

## **Abolish academy status and create fully funded, democratic and participatory local authorities at the centre of the National Education Service**

Richard Hatcher

Following the Labour Party conference last September the Labour Party's Shadow Education Team has produced an internal document titled 'Implementation Plan: Structural Reform of the School System'. [1] It raises two key issues. The first is what will be done about academies. The second is about local authorities, in the context of the NES. [2]

### **Part 1: Academies**

The Implementation Plan states that

...the Shadow Secretary of State announced a series of policies at conference earlier this year to address the issues in the school system that have been created by the Conservatives' structural reforms.

In particular, these are:

- An end to the Conservatives free schools and academies programme, including;
  - No new free schools will be approved;
  - No schools will be forced to convert to academy status under a Labour government;
- Responsibility for admissions will be moved from individual schools or MATs to local authorities;
- Local authorities will be given the power to open new schools in their areas where there is a need for new school places;
- Parents and teachers will be given genuine power to run schools in their areas, through the expansion of the co-operative schools model;
- A ban on related party transactions in all schools, with exceptions if the service being brought in is from either central or local government, or a non-profit body;
- Restore the distinct legal identity of individual schools;
- Allow schools to return to being maintained by their local authority as part of the rebrokering process, where there is capacity and desire to do so;
- In the longer term, bring all schools under a 'common rulebook', set by statute, so that schools are all treated in the same way legally, with consistent regulation. This will, over time, end the legal distinction between different types of schools and simply leave "schools", without the excessive fragmentation, in a unified system;

The first seven clauses above list a series of restrictions which will be imposed on academies and the increased powers which will be given to local authorities. The PLP Briefing [3] says

The interim measures we have outlined today will not get rid of academies, but will make them more accountable to parents, and more responsive to the needs of all children'.

Academy freedoms can be amended through a simple piece of primary legislation that will allow regulation to make provision in relation to academies. This is how the Coalition Government used the 2011 Education Act to make it easier for academies to exclude students. [No page numbers]

The final clause speaks of measures ‘In the longer term’ which would have the effect of abolishing academies, though this is not stated explicitly, and neither is the time-scale: is this policy process intended to be completed over the first five years of a Labour government?

### **‘academies of different types and maintained schools’?**

The Implementation Plan does not discuss what measures might be necessary to abolish academies. David Wolfe is a legal expert on academies whose website ‘A Can of Worms’ provided valuable analysis for several years. He has recently published jointly with Anne West a paper titled ‘Academies, autonomy, equality, and democratic accountability: reforming the fragmented publicly-funded school system in England’, dated 28 October 2018 (i.e. after the Labour Party conference). In it they say:

We would argue that the desired policy goal is for there to be a common framework or rule book for all state-funded schools - academies of different types and maintained schools. (p12) [4]

The phrase ‘common rule book’ had been used by Rayner in her conference speech:

we will use our time in government to bring all publicly funded schools back into the mainstream public sector, with a common rulebook and under local democratic control. [5]

The Implementation Plan says ‘This will, over time, end the legal distinction between different types of schools and simply leave “schools”, without the excessive fragmentation, in a unified system.’ But West and Wolfe interpret it as meaning accepting the continuing existence of academies alongside maintained schools. They say:

One option would be a wholesale statutory conversion of academies into, or back into, maintained schools. (p12)

But they don’t explain what statutory measures a Labour government would need to take, and do not explore this option further.

What we describe below seeks to address many of the main issues with academies as we describe them here, but without the same level of disruption and cost. (p12)

They don’t explain what they think the ‘disruption and cost’ might be, and in contrast, two pages later, they describe the option of a Labour government compulsorily integrating academies into the local authority system as a ‘modest further step’:

A bespoke legal mechanism could be devised by which a school, reinstated as a legal entity could make the modest further step of becoming a maintained school again. [...] If there were a political will to do so more quickly, that process could be made compulsory (cf. Hatcher, 2018) as opposed to permissive. (p14)

But this option is left till the penultimate paragraph of their paper and the statutory procedures to enable it are left unaddressed.

A new legal framework could ensure that maintained schools and academies operated to the same rules with the same obligations regarding admissions, the curriculum, governance and funding. However, they would still leave in place two parallel strands overall:

maintained schools and academies [...]. Stopping there would have the attraction to policy makers of not actually changing the core legal notion of an academy... (p14)

The authors don't explain why they regard 'changing the core legal notion of an academy' as a problem for a Labour government which it would prefer not to countenance. There seem to be some unspoken assumptions about strategy underlying West and Wolfe's argument.

### **The measures to abolish academy status**

A policy to abolish the status of academies would entail the following measures to be taken by a Labour government.

- Terminate the funding agreements of academies and transfer the schools, their land and premises to their relevant local authorities.
- Introduce legislation to remove all powers over the governance of schools by academy trusts including academy chains and MATs and restore the control of state-funded schools to their duly constituted governing bodies, which shall include a majority of elected representatives of parents, staff and the local community.
- Abolish the role of Regional Schools Commissioners.
- Integrate all state-funded schools into a reformed local authority system.

### **The consequences of the 'interim measures'**

The Implementation Plan lists a number of interim measures which a Labour government would implement in the period before the 'longer term' enforcement of a 'common rulebook' to 'end the legal distinction between different types of schools'. One of the interim measures that the Implementation Plan says were announced by the shadow Secretary of State at conference is the commitment to 'Restore the distinct legal identity of individual schools'. In fact Rayner did not use these words in her speech. [5] However, the PLP Briefing gives a clear commitment:

Labour will require every school to have a local governing body of democratically elected parents, teachers, other school staff, community representatives, and people with specialist skills, and introduce a presumption that governance decisions are made at school level.

Academy budgets will be channelled through local authorities, giving individual schools full control over their budgets.

This removes the power of the Trust that runs the MAT, including the chains of academies run by private organisations, to control the budgets of the schools they sponsor, to retain a proportion of it to fund their own functions, and to impose conditions of use on the school: for example, the curriculum approach, the ways of teaching, the behavioural policy. If the schools themselves control their budgets through their governing bodies then their relationship with the chain becomes a voluntary matter.

Schools may of course decide to continue to fund the support of the MAT organisation, though perhaps on the basis of conditions that the school decides. But they may choose to withhold funding it and perhaps seek support elsewhere, from other schools or private organisations, funding it if necessary. Or they may take the option of rejoining the local authority system and seeking support there, especially if a Labour government makes substantial steps to restore local authority funding and capacity to support schools.

The consequence for the chains run by private organisations is that those particularly valued by schools for their support might well continue as before, funded by the schools on a voluntary basis, but other chains would decline or disappear completely for lack of funding. In any case it would be the individual school governing bodies that held the power and made the decision, not the MAT Trusts or the government.

The consequence of the restoration of ‘the distinct legal identity of individual schools’ for the MATs that are coalitions of schools not run by private chains would be that many, probably the large majority, would remain as voluntary federations with reconstructed governance arrangements, and with the proviso that they could leave whenever they chose.

### **Are the ‘interim measures’ compatible with the continuing existence of academies?**

But there is another possibility: could it be the case that the interim measures agreed by the Shadow Team actually already legally entail the complete abolition of academy status because they are in breach of their statutory basis, the Funding Agreements for each academy Trust? In their paper David Wolfe and Anne West don’t spell out what legal grounds there might be for a Labour Secretary of State to terminate all academy funding agreements and with it the status of academy, nor do they examine what are the legal consequences of implementing the ‘interim measures’. I have no legal expertise but I will risk venturing onto this unfamiliar terrain.

### ***Academy budgets***

The *Academies Financial Handbook*, a government publication, sets out the financial management, control and reporting requirements that apply to all academy trusts. Its Guidance document says that ‘Compliance with the handbook is a condition of each trust’s funding agreement’. [6] The *Academies Financial Handbook 2018* [7] specifies that funding agreements include the following requirement:

2.1.1 The academy trust must take full responsibility for its financial affairs and use resources efficiently to maximise outcomes for pupils.

It seems to logically follow that if responsibility for academy trust budgets is transferred to school governing bodies, as the PLP Briefing promises, then the trust is in breach of its Funding Agreement and therefore provides the statutory grounds for a Labour Secretary of State to terminate every academy funding agreement and with it the status of every academy.

### ***Academy admissions***

A similar argument can be applied to another one of the interim measures: that ‘Responsibility for admissions will be moved from individual schools or MATs to local authorities.’ West and Wolfe make the same point: ‘To restore the linkage with local authorities, the contracts under which academies – newly separated from MATs – operate should be with the local authority rather than the Secretary of State.’ (p13)

This is in breach of academy funding agreements and therefore provides the grounds for their compulsory termination. According to *A guide to the single academy model funding agreement*, published by the DfE in October 2013: [8]

#### **Termination – clauses 89 to 110**

Clauses 90 to 93 (Termination warning notice) – The Secretary of State can issue your

academy trust with a written notice of his intention to terminate the funding agreement where he considers:

- a) your academy no longer meets the requirements of an academy as defined in section 1A of the Academies Act 2010;
- b) the conditions and requirements set out in clauses 12 to 33B [...] of the funding agreement are no longer being met; ...
- f) there is a material breach of the provisions of the funding agreement.

One of those requirements is that the academy is its own admissions authority:

Conditions of grant – clauses 12 to 33C

Clause 12 (General) – This sets out your academy trust’s other conditions of grant and grant requirements: *[including]*

- your academy is its own admissions authority;

The Implementation Plan’s statement that ‘Responsibility for admissions will be moved from individual schools or MATs to local authorities’ is a de facto breach of the funding agreement of every academy and provides the statutory basis for a Labour Secretary of State to terminate every academy trust funding agreement and with it the status of academy.

Clauses 103 to 110 (Effect of termination) – These clauses say that upon termination of your funding agreement, the school will legally cease to be an academy.

The current consequence of the termination of academy status is that the academy reverts or transfers to local authority maintained school status unless the Secretary of State allocates the academy to another sponsor. In the case of a Labour government the all academies would automatically become self-governing local authority maintained schools.

So in both cases – budgets and admissions – it appears that the ‘interim measures’ announced at Labour Party conference are actually final measures, terminating academy status. I may of course be mistaken; but if I am right it raises an intriguing question. Do the Labour leadership realise this and have chosen to keep quiet about it, presumably as a cunning plan to avoid stirring up opposition from academy supporters? Or is it possible, though scarcely conceivable, that they actually haven’t realised what the statutory consequences of the ‘interim measures’ are?

## **Part 2: Democratic participatory Local Authorities and the local coordination of a National Education Service**

The reintegration of academies into their local authority school systems would need to be a carefully managed phased process over time, ensuring that there was as little disruption to the schools as possible and that local authorities developed the capacity to fulfil their additional responsibilities, which would require a reversal of the massive cuts imposed by central government on local authority budgets.

The key point to make is that what is not being proposed is a return to the past. It is a proposal to move forward to create a new model of local schools systems, recognising that expertise lies principally in the schools and their collaboration, valuing the participation of parents and all other stakeholders in a thriving and democratic local school system, coordinating support where needed, and ensuring that the local school system is embedded in a mutually beneficial wider set of

relationships with pre-school and post-school provision. This is what a National Education Service from cradle to career means at the local level, with the framework of national education policy.

In the following pages I try to fill out some of the elements of this model, but beginning first with what seems to be the position of Labour policy at and after Conference.

### **What is envisaged as the future for the ‘middle tier’ of the state school system?**

Does it mean the restoration and renewal of a local authority system of maintained schools, or something else?

In her Conference speech Rayner said ‘we will use our time in government to bring all publicly funded schools back into the mainstream public sector, with a common rulebook and under local democratic control’. She didn’t clarify what ‘the mainstream public sector’ and ‘under local democratic control’ mean. It might be thought to mean schools would all be integrated into the local authority maintained schools system. In fact she did not mention the words ‘local authority’ in her speech at all. But the PLP Briefing makes clear that Rayner does not propose a restoration of the role of the elected local authority.

Q: Will all new schools be maintained schools?

A: They will for an interim period, while we transition to a new regulatory framework. We are still consulting on that framework, but expect that it will have space for other school improvers, such as cooperative schools, provided they are responsive to communities and subject to democratic oversight and accountability. (PLP Briefing)

There is no further explanation in Rayner’s speech or the PLP Briefing, or in the subsequent Implementation Plan, of what the ‘new regulatory framework’ entails. The Implementation Plan says:

The biggest outstanding policy question is the detail of the end state that we have in mind for the school system in general, and in particular for the overall middle tier. In particular, policy development in these areas cannot be divorced from the overall work of developing our plans for a National Education Service (“NES”). In particular, any new institutions or structures that are developed as part of the NES which take on particular functions across all education provision in certain areas will change the overall structure of the middle tier for schools. At this stage this remains an issue that needs to be kept in mind, rather than a concrete matter of policy.

### **Local Authorities and the National Education Service**

There are two major issues here. The first concerns the ‘end state’ for the school system, which is certainly the ‘biggest outstanding policy question’. The clear direction of the policy of Labour’s education team, as expressed and implied at Conference, is to downgrade the role of local authorities and therefore the role of elected local government in education. In my view this does not represent the view of the vast majority of Labour Party members – if they knew about it - and should be strongly opposed. What is needed is a credible policy for the re-making of a fully funded and democratised local authority working in participatory partnership with local schools and stakeholders.

The second concerns the relationship between the school system and the wider context of the National Education Service. The Implementation Plan is wrong to postpone this as ‘an issue that

needs to be kept in mind': it should be 'a concrete matter of policy' to be developed as from now in order to lay the initial policy groundwork for the coherent integrated system that Labour will develop during its first term of office.

I will begin with discussing the role of the local authority in the school system and then make some suggestions about its role in the local level of the National Education Service.

### **Is Labour planning to downgrade the role of local authorities in the school system?**

Academy status should be terminated and the schools integrated into their local authority maintained school system. That is the position taken by Jeremy Corbyn as Labour leadership candidate in 2015 was 'I am not a supporter of the principle of free schools and academies, and I would want to bring them all back into the local authority orbit.' [9]. I believe he was expressing the view of the overwhelming majority of Labour Party members. Kevin Courtney, joint general secretary of the NEU, expressed at the 2018 annual Easter conference of what was then the NUT section of the NEU the view about academies of the large majority not only of teachers but, I would argue, of parents and citizens as a whole, as evidenced by the numerous campaigns by parents and communities against moves to academise their local school, which represent by far the most widespread popular involvement in education politics in recent years:

The NEU is demanding that schools are returned to their local authority family of schools. This is the only way to restore the public service ethos in education, guarantee a high-quality education for all children and young people in England's schools, and ensure the accountability and public probity that parents and communities are entitled to expect of their education service. [10]

But the position that has emerged from the 2018 Labour Party conference represents a radical departure from this position, and from the postwar role of local authorities in education. It is encapsulated in two statements in the PLP Briefing. The first is this question and answer:

Q: Will all new schools be maintained schools?

A: They will for an interim period, while we transition to a new regulatory framework. We are still consulting on that framework, but expect that it will have space for other school improvers, such as cooperative schools, provided they are responsive to communities and subject to democratic oversight and accountability.

The second statement is this:

In this context a "school improver" is a body that maintains a group of schools. Under the current system this means either the local authority or a MAT, but under a new model for the school system there could be other models within a given area, such as Co-operative School Trusts, and the reformed MATs that would be subject to a common set of rules, set by statute.

Together they represent a quite fundamental and very disturbing new direction in Labour Party policy: a 'new model for the school system'. After the 'interim period' not all schools will be 'maintained schools' in the sense of maintained by the local authority. Instead, a 'new regulatory framework' will be put in place under which other bodies will be able to 'maintain' schools. They include 'Co-operative School Trusts', which I comment on later, and 'the reformed MATs', though it is unclear what this means.

What then defines ‘a body that maintains a group of schools’ is not that it is a local education authority, part of elected local government. It is defined as a ‘school improver’: a body that supports school improvement. The local authority would have no privileged responsibility in this respect; it would have equivalent status to other ‘school improvers’. The Implementation Plan only stipulates two areas of responsibility that local authorities will have for all schools: responsibility for admissions and the power to manage the provision of school places, including opening new schools where needed.

A ‘school improver’ is subject to two conditions: to be ‘responsive to communities and subject to democratic oversight and accountability’. It is not spelled out what these might mean; whether for example a private organisation such as ARK and E-ACT which used to control a chain of academies, if it continued to offer support to schools, and schools chose to buy it in, could qualify as ‘a body that maintains a group of schools’ provided it demonstrated that it was ‘responsive to communities’ in some way and was subject to some form of oversight by a local authority.

In this new model local authorities are defined solely in terms of their role as ‘school improvers’. This tends to signal a continuity with the performativity agenda that has dominated government school education policy under the current Tory government and its Coalition and New Labour predecessors. Schools have been judged by a narrow set of government performance measures, incentivised by rewards and punishments and policed by Ofsted. ‘School improvement’ has been the name of the game. Rayner’s Conference speech and PLP Briefing appear to represent a continuation of this policy rather than a break from it. The fact that they make no mention of the need to reform Ofsted is symptomatic. Of course ensuring and improving school ‘standards’ is a fundamental priority, but they need to be defined in terms of a much broader and more progressive vision of education (a point that I will return to).

### ***Co-operative School Trusts***

Co-operative School Trusts are singled out in the PLP Briefing as potential ‘school improvers’ and bodies that maintain groups of schools, as alternatives to local authorities. They are also presented in the Implementation Plan as the model for schools run by parents and teachers:

Parents and teachers will be given genuine power to run schools in their areas, through the expansion of the co-operative schools model;

The word ‘expansion’ needs explaining. It is unclear whether it means the expansion of the governance model of co-operative schools or simply an increase in the number of co-operative schools.

Rayner’s speech at Conference stressed the democratic opportunity of co-operative schools:

And where parents and staff want to go further in launching and leading their own schools, our own movement already has an answer: co-operative schools – as part of the local schools family. Attacked by the Tories, under Labour they will be part of John McDonnell’s co-operative vision.

Presumably Rayner is referring to *Alternative models of ownership* [11], commissioned by Shadow Chancellor John McDonnell and Shadow Secretary of State for Business and Industrial Strategy Rebecca Long-Bailey and published in June 2017, and the follow-up Conference hosted by John McDonnell in February 2018. *Alternative models of ownership* says ‘Cooperatives are democratic

organisations controlled by members, who participate in setting policies and making decisions.’ (p11).

Schools based on co-operative values and run by parents and staff, together with the local community and within a democratic local authority system, should be Labour’s vision. Co-operative Trust Schools are maintained by the local authority (unlike Co-operative Academy Trust schools) but it is not the case that they are ‘democratic organisations controlled by members’. Staff, parents, pupils and the local community can become elected members of the Trust Stakeholder Forum which has only an advisory role and can elect a minority of the Trustees.

There are some other important differences with normal local authority schools which make Co-operative Trust Schools less accountable to the whole community than the local council is elected by. It is the Trust, not the local authority, that has control of the school assets (land and buildings), and it is the governing body, not the local authority, that employs the staff and controls the admissions arrangements.

Furthermore, there is no evidence adduced to support the claim of the PLP Briefing that Co-operative School Trusts are effective, or as effective as local authorities or local collaborations of schools, as ‘school improvers’ in terms of performance.

### **Two key and inter-related roles for local authorities in the National Education Service**

In this final part of this paper I outline two roles for local authorities within the national framework of the National Education Service. One is to coordinate, develop, hold to account and be accountable for the local school system. The other is to play a coordinating role connecting the local school system to the other institutions and actors at the local level of the National Education Service, ranging from pre-school to further and higher education and work-based learning. A National Education Service covering cradle to career provision would require a local system-wide coordinating structure of policy-making and provision. Only elected local government, properly funded, has the democratic legitimacy, authority and power to organise it.

To carry out these dual functions effectively would require a reversal of the savage cuts that councils have suffered in recent years. The Labour leadership has not so far outlined its plans for the funding of local councils. The PLP Briefing offers the following information:

Councils are allowed to use some of the dedicated schools grant to fund central expenditure. Under Labour’s spending plans school funding will increase by £4.8 billion, and so those local authorities that need to build the capacity to do so will be able to use some of the additional funding, based on local need and at their discretion. As some of this funding is used for this purpose by academies and MATs there should be no reduction to the amount of extra money going in to our classrooms.

### ***The local authority and the school system***

A Labour government will establish a policy framework for school education, in the context of the wider National Education Service, comprising progressive values, aims, objectives and commitments. We need to develop in that context a conception of what a local authority school system would look like. We are not talking about going backwards to the past, but about creating a new vision, a new model, a new way of working, building on the best experiences and ideas from the past, from current practice, and from other countries too.

One of the most positive experiences of recent years has been the growth in local authority areas of various forms of voluntary collaboration among schools or schools, informally or with more formal arrangements such as Teaching School Alliances. School-to-school support has been a particularly effective way of helping schools to improve their performance. Other arrangements include sharing staff including specialist teachers and business managers, joint purchasing and forming federations. Labour should of course strongly encourage schools to work together, including the option of forming formal partnerships, provided that ultimate control remains with individual schools' governing bodies, with freedom to leave if they choose.

But in a self-improving school system there is a vital role for the local authority because it has responsibility for the whole system. This means monitoring schools' progress, ensuring that support is mobilised where it is needed and no school is left behind. But it means much more than that: it also means identifying best practice and new ideas both within and beyond the local school system and coordinating their local dissemination through working groups, teacher secondments, conferences etc.

A similar collaborative approach should inform systems of school review. Labour needs to open up a discussion about an alternative to Ofsted, widely regarded as not fit for purpose. But in any case school review should be an ongoing process, involving rigorous evaluation and ongoing dialogue with headteachers from other schools and local authority advisers, and support where needed.

All the above requires local authorities with professional expertise, and government budget cuts have emaciated most authorities. But in any case it is the schools themselves that are the reservoirs of expertise, and the answer is to share it, through various forms of rotating secondments of headteachers and other senior and specialist staff to the local authority and its working groups.

Finally, local authorities should provide or ensure the provision of other appropriate school support services, for example, legal, HR, technical and administrative. It may be advantageous for smaller local authorities to collaborate together to provide some of these and other functions above.

### ***The local authority and the National Education Service at the local level***

A National Education Service, in order to begin to create a more coherent and comprehensive system 'from cradle to career' at the local level, would require some sort of local coordinating structure connecting the local school system to the other institutions and actors ranging from pre-school to further and higher education and work-based learning. The most suitable body to convene and coordinate this, because of its democratic legitimacy, authority and capability, would be the local authority.

### **The local school system and democratic local government**

In their book *Radical Education and the Common School: a democratic alternative* (2011) Michael Fielding and Peter Moss argue that 'the development of radical education and the common school needs to go hand-in-hand with the renewal and development of democratic local government, which in our view has to include an active and innovative role in education.' (p127). [12]

The role of local authorities in local school systems is often justified in terms of democratic accountability, with little sense of democratic participation. In her book *Reclaiming Local Democracy* (2014) Ines Newman points out that 'Unlike "democracy", "accountability" separates out the state and society and can be exercised with no participation by citizens in the decision-making process' (p103). [13]

The concept of democracy demands the active involvement of diverse citizens in determining policy. It also demands institutions that address the current power inequalities that allow elites to dominate the policymaking process. It therefore involves both representative and participative democracy. (p104)

We need to open up a discussion about participative democracy in the context of the local school system. There are two complementary arguments. The first concerns democratic rights. The fundamental principle should be that every citizen has a stake in, and therefore should have a voice in, their local school system as well as their local school. The second concerns knowledge: whose knowledge should count in the policy-making process?

These two principles are the basis of the case for participative democracy in local governance made in *Power to the People: An Independent Inquiry into Britain's Democracy*, the 2006 report of the Power Inquiry set up by the Joseph Rowntree Trusts. [14] The report insists that 'mass deliberation in the public realm [...] is an absolutely crucial process in a democratic and open society.' (p11). A report by Smith in 2005 for the Power Inquiry, *Power Beyond the Ballot: 57 Democratic Innovations from Around the World*, argues that 'Evidence from this country and others [...] shows that local popular democracy works provided people feel that they have power to effectively influence policy.' (p91). [15]

The case for public participation is also made in a new Labour Party Consultation Paper, 'Democratic Public Ownership', published in September 2018. [16] Although it does not explicitly address local government, it establishes some principles and arguments which are very relevant to local authorities and their role in education. In their introduction John McDonnell, Shadow Chancellor, and Rebecca Long-Bailey, Shadow Secretary of State for Business, Energy and Industrial Strategy, say:

Labour wants to hear from constituency parties, trade unions, activists, campaigners, professional experts and users of public goods and services alike about how we transfer power into your hands, in order to deliver public services that will transform the lives of all of us who use and work in them.

The consultation paper argues that

There is ... considerable evidence to suggest that greater "co-production" of public services – the involvement of citizens in how public services are produced – does produce beneficial effects in terms of performance, as well as making public services more accountable to citizens and enhancing people's sense of ownership and support.

'Democratic Public Ownership' validates the knowledge and experience of the users of public services and the workers in them. Potentially the most powerful source of support at the local level for effective, progressive and egalitarian education policies by schools and local authorities is pressure for them from parents and communities, and the most effective strategy for developing and mobilising it is their participation in local education policy-making. Public participation does not mean inappropriate intervention in issues which are properly matters of professional judgement. Nor does it imply that public views are inevitably progressive: on the contrary, there will often be significant support for reactionary policies. In both cases it is a question of deliberation and negotiation among public and professionals, and the mobilisation of collective popular and professional support for progressive policies. The postwar history of education in England provides many positive examples, however gradual and incomplete, such as the spread of comprehensive

education and of policies to challenge racism and sexism, and recent local campaigns against academies.

The need for and value of participatory governance in the local schools system is actually recognised and implemented at its lowest structural level: the governing bodies of maintained schools have representatives of school staff and also have representatives of parents and the local community. We can apply the same rationales of participatory democratic rights and public knowledge to local councils and their role in education. But local councils are not very participatory. In fact they tend to largely exclude popular participation in strategic decision-making. It is a problem that the Labour Party has scarcely begun to address.

### **The NES requires a reformed local system-wide integrated and participatory structure of local government**

The initial steps to provide the basic structure are actually relatively straightforward to put in place, and in fact could be carried out today, even under the present Tory government, by a Labour council with the political will.

Three reforms to transform local government:

1. Set up a Council Education Committee with participation by professional and community representatives
2. Open up the Education Scrutiny Committee to lay representatives
3. Support Local Education Forum(s)

#### ***1. A Council Education Committee with participation by professional and community representatives***

Councils in England with responsibility for education use a variety of structures, but the large majority have adopted an Executive and Scrutiny model, with a Cabinet and an Overview and Scrutiny Committee responsible for education. Under this model all the executive power is in the hands of a Cabinet consisting of a small number of Councillors including the Leader. One consequence is that a great deal of policy-making is actually done behind the scenes by officers not councillors.

What is needed is an Education Committee comprising a number of councillors and, crucially, with representatives from the range of stakeholders in education at pre-school, school and post-school stages. They would have an advisory role and only an indicative vote, so recognising the particular status of councillors, but they would be able to contribute their professional and practical knowledge and expertise which would extend far beyond that of a small group of councillors (let alone a single Cabinet member).

To enable both full representation of the scope of the National Education Service and a focus on its constituent elements the Education Committee needs three substantial sub-committees. Again, each of them would comprise councillors and lay representatives of the various stakeholder interests, including union representatives and other professional experts as appropriate.

- A Pre-School Sub-Committee, with representatives of parents and carers and staff in Children's Centres, Nurseries, primary schools, etc.
- A Schools Sub-Committee, with representatives of parents and carers, teachers, headteachers and support staff, students, governors and also staff in related services (careers guidance, social work, community work, health and well-being etc).

- A Post-School Sub-Committee, with representatives of secondary school staff, staff in FE and HE, students, parents and carers, and employers, including providers of apprenticeships. [17]

The Post-School Sub-Committee would provide the principal coordinating structure for the SEA's 'Principles for Life Long Learning (Higher, Further, Adult Education)':

17. There will be a process of comprehensivisation of higher, further and adult education with the creation of vocational and academic strands within an overall framework as originally envisaged by Mike Tomlinson.

18. Cooperation would be voluntary and based on local areas and/or areas of similar and/or complementary history.

19. Schools, Sixth Form Colleges, Tertiary Colleges and FE Colleges should be encouraged to work together. The aim would be to eliminate financially and educationally inefficient groupings, and to encourage staff development across the sectors. Such clusters will be directed towards educational cooperation, ending financial competition.

## **2. *An Education Overview and Scrutiny Committee with participation by professional and community representatives***

At present a local council's Overview and Scrutiny Committee responsible for education comprises a number of councillors representing the various parties and two co-opted diocesan representatives (one Church of England, one Catholic) and, by law, places for two co-opted parent governor representatives (one primary, one secondary, and both from maintained schools). These co-optees have voting rights the same as councillors. The Centre for Public Scrutiny, an independent charity that supports councils' overview and scrutiny functions, has set out four principles. One of them is this: 'Scrutiny should reflect the voices and concerns of the people and communities as users of public service as well as electors.' [18] The extent to which the co-opted parent and diocesan members are democratically representative of 'the people and communities' is questionable.

But there is a simple step Councils could take even under the present legislation. According to the Centre for Public Scrutiny's Practice guide 6, 'Scrutiny bodies: membership and political management' (June 2014), councils have the power to co-opt more members onto their overview and scrutiny committees. [19] What all Councils could do is open up the Scrutiny Committee responsible for Education by co-opting representatives of all the various stakeholders in the school system including parents, teachers, headteachers, support staff and their unions, on an advisory basis but with full rights to speak, to have access to documentation etc. The responsibility of the Education Scrutiny Committee doesn't just involve schools, it also extends to pre-school and post-school, so there should also be representatives of early years and further and higher education providers and users. To accommodate this range of representation the Education Scrutiny Committee could set up sub-committees paralleling the Council's Education Sub-Committees outlined above. A National Education Service would require this sort of local system-wide integrated participatory structure to enable effective overview and scrutiny.

## **3. *Local Education Forum(s)***

At school level there are, or should be, regular meetings of parents and other stakeholders with the school governing body, with report-backs from and inputs into the governing body. But many educational concerns extend beyond the individual school and relate to provision on a locality or local authority-wide basis. A structure is needed to enable people to come together to share all their concerns that are wider than a single school. These might be issue-based concerns such as special needs, pre-school provision, gender equality, or transition from school to FE and work. Or they might

relate to specific government or local authority policies. Or they might be locality-based: a group of schools serving a local area and wanting to work together.

The answer is Education Forums open to teachers, parents, school governors, students, and all stakeholders in the school system. Similar Forums could be envisaged for pre-school and post-school levels. These could be on whatever scale or scales people want, ranging from a neighbourhood or district to a town through to a local authority-wide Forum, and meeting as regularly as needed. The purpose would be to enable everyone with common interests and concerns to come together to discuss them, perhaps work together on them, and then feed their views into the Council Education Committee, its Sub-Committees and the Education Scrutiny Committee through representatives elected from the Forum or Forums. In all cases face-to-face deliberation can be supplemented, though not replaced, by information and communications technology.

These three proposals for increasing democratic participation in local education systems are the building blocks of a National Education Service at the local level. Care would need to be taken to ensure that there was fair representation in terms of gender, ethnicity etc. and that they weren't unfairly dominated by the more articulate.

But all of them – opening up Scrutiny Committees, setting up Local Education Forums and participatory Education Committees – could be put into practice right now, even under the present government, by a Labour Council committed to increasing democratic participation in the local school system.

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