup>ix</sup> For most students financial support from the state takes the form of a loan; students must start to repay the loan only when they enter employment giving them an annual salary of at least £18,000. In addition, legislation provides for those from the poorest background to be entitled to an annual maintenance grant. There is also a grant for disabled students. In order to be eligible to receive HEFCE funding, HEIs must enter into 'access agreements' with the Office for Fair Access setting out the ways in which they will work to increase the proportion of their entrants from disadvantaged backgrounds. HEIs' plans will typically include the offer of bursaries or scholarships. HEFCE also provides financial incentives to institutions to widen access, under its 'Widening Participation' allocation (which takes particular account of the higher education participation rate in the local area where the student's family lives), and through general direction of activities designed to target and work with communities whose members are under-represented among higher education students (HEFCE 2007). HEFCE has allocated a total of £364 million for widening participation by HEIs in 2008-09, covering widening access from people from disadvantaged backgrounds, improved rates of retention of students, and widened access and improved provision for disabled students (HEFCE 2008). Provided they meet the widening access criteria HEIs have a degree of flexibility over the fees they can charge for entry to courses, up to a maximum of £3,000 for most first degree courses.

#### 4. Current developments in the School System

##### *4.1 Transition between levels of education*

Other than the issues of school choice, the few remaining grammar schools, and a small private sector, the school systems in England, Scotland and Wales are untracked to the age of 16 in the sense that progression to the next stage or type of school does not depend upon attainment or performance at the last stage. Schools are supposedly comprehensive in their intake. What happens instead is that as pupils get older they are increasingly placed into 'sets' or classes by ability and performance. Unlike the tracked systems prevalent in other countries, this means that pupils continue to mix in activities that are un-setted (such as cultural and sporting activities). It also permits a more personalized profile such that a pupil might excel in one subject but not another. The early Key Stage tests (SATs) are often used by schools to justify the allocation of pupils to sets, and both SATs and sets are related to the number and type of qualifications attempted at age 16. Setting seems to be used because of the theory that it is easier to teach pupils in groups of similar prior attainment, and the policy is seemingly reinforced by the national regime of target-setting for standards. Whether it is actually easier for pupils to learn in groups of similar prior attainment is the subject of some dispute.

Continuation in education or training after the age of 16 is now expected of all, but education currently bifurcates at 16 in practice. Those pupils deemed suitable for a traditional sixth-form education (and often then higher education) are those who obtain qualifications equivalent to national framework level 2 – such as five or more GCSEs at grades A\* to C. This is not a legal requirement but one imposed by most institutions. Such students would study for level 3 qualifications, such as A-levels, including AS and A2 levels and, increasingly, a mix of general vocational qualifications (GNVQ and BTECs), the international baccalaureate, or pre-U (university) examinations. Students deemed less successful at school currently tend to leave at or before 16, to continue in school or college and re-take qualifications at level 2, or to take

different kinds of courses not traditionally leading to higher education. The 14-19 Reforms in England, and similar approaches in other home countries (see 3.3 above), are attempting to overcome this bifurcation in practice, by providing a blend of academic and vocational elements, which it is hoped will lead to greater parity of esteem between routes, and greater opportunity for those students dissatisfied with existing provision.

Issues of widening participation to subsequent educational opportunities, such as higher education, are dealt with elsewhere in the chapter.

#### *4.2 Instruments of quality management, testing, inspection*

Each home country has a body developed from the office of Her Majesty's Inspectorate for Schools, previously termed OHMI, with responsibility for inspecting and reporting on the quality of education in schools, and making recommendations for closure, improvement, special measures and so on. In England, this body is called OFSTED, and was reconstituted in 2007 to deal with standards in education, children's services, and the development of skills. It, thus, regulates care for children and education and training for people of all ages. It is, at least in theory, independent of ministerial control, reporting direct to Parliament. Maintained schools and education providers can expect regular inspections, especially so if a past inspection has given cause for concern.

There has been ongoing debate about the amount of warning that an inspection should require. Some evaluators feel that unannounced inspections give the most accurate picture, while providers tend to prefer warning so that they can reasonably prepare the amount of documentation that inspections increasingly require. OHMI would previously have had a major focus on lesson observation, but OFSTED has moved towards 'light-touch' inspections to reduce the time and expense required for each visit. This has led to greater reliance on publicly-available indicators such as value-added measures of pupil progress between Key Stages than on lesson observation, and so to the reported anomaly that teaching could be observed as good but pronounced only satisfactory or worse because of the value-added scores (and *vice versa*). Reports of all inspections and other data are available via the OFSTED website.

The production, marking and moderation of qualifications has become a large industry in the UK as elsewhere. Examination boards, able to provide nationally recognized certificates, are to a large extent commercial companies, even where they are off-shoots of university boards, and they are in competition with each other for clients. This leads to considerable diversity in forms and modes of assessment, with the consequent difficulty of maintaining moderated standards between them. Currently the six major boards in England are AQA, City and Guilds, Edexcel, LCCI, OCR, and UCLS (see 3.3 above). These are also in common use in the other home countries, which often also have their own boards such as WJEB in Wales, which in turn are also used in England and elsewhere. In 2008, the government employed a company, ETS Europe, to run the Key Stages 2 and 3 tests for children in England. They were unable to arrange for the marking of the papers by the deadline, leading to a delay in the announcement of results and considerable public and media disquiet. Coupled with the more regular concerns over standards of marking, lost papers and so on, this delay contributed to the reorganization of the QCA and its division into two parts – broadly one concerned with development and commissioning of tests and one with maintaining quality (see 3.3 above). It also contributed to the announcement, at time of writing, that Key Stage 3 SATs in England will no longer take place from 2009, as part of a range of measures including the introduction of US-style report cards for schools.

Until the 1980s, public examination standards were maintained by the use of norm-referencing. The hundreds of thousands of pupils in each age cohort were deemed to have the same overall level of ability or talent, and so the proportion of passes and of each grade for any qualification was fixed within quite strict limits. This solved the problem of moderating the difficulty of papers across years and subjects, but meant that growth in qualification across cohorts was only really achieved by increased entry patterns. From the 1990s, moderation has moved towards criterion referencing, whereby candidates are awarded passes and grades for demonstrating mastery of pre-specified skills or areas of knowledge. Since that time, there has been an annual growth in qualifications, leading to a sterile political debate every summer over whether this portrays rising standards or 'dumping down'. The answer is, of course, that we have no real way of knowing (Gorard 2000).

Perhaps the growth in qualifications can be explained partly by changes in the nature of assessment. Terminal examinations are now rarer, candidates can take qualifications in smaller parts or modules, the chances to retake modules are increased, and the proportion of coursework prepared at leisure is higher today than in the 1980s. All of these factors might properly increase the success of candidates. The boards themselves work hard to try and ensure consistency within their work, and across modes and subject of assessment, and they employ increasingly sophisticated statistical techniques to help them. In general, higher education institutions and professional development bodies make considerably less effort to try and ensure consistency of marking, even internally. A degree at one university in the UK is often awarded without reference to degrees awarded at other universities. The grade or class of degree awarded is completely unrelated to the prior qualifications of the student intake, and there is little or no moderation of the results between the subjects within each university (Gorard et al. 2006).

#### *4.3 Coping with special problems (truancy and exclusion)*

Poor behaviour and attendance at school have become critical areas of concern and a range of measures have been taken to combat them. Unfortunately, however, the problems continue and show little sign of improvement. From the government's policy perspective, the principal difficulty arising from truancy and bad behaviour leading to disciplinary exclusion from school is the impact on the individual pupil's education and thus their attainment levels and future opportunities. Both problems were the subject of the first report by the Government-sponsored Social Exclusion Unit (1998), which explained their link with reduced educational attainment and increased criminality, unemployment and unstable family relationships in later life. The first two statutory measures, in 1998, involved the placing of school governing bodies under a duty to set and/or meet annual targets for reducing the level of truancy in their school and a new power for designated police officers who find children in a public place (such as a shopping centre) during school hours to take them to their school or to the care of the local authority. 'Truancy sweeps', where police and education welfare officers visit city centres to look for possible truants, have become common. These measures built on the existing criminal procedure (prosecution of parents) and civil measure (an 'education supervision order' granted by a civil court to a local authority).

A parent, regardless of whether or not he or she is aware that the child is truanting, commits an offence and can be prosecuted by the local authority in a magistrates court if his or her child is absent from school without lawful excuse. The maximum penalty that can be imposed is a fine of £1,000. A new offence was introduced in 2000: where a parent 'knows that his child is failing

to attend regularly at the school and fails without reasonable justification to cause him to do so'. If found guilty of this more serious offence, the parent could face a maximum penalty of a £2,500 fine and/or imprisonment for up to three months. An estimated 7,500 prosecutions are brought each year and in approximately 80% of cases the parents are convicted (National Audit Office 2005: 3.24). A few years ago a new 'fast-track' procedure for truancy cases was introduced; in these cases the parent is notified of the prosecution but the case does not come to court if the attendance has improved within six weeks of the notice, which happens in approximately one in every three cases. The evidence on the effectiveness of prosecution cannot be discussed in detail here (see Harris 2006 for analysis), but it seems that it is only useful in reducing truancy where the parents have a degree of control over their child's behaviour or where the child's pattern of truancy is not too well established. Also possible, since 2004, has been the issuing of a penalty notice to a parent of a truanting child. This places the parent under an obligation to pay a penalty of £50 or, if they do not pay within 28 days, £100, or else face prosecution. Parents can also now be invited to enter, voluntarily, into a parenting contract or can have a parenting order imposed on them by a court following a prosecution by the local authority. The parenting contract can include an agreement that the parent attends a programme of guidance or counselling designed to 'ensure' that parent causes the child to attend regularly at his or her school. Classes in good parenting can also be a compulsory element of a parenting order.

Official figures, published by the DCSF in February 2008, show that in 2006-07 one per cent of all half-days were lost due to unauthorised absence from school, which means that on each school day an average of approximately 63,000 pupils were absent from school without a lawful excuse. This is a record high, although *authorised* absence (for example due to illness or religious observance) fell as compared with the previous year. The increase in truancy has occurred despite the fact that Government expenditure on anti-non-attendance measures since 1997-98 has exceeded £1 billion and diverse enforcement measures have been introduced. Non-attendance rates are highest among travellers of Irish heritage, Gypsy/Roma children and those of mixed white/African-Caribbean heritage. A discussion of the various social factors contributing to these figures is not possible here.

The number of children excluded from school each year rose during the 1990s as schools became increasingly intolerant of bad behaviour due to its impact on the teaching process, in particular its potential effect on attainment levels in schools. Schools were also concerned about the damage poor discipline could cause to a school's public image and thus its market appeal. Schools had been advised that exclusion should be a 'last resort', but government pressure on schools to be well-ordered places, meeting targets for pupil attainment and taking a tough stance on both drugs in schools and bullying by pupils, made it difficult for them to show leniency towards misbehaving pupils. Permanent exclusion peaked at over 12,500 cases in 1996-97 but has fallen most years since then, probably because the government's guidance (which schools must take into account) has placed an increasingly strong emphasis on the taking of measures to avoid permanent exclusion, the fact that a high exclusion rate is seen as a negative performance indicator for a school, and schools face greater frequency of official inspection if their exclusion rate is high. In 2006-07 there were 8,680 permanent exclusions from school in England, the lowest level since 1999-2000, although the number of fixed period (temporary) exclusions, 363,270, represented an increase of seven per cent on the previous year (DCSF/National Statistics 2008d).

Schools are permitted to exclude pupils either permanently or for any period or periods totaling not more than 45 school days in any school year. They have no power to suspend a pupil from



school for an indefinite period. The duties on local authorities to find alternative education for pupils excluded from school and for governing bodies to ensure that pupils excluded for a fixed term are nevertheless provided with educational activities have been strengthened under the EIA 2006. A local authority must find the excluded pupil a place in education within not more than six days from the exclusion. Particularly if the exclusion is permanent, the placement will often be in a 'pupil referral unit'. With a view to ensuring that children excluded for a temporary period are less likely to face future exclusion when they return to school, head teachers have been placed under a duty to arrange an interview with the parents with a view to ensuring the child's proper and effective reintegration into the school. Another new measure reflecting concern for the welfare and progress of excluded pupils is a duty under the 2006 Act for parents to ensure that their child does not spend the first week of exclusion wandering the streets: the parents can be served a penalty notice or prosecuted if the child is found in a public place during that period. Parenting contracts and parenting orders, discussed in relation to truancy above, have also been possible in cases where a child has been permanently excluded from school. But the 2006 Act has extended the circumstances when they can be entered into or imposed to cases where the child has been engaging in behaviour likely to cause significant disruption to education or a significant detriment to any child's welfare, regardless of whether the child has been excluded, and to cases where a fixed period of exclusion is likely.

Schools have also been given a specific power, under the Violent Crime Reduction Act 2006, to search pupils suspected of carrying a knife or other offensive weapon and take possession of such an item. The EIA 2006 also gave them clearer powers to confiscate other items in pupils' possession. School staff have a power to use 'reasonable force' to prevent the commission of offences, personal injury, or prejudice to good order and discipline. But there is no lawful excuse for corporal punishment of pupils and this extends to its use in independent schools as well. It is too early to say whether these new measures have brought about improvement to discipline in school.

#### *4.4 Measures and instruments for the integration of foreign-born pupils*

The UK has high rates of immigration and applications for asylum, although the latter has fallen to 23,000 in 2007 from its zenith of over 84,000 (or 102,000 if dependants are included) in 2002 (Home Office 2008a). In 2007 the largest numbers of asylum seekers were of Eritrean, Afghan, Iranian, Somali or Chinese origin. Also in 2007, 125,000 people were granted settlement in the UK (Home Office, 2008b). The education system is regarded as having a crucial role in the integration of immigrant communities, particularly through the teaching of English and aspects of Citizenship, which is now a National Curriculum subject (above) but is also the subject of a test to be taken by all those seeking a right of abode in the UK. There is also an imperative, reinforced in part by international law, to recognise the importance of a person's mother tongue, although this does not give a right to mother tongue teaching for those whose first language is not English and much of the mother tongue teaching in the UK is given by community groups themselves (Harris 2007). It should also be recognized that there are various indigenous languages with the United Kingdom apart from English. In addition to Welsh, Gaelic (Northern Ireland and Scotland) and Scottish, which are all taught in the respective parts of the UK and in some cases are used as the medium of teaching (Harris 2007), there are also languages spoken by far fewer people such as Cornish and Manx. But speakers of these indigenous languages will generally be bilingual. However, the same is not necessarily true of people from other countries. For example, over 40% of people of Indian or Pakistani origin in the UK will not have English as their first language. In recent years many migrant workers from Eastern Europe have also come to the UK, in some cases with young families. The fact that

schools have a right to omit from their published academic results the achievements of children who have been in the UK for less than two years shows that such children will often have a great deal of catching-up to do.

Children for whom English is an additional language may be temporarily exempted from the National Curriculum in England and Wales to enable them to receive extra English language tuition. But immigrant children also have the possibility of studying a language such as Urdu, Punjabi or Chinese as their 'modern foreign language' under the National Curriculum. Schools in England can receive special additional funding from the Government's Education Standards Fund, which includes an Ethnic Minority and Travellers Achievement Grant (EMAG) to help to fund arrangements for assisting immigrant pupils and to raise their levels of achievement. In general both EMAG and the special arrangements for the inclusion of children from asylum seeking families have been found to be effective, although a few local authorities have faced intense problems in having to accommodate large numbers of such children in their schools while in other cases the policy of dispersing asylum seekers around the country has led to some being relocated to areas with inadequate resources.

## 5. Educational discourses, trends and perspectives

There is only space here to introduce briefly a very few of the ongoing trends and issues in UK education today (over and above those already discussed above). One of these is the preparation and continuing development of teachers. On the one hand, teaching is becoming increasingly professionalized through Qualified Teacher Status (QTS). There is considerable emphasis on specialist subject knowledge. Postgraduate certification of teachers is now often at Masters degree level, and teachers are expected to continue their professional development from there. In addition, all adults working with children are required to have regular Criminal Records Bureau checks. School leaders in England and Wales are similarly increasingly expected to have a National Professional Qualification for Headship (NPQH) qualification (or the Scottish Standard for Headship qualification or the Professional Qualification for Headship in Northern Ireland). On the other hand, increasing use is made of teaching assistants in the classroom, with far lower levels of qualification than QTS teachers. Originally intended to assist teachers, especially with non-teaching activities, these assistants are now being tried out by the Training and Development Agency as replacements or substitutes for teachers in some areas. There are also a few, but increasing, number of schemes to allow potential teachers work in schools during or even before qualification – such as 'Teach First'.

Many of the latter concessions are made because of a perceived shortage of teachers, perhaps especially for positions of leadership and in subjects such as mathematics (maths) and science, and because of commitments to more personalised learning and the reduction of class sizes. The problem of shortage, where it exists, is partly one of circularity. For example, maths is a compulsory National Curriculum subject because of its apparent importance. The number of maths graduates rises slowly over time (in absolute numbers, but not as a percentage of all graduates) and the vast majority of these are needed to become teachers to meet government targets. Being a maths teacher is then, by some way, the most common occupation for maths graduates who are needed, at least partly, to train the next generation of maths teachers.

Another tension at time of writing concerns how much can be expected of education as a determinant of social inclusion. As illustrated above, patterns of attainment and later opportunities are often stratified by the sex, social origin, or ethnicity of the student. Particular

concern has been expressed over those aged 17 or older who are not in education, employment or training ('NEETs'), and it is to remedy this to some extent that initiatives such as the 14-19 Reform Programme have been devised. More generally, the approach of recent governments has been to set targets for participation in learning, and to work to overcome barriers to individual participation so that the targets can be met. However, there is considerable confusion. A target for adult learning might be that by a specific year a certain percentage of adults of working age will have a specified level of qualification. Is this an aspiration or a basic threshold? It is treated as both or either dependent upon circumstances (and of course success or otherwise in hitting the target). Who is intended to fall below the threshold? In higher education, for example, who are the 50% of the population not wanted in university-level education? These questions are never addressed. And do the target devisers realize that progress can be made without a single episode of adult learning? In general, school-leavers are more qualified in any year than those reaching retirement age. Thus, the 'working-age' population becomes more qualified over time without any influence from adults learning. Targets and target-setting are widespread in UK public policy, but they are largely ill thought out and ineffective.

An issue likely to come into prominence is the relationship between the state, education and religion. As shown above, much of the early and nineteenth century pioneering work in education came from religious conviction, and this was recognized in the 1944 Act through the continuation of faith-based (voluntary) schools. These schools have, in the main, been popular and successful in terms of raw-score public examinations. However, they represent a snapshot of that historical period including Anglican and Catholic Christian, and Jewish schools. There has never been a coherent case to allow these schools and not allow similar schools for other established religions, such as Islam or Hinduism, a situation that is now changing. The UK therefore faces the likelihood of increasing diversity of schools, based on a growing number of religions, with the social and ethnic clustering that this might entail. The alternative, of separating religion from state-funded education, would be politically unpopular, require considerable upheaval, and could lead to a growth in cheap private schools to cater for families wanting education based on a specific faith (as occurs in some other European countries). Further, an unintended consequence of the Academies programme (see above) and similar initiatives, has been that the private sponsor is able to influence the school curriculum. This came to public prominence when a number of schools began teaching creationism or intelligent design instead of, or alongside, evolution. Inevitably there was some sympathy for this approach but a more general outrage that what remains a state-funded school could have its curriculum so fundamentally affected by a comparatively small investment made by what was often, in effect, one religious individual. The place of religion in state education is one of the unresolved issues for the twenty-first century.

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- i The School Governance (Constitution) (England) Regulations 2007 (SI 2007/957)
  - ii The School Governance (Procedures) (England) Regulations 2003 (SI 2003/1377), as amended.
  - iii The Children and Young People's Plan (England) Regulations 2005 (SI 2005/2149), as amended.
  - iv Education Act 2002, s.176.
  - v Childcare Act 2006, Part 3 Chapter 2; and the Early Years Foundation Stage (Learning and Development Requirements) Order 2007 (SI 2007/1772), as amended by the Early Years Foundation Stage (Learning and Development Requirements) (Amendment) Order 2008 (SI 2008/1952).
  - vi Education Act 1996, s.551; the Education (School Day and School Year) (England) Regulations 1999 (SI 1999/3181), as amended by SI 2001/1429 and SI 2007/3071.
  - vii Education Act 2002 Act s.85, as substituted by the Education (Amendment of the Curriculum Requirements for Fourth Key Stage) (England) Order 2003 (SI 2003/2946), as amended by the 2006 Act s.74(4); and the Education (National Curriculum) (Science at Key Stage 4) (England) Order 2007 (SI 2007/2241).
  - viii Education and Inspections Act 2006, s.74(1)-(3).
  - ix *R (Douglas) v North Tyneside Metropolitan District Council and the Secretary of State for Education and Skills* [2004] ELR 117, Court of Appeal.