Schools that work for everyone

Government consultation

Launch date 12 September 2016
Respond by 12 December 2016

Contents

About this consultation

This consultation sets out the Government's ambition to create an education system that extends opportunity to everyone, not just the privileged few. It proposes to expand radically the number of good school places available to all families, by: providing the right incentives for all schools with a strong track record and valuable expertise to expand their offer to even more pupils; leveraging the expertise of high performing institutions to set up new good places in the state sector as well as turn around existing schools; and delivering a diverse school system that provides all children, whatever their background, with schooling that will help them achieve their potential.

The consultation covers proposals in four key areas:

- Independent schools directly assisting the state-funded sector, through creating more good places, and giving more choice and control for parents.
- Universities playing a direct role in improving school quality and pupil attainment.
- Selective schools providing more school places, and ensuring that they are open to children from all backgrounds.
- Faith schools delivering more good school places, while meeting strengthened safeguards on inclusivity.

We would like to hear your views on these proposals.

Who this is for

- Schools and representative bodies
- Higher Education Institutions and representative bodies
- Local authorities and faith bodies
- Children, young people and parents

Issue date

The consultation was issued on 12 September 2016.

Enquiries

If your enquiry is related to the policy content of the consultation you can contact the team on:

- schoolsystem.consultation@education.gov.uk

If your enquiry is related to the DfE e-consultation website or the consultation process in general, you can contact the DfE Ministerial and Public Communications Division by

email: consultation.unit@education.gov.uk or by telephone: 0370 000 2288 or via the DfE Contact us page.

Additional copies

Additional copies are available electronically and can be downloaded from GOV.UK DfE consultations.

The response

The results of the consultation and the Department's response will be published on GOV.UK in Spring 2017.

Respond online

To help us analyse the responses please use the online system wherever possible. Visit www.education.gov.uk/consultations to submit your response.

Other ways to respond

If for exceptional reasons, you are unable to use the online system, for example because you use specialist accessibility software that is not compatible with the system, you may download a word document version of the form and email it or post it.

By email

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Deadline

The consultation closes on 12 December 2016.

Introduction

1.   This Government is dedicated to making Britain a country that works for everyone, not just the privileged few. This mission is arguably more important in education than anywhere else. Parents rightly expect the ability to send their child to a good school in their local area. A child's schooling is crucial in determining their chances in life and every child should be able to go as far as their talents will take them.

2.   Over the last six years, our education reforms have delivered many more good school places for parents and their children. This year, over 1.4 million more children now attend schools rated good or outstanding than in 2010. Our free schools and academies programmes have ensured that strong schools and school leaders have been able to extend their success more widely across the school system to open up a greater diversity of provision. And our new curriculum and qualifications reforms are driving school standards to match the best international comparisons.

3.   But for too many children in England, a good school remains out of reach. There are still 1.25 million children attending primary and secondary schools in England which are rated either requiring improvement or inadequate. At the same time, the demographic pressure for good school places is increasing: primary pupil numbers grew by over 11% between 2010 and 2016 and are projected to increase by a further 4% between 2016 and 2020. Secondary pupil numbers are projected to increase by around 10% between 2016 and 2020.[1]

4.   To tackle this problem, we need to do three things. Firstly, we need radically to expand the number of good school places available to all families, not just those who can afford to move into the catchment area, go private, pay for tuition to pass selective tests or belong to certain faiths. Secondly, we need to give all schools with a strong track record, experience and valuable expertise the right incentives to expand their offer to even more pupils, driving up standards and giving parents greater control. And thirdly, we need to deliver a diverse school system that gives all children, whatever their background, the opportunity to help them achieve their potential.

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[1] Source: Schools, Pupils and their Characteristics: January 2016 (https://www.gov.uk/government/statistics/schools-pupils-and-their-characteristics-january-2016) and National pupil projections – future trends in pupil numbers: July 2016 SFR https://www.gov.uk/government/statistics/national-pupil-projections-july-2016

5.   This consultation sets out proposals to help achieve all three. In the past, we have successfully leveraged the expertise of experienced education institutions - those with a proven track record for delivering a higher quality of education and better life chances for children. That is why we have encouraged the development of multi-academy trusts, supported good school leaders to take over failing schools, while also helping groups of parents, teachers and others set up free schools themselves.

6.   However, there are a number of institutions for whom creating new school places or improving existing schools is either not incentivised or is actively prohibited by current regulations:

7.   **Independent schools**. Currently independent schools educate an estimated 425,000 pupils aged 5-15 outside the state system[2], paid for privately. Many of the best independent schools have good results in GCSE and A level exams translating into better achievement for their pupils in gaining places within higher education, for example at Russell Group universities, than their state school counterparts. The best of the independent schools all benefit from the state from the benefits offered by charitable status. We should expect these schools to assist the state-funded sector more directly, without necessarily spending more money, by building capacity in the sector through more good places and choice and control for parents.

8.   **Universities**. Britain has some of the best higher education institutions in the world with considerable academic expertise, and teaching resource, and they have a vested interest in improving attainment among school leavers. Universities are often criticised for charging higher tuition fees without widening access to lower income students, but they have little direct control over the main driver of better access: students' school-level attainment. We believe universities have a greater and more direct role to play in improving school quality and pupil attainment.

9.   **Selective schools**. There is good evidence to suggest that grammar schools deliver high-quality education to their pupils and that their pupils outperform their counterparts at non-selective schools, including when the effects of selection are taken into account. However, despite demand from parents, no new grammar schools have

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[2] Source: Schools, Pupils and their Characteristics January 2016.

been allowed since the 1998 School Standards and Frameworks Act, which prohibited new grammars. We want more good schools, including selective schools, but we want selective schools to make sure they help children from all backgrounds.

10.   **Faith schools.** Faith schools make up a third of all schools in England. The government currently applies a 50% cap on the number of children admitted by faith for oversubscribed new free schools, in order to foster inclusivity. However, the evidence suggests that this rule does not achieve inclusivity and in fact prevents some high-performing faith schools from expanding or establishing new schools. We want to deliver real inclusivity in schools, while increasing the number of good school places, including at new faith schools.

11.   This consultation sets out a series of reforms to encourage these high-performing institutions - independent schools, higher education institutions, selective and faith schools - to help improve the quality of school places in the mainstream state sector. We intend to do so by making the benefits these schools enjoy, of which other schools cannot take advantage, conditional on them doing much more to drive up the quality of schools locally or increasing the number of good school places in the system. That means we will ask them to partner with existing schools or set up new state schools.

12.   In some cases, these requirements will be built into existing agreements, so that, for example, the ability to charge higher tuition fees for university, or to maintain the key benefits associated with independent schools' charitable status, is explicitly linked to doing more. In others, we will extend new freedoms with conditions attached allowing selective schools to open on new sites or for new selective schools to be established, or by relaxing the 50% rule on faith admissions in new free schools. In all cases, the overriding objective is to create an education system that will allow anyone in this country, no matter what their background or where they are from, to go as far as their talents will take them.

13.   These proposals complement our wider approach to school improvement and our drive to build capacity in the system through multi-academy trusts. It remains the Government's ambition that all schools ultimately benefit from the autonomy and freedom to innovate and to meet the needs of their community that academy status brings, and we will be supporting schools to make this transition. Alongside this, there is a need to build capacity in the system and continue to improve the quality of existing

schools, both through our work to support academies and spread best practice, and through the proposals outlined in this consultation document. In doing so, we will create an education system that will allow anyone in this country, no matter what their background or where they are from, to go as far as their talents will take them.

14.   As education policy is devolved, these proposals apply to England only.

The need for more good school places

1.   There were significant improvements in the number of pupils able to access a good school over the last Parliament. At the end of March 2016, 86% of schools were rated good or outstanding by OFSTED, an increase of 17 percentage points since 2010. This allowed an additional 1.4 million pupils to access the best schools. However, significant challenges remain and we need to continue to build capacity in the system and ensure that existing schools that are struggling are turned around.

2.   Firstly, the pressure for good school places is increasing: primary pupil numbers grew by 11% between 2010 and 2016, and more secondary places will be needed throughout this Parliament as this demographic bulge moves through the system.[3] The most recent national pupil projections report that the primary school population is estimated to increase by 174,000 (3.9%) between 2016 and 2020, and the secondary school population by 284,000 (10.3%).[4]

3.   The co-ordinated admissions process run by local authorities is coping well with recent increases in demand. Applications for secondary school places have been increasing since 2013, and numbered 548,000 in 2016, when 95% of applicants received an offer of one of their top three preferred schools. Primary application data has only been collected since 2014, and has also shown increases to reach 642,000 in 2016. At this level 96.3% of applicants received one of their top three preferences.[5]

4.   In March this year the Department for Education published data identifying 65 local authority districts where fewer than 50% of secondary school applicants have a good or outstanding school place available to them within 5km. This means that in 20% of districts fewer than half of secondary school pupils have access to a good school within a reasonable distance of their home, and these are not necessarily rural or sparsely populated areas, as Braintree, Daventry and Hartlepool all have poor levels of access. Furthermore poor access is to be found almost everywhere in the country: the

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[3] Schools, Pupils and their Characteristics SFR 2016.
[4] Source: National pupil projections – future trends in pupil numbers: July 2016 SFR
[5] Source: Secondary and primary school applications and offers: March and April 2016 SFR.

bottom ten districts in England – which all provide fewer than 25% of secondary school pupils with access to a good or outstanding place – are to be found in eight out of ten regions, with London and the North West being the exceptions.

5.   All parts of the education system need to collaborate more to widen opportunity and raise standards in existing schools, in order to contribute to meeting these challenges. Four areas stand out where more could be done: independent schools, universities, selective schools and faith schools. This consultation outlines proposals for change in each of these areas.

Families who are just about managing

6.   These policies will increase the number of good and outstanding school places in the system, and therefore should benefit all students.

7.   At the moment, the primary method for judging how schools support families of modest means is the measure of those in receipt of free school meals (FSM) in the past six years. However, this captures a relatively small number of pupils whose parents have been in receipt of income related benefits, linked to the local labour market in the past six years. This includes receipt of Income Support, income-based Jobseekers Allowance, income-based Employment and Support Allowance, Child Tax Credit, Working Tax Credit and Universal Credit. This effectively means that if you earn more than £16,190, you will not qualify for Free School Meals. In January this year, 14.3% of pupils were eligible for Free School Meals.

8.   This Government believes it is important to support pupils on free school meals through the Pupil Premium and this will continue. But we also believe that schools should take greater account of those children of people on modest incomes, who do not qualify for such benefits but who are nevertheless just about managing. These are ordinary families, who have a job but do not always have job security; have their own home, but worry about paying the mortgage. They can just about manage but are concerned at the cost of living and getting their children into a good school. Children from these families are not necessarily well-served by the education system.

9.   We lack a similar way to record the experiences or outcomes of those not in this group. The majority of ordinary families, even those struggling to get by, are not caught

by the FSM measure. This means that there is no reliable national picture of the impact of policy on families above the FSM eligibility threshold. There is no way to differentiate between the school experience of a child from a family which is struggling to get by, and that of a child from the wealthiest 10% of families. This distorts policy to focus at a cliff edge whereas the reality is that there are children from ordinary, working families with otherwise similar educational prospects not getting the support they need.

10.   The Government wants to develop a way to identify the group of people who are 'just about managing' in order to understand the impact of policy on those falling just above the eligibility threshold for free school meals. We want to work with experts and specialists to identify the best and most robust way to identify this group and measure their attainment and progress in the school system.

Q: How can we better understand the impact of policy on a wider cohort of pupils whose life chances are profoundly affected by school but who may not qualify or apply for free school meals?

Q: How can we identify them?

Independent schools

Case for change

1.   The UK's independent schools have a long history and the best have a world-wide reputation for excellence. They produce excellent exam results and well-rounded citizens who go on to excel in a variety of fields.

2.   However, despite the fact that many of the top public schools began life as foundations for poor, bright pupils, these same schools are now increasingly out of reach. Average fees have increased by more than 20% over the last 5 years. [6] At the same time, there has been a 33% increase since 2008 of non-British students with overseas parents attending these schools[7].

3.   Recognising this, many public schools offer scholarships and bursaries to enable pupils from ordinary backgrounds to attend. But there is much more they should be doing so that children from a much wider variety of backgrounds truly benefit from the excellent education they can deliver.

4.   Many of these schools enjoy charitable status, and the associated advantages including relief from business rates. We believe independent schools could and should do more as a condition of these benefits and their privileged position. We want to see them doing more to increase the number of good and outstanding school places in the state system and to give more ordinary students access to the education they deliver.

5.   Our proposals will ensure that independent schools are doing more to benefit ordinary families, particularly those who are just about managing. These families cannot afford independent school fees but are also often earning enough not to be eligible for direct state support. The quality of their local school is important to them. We are asking independent schools to spread their expertise through the state system to benefit families like these, by setting an expectation that the best independent schools sponsor state schools and offer funded places.

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[6] Source: http://www.lloydsbankinggroup.com/globalassets/documents/media/press-releases/lloyds-bank/2015/150911-cost-of-private-schooling-final.pdf

[7] Sources: http://www.isc.co.uk/media/2454/2008_annualcensus_isc.pdf and http://www.isc.co.uk/media/2661/isc_census_2015_final.pdf

Evidence

6.   There are approximately 2,300 independent schools in England, ranging in size from the very small (single digit numbers of pupils) to the very large (nearly 4,000 pupils). Many of them are very small: almost 50% are smaller than 150 pupils, with a median size of 154. The fees range from £20k per year in a prestigious day school (and approaching double that in a boarding school) to far smaller amounts in small religious schools. [8] Similarly, quality varies from world-leading education to some small, poorly-resourced schools which may have difficulty meeting the Independent Schools Standards.

7.   About half of the schools in the sector (c.1,300) are registered as charities. Schools with charitable status, like other charities, must demonstrate that they meet Charity Commission 'public benefit' rules – that is to say they benefit a reasonably wide section of the public rather than a narrow group of individuals. The most common way in which this is done is through the use of funds to give bursaries and fee discounts.

8.   Lots of schools already have partnership arrangements with state schools (1,112 of the 1,157 Independent Schools Council schools). These vary enormously in scope - from substantive facilities sharing and teaching to 'buddying' programmes. Examples of the best include:

- The Aspirations project run by Kings College Wimbledon for seven state schools to raise the academic and vocational aspirations of students of less privileged backgrounds. The programme includes masterclasses, science lectures, practical learning of debating skills, a university visit, an annual course of GCSE sessions and a university applications day; and
- The York Independent State School Partnership between eight state funded schools and 3 independent schools, runs a programme of masterclasses for the most able students across the city, providing academic challenge through opportunities which state schools cannot provide alone, and provides Latin GCSE to students from maintained schools and twilight training sessions for teachers.

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[8] Source: DfE School Census 2015

9.   Many fewer schools have chosen the more resource and time-intensive option of sponsoring or co-sponsoring an academy or setting up a free school: 8 independent schools already sponsor 11 academies. Examples of excellent free schools established by independent schools include:

- Westminster School is the key partner in sponsoring Harris Westminster Sixth Form with Harris Academy Trust. Students at the free school share the facilities and the teaching expertise of Westminster School;
- Eton College's successful establishment of Holyport Free School, a state boarding school; and
- The establishment by Brighton College, with support from 5 other independent schools, of the highly successful London Academy of Excellence, a new sixth form academy for bright children from under-privileged backgrounds in Tower Hamlets and Newham.

Proposals for reform

10.   Our objective is to harness the capacity of independent schools to offer greater benefit to ordinary families. This would be both by adding extra capacity to the state sector – where we need good sponsors to help turn around under-performing schools – and by opening up their education to a wider range of pupils. We are clear that the biggest and most successful independent schools should face exacting requirements, while recognising that not all have the capacity and capability to act in the same way.

11.   We propose that independent schools with the capacity and capability should meet one of two expectations in recognition of the benefits of their charitable status:

- <u>To sponsor academies or set up a new free school in the state sector</u>. The capital and revenue costs of this would be met by the government, but the independent school would have responsibility for ensuring its success. We would expect this school to be good or outstanding within a certain number of years, **or**;
- <u>To offer a certain proportion of places as fully funded bursaries to those who are insufficiently wealthy to pay fees</u>. We expect this figure to be considerably higher than that offered currently at most independent schools.

12.   We would not necessarily expect independent schools to put any additional

funding into these schools. The revenue and capital funding would come from central government, although independent schools would be able to support these schools financially if they chose to. Instead, we expect these schools to bring their considerable expertise and impressive ethos to bear on the state sector to ensure more children can be taught at good schools.

Q: What contribution could the biggest and most successful independent schools make to the state school system?

Q: Are there other ways in which independent schools can support more good school places and help children of all backgrounds to succeed?

13.   We know that there are a large number of smaller independent schools that do not have the capacity and capability to take on full sponsorship. However, we believe that they still have a role to play in improving schools in the state sector. We will ask these schools to fulfil one or more of the following:

- Provide direct school-to-school support with state schools. This could include providing staff to assist state schools with teacher development and personal support between heads of department in independent and state schools to share best practice. Joining Teaching School Alliances is the best way to make those contributions to teacher development or school improvement really count;
- Support teaching in minority subjects which state schools struggle to make viable, such as further maths, coding, languages such as Mandarin and Russian, and classics;
- Ensure their senior leaders become directors of multi-academy trusts, to give strategic steer and leadership and provide experienced staff to be governors;
- Provide greater expertise and access to facilities, for example access to science labs and music, drama and sporting facilities; and
- Provide sixth-form scholarships to a proportion of pupils in each year 11 at a local school; assisting with their teaching; or helping them with university applications.

Q: Are these the right expectations to apply to all independent schools to ensure they do more to improve state education locally?

Q: What threshold should we apply to capture those independent schools who have the capacity to sponsor or set up a new school or offer funded places, and to exempt those that do not?

14.   We propose to set new benchmarks that independent schools are expected to meet, in line with their size and capacity. We think it is essential that independent schools deliver these new benchmarks. If they do not, we will consider legislation to ensure that those independent schools that do not observe these new benchmarks cannot enjoy the benefits associated with charitable status, and to result in the Charity Commission revising its formal guidance to independent schools on how to meet the public benefit test, putting the new benchmarks on to a statutory footing.

Q: Is setting benchmarks the right way to implement these requirements?

Q: Should we consider legislation to allow the Charity Commission to revise its guidance, and to remove the benefits associated with charitable status from those independent schools which do not comply?

Q: Are any other changes necessary to secure the Government's objectives?

Universities

Case for change

1.   The UK's universities are world class, with four of the top ten in the world. Many have extensive partnership and outreach programmes designed to encourage successful applications from students from all backgrounds.

2.   Their success means universities have a depth of expertise and resources to draw on – in governance, teaching and finance – which are badly needed in the schools system.

3.   Universities now have the freedom to charge a higher rate of fees. Those institutions charging fees over £6,000 have dedicated considerable amounts of resource to widen access: expenditure through Access Agreements (which universities must agree with the Director of Fair Access in order to charge above £6,000) is expected to reach £745 million in 2016/17.

4.   However, in charging higher rates, universities have been criticised for failing to widen access to children of more modest incomes and backgrounds. We believe this is unfair, on the grounds that universities currently have little involvement or direct control over the factor that has the greatest impact on access - namely, school-level attainment.

5.   We believe that universities' activity should focus more on where they can make the most difference: raising standards and attainment in the schools system. Spreading their expertise and experience through the schools system has the potential to create many new good school places - offering new opportunities to ordinary families, especially those just about managing – and improving the quality and diversity of sixth form students who go on to study at higher education institutions.

6.   Many universities in the UK have partnership arrangements with academies or free schools already. A much smaller number have set up new free schools or sponsored existing academies. The Government would like to see all universities match those examples, and sponsor existing schools or set up new schools in exchange for the ability to charge higher fees.

Evidence

7.   It is strongly in universities' interests to improve attainment at schools. Research shows that prior attainment of pupils is the overriding factor in predicting access to university. Research conducted by the Institute for Fiscal Studies[9], on behalf of Government, shows that for students who took their GCSEs in 2008, pupils from the most advantaged background were 33 percentage points more likely to progress to higher education than pupils from the most disadvantaged background. Once background characteristics and prior attainment are taken into account the gap reduces to 4 percentage points. A key factor holding back prospective students is the quality of education they receive at school. We believe that there is a compelling argument that universities should focus on raising attainment at school.

8.   Some universities already run excellent schools:

- King's College London took advantage of the free schools programme to open a specialist sixth form college - King's College London Mathematics School (KCLMS) - to encourage young people across London with a facility in maths to pursue these highly academic options. The results have been outstanding. In August 2016 100% of KCLMS students received an A* or A grade in Mathematics, including 83% gaining an A*.

Proposals for reform

9.   Despite some excellent examples of universities sponsoring schools, this level of direct involvement is far from the rule. We believe all universities could and should play a direct role in raising attainment in schools to widen access, and for this to be made a condition of their fair access requirements.

10.   We want higher education institutions to meet the following requirements as a condition of charging higher fees:

- Establish a new school in the state system, of which the capital and revenue costs will be met by the government, **or;**
- Sponsor an academy in the state system.

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[9] Socio-economic, ethnic and gender differences in HE participation, BIS, November 2015

11.   In both cases, we would expect this school to be good or outstanding within a certain number of years, and over time we would expect universities to extend this partnership with the schools sector, to charge the higher rate of fees. For example, we would ask universities to extend their support to further schools after a certain number of years, which in turn would be required to be Good or Oustanding over time.

Q: How can the academic expertise of universities be brought to bear on our schools system, to improve school-level attainment and in doing so widen access?

Q: Are there other ways in which universities could be asked to contribute to raising school-level attainment?

12.   We want to see universities begin to sponsor schools as soon as possible. In the immediate term, the Government intends to set out new guidance to the independent Director for Fair Access (DfA), with a clear expectation that universities would contribute to school-level attainment as a condition of charging higher fees, and that we want them to do so by sponsoring academies or establishing new free schools.

13.   This will inform the DfA's own guidance to higher education institutions on their access agreements, which are conditions of charging the higher rate of fees. This would build on the guidance already issued to the DfA in February 2016, which placed a strong emphasis on working with schools.

14.   The letter of guidance would be issued in early 2017, in time for inclusion in the DfA's own guidance to universities for access agreements that come into force for 2018/19.

15.   In terms of accountability and enforceability, the DFA already possesses the ability to refuse to renew an Access Agreement, meaning an institution will not be able to charge higher fees if it fails to deliver against its own Access Agreement.

Q: Is the DFA guidance the most effective way of delivering these new requirements?

16.   Beyond this guidance, we will consider what further measures, including potential legislation in a future Parliamentary session, are necessary to require sponsorship of a school as the specific means by which universities contribute to raising attainment and

widening participation, where the DFA does not currently have the power to do so.

Q: What is the best way to ensure that all universities sponsor schools as a condition of higher fees?

17.   In addition to, but not instead of, the above requirements, universities could consider:

- supporting schools through being a member of the governing body or academy trust board;
- assisting with curriculum design, mentoring of school pupils, and other educational support; and
- provision of human resources, teaching capacity (for example in A-level STEM subjects), and finance support.

18.   In addition to driving attainment, we could ask universities to consider taking into account geography, the number of good school places or higher education participation rates when deciding where to focus their energies.

Q: Should we encourage universities to take specific factors into account when deciding how and where to support school attainment?

Selective schools

Case for change

1.	There are currently 163 existing grammar schools in England, educating around 166,000 students (around 5% of state secondary pupils). Ten local authorities (LAs) have wholly selective education systems and a further 26 LAs have one or more grammar schools in their area. The 5% of secondary school pupils attending grammar schools nationally rises to more than 25% in fully selective local authority areas. Other elements of our education system are often based on selection – at age 16 in the state-funded sector and at all ages in independent schools.

2.	Legislation currently prohibits any new selective schools and prevents existing non-selective schools from becoming selective. This means that schools cannot introduce selective admission arrangements where they do not already exist. Existing selective schools can lawfully expand, and that includes expansion in annexes or on sites separate from the main body of the school provided that the offer to pupils on the separate sites is fully integrated with the teaching and learning in the rest of the school. Approval was given to the Weald of Kent Grammar School to expand in Sevenoaks because the school clearly demonstrated that its proposed annex was fully integrated. However, the funding necessary for expansion has not been consistently available to grammar schools.

3.	Grammar schools are popular with parents and good for the pupils who attend them. The vast majority of the existing 163 grammar schools have demonstrated that they provide an excellent education for the pupils, of all income groups, who attend them. They provide a stretching education for our most able pupils, regardless of their background, which recognises, and enables them to meet, their potential. Those who do well at grammar schools are more successful at getting into university.

4.	Many selective schools are employing much smarter tests that seek to see past coaching and assess the true potential of every child. However under the current model of grammar schools – while those children that attend selective schools enjoy a far greater chance of academic success – there is some evidence that children who attend non-selective schools in selective areas may not fare as well academically – both compared to local selective schools and comprehensives in non-selective areas.

5.   We believe that there is a case for relaxing restrictions on selective education, in order to provide more good school places within the system – whether through the expansion of existing grammars, the creation of new selective schools or through allowing non-selective schools to become selective – in the interests of improving education standards and increasing choice for parents. And we believe that this can and should be to the betterment of, not at the expense of, other local schools – by supporting the creation of new good school places in non-selective schools locally at the same time.

6.   This chapter sets out our proposals to increase the number of good school places by lifting the restrictions on selection, but at the same time requiring selective schools to play a greater role in raising standards at other schools. In doing so, we do not propose a re-introduction of the binary or tripartite system of the past or a simple expansion of existing selective institutions. We propose that selective schools should be asked to contribute to non-selective schooling in certain ways, ensuring the expansion of good selective education alongside the creation of new good school places in non-selective schools. We believe that these proposals will make grammar schools engines of academic and social achievement for all pupils, whatever their background, wherever they are from and whatever their ability.

Evidence

7.   The evidence on grammar schools is based on the selective system as it currently operates. It exemplifies why selective schools should be a key part of a diverse schools system that offers parents and children a range of options for their education.

8.   At the moment, it is not an option that is available to thousands of children who do not live in a selective area or whose parents do not earn enough to afford to move to one. Yet there is considerable evidence to show that existing wholly-selective schools produce good exam results for pupils. 99% of selective schools are good or outstanding. 80% are rated outstanding, compared to 20% of non-selective schools. In 2015, almost all pupils in selective schools (96.7%) gained five or more A*-C passes at GCSE including English and mathematics, compared to 56.7% at comprehensives. This does not merely reflect the higher ability intakes of selective schools: when prior attainment is taken into account the advantage still lies with selective schools. In 2015,

98% of pupils at selective schools - who had achieved above level 4 at Key Stage 2 - gained 5+ GCSEs or equivalent (including English and maths) compared to 91% at comprehensive schools and 88% at non-selective schools in selective areas. Estimates of how much of the educational gains are due purely to attending a selective school vary, once other factors are taken into account, from zero up to around three quarters of a GCSE grade per subject.[10]

9.   Some studies have found that selective schools can be particularly beneficial for pupils on lower incomes who attend them. For example, one study[11] reported that the educational gain from attending a grammar school is around twice as high for pupils eligible for free schools meals, compared to the overall impact across all pupils. As discussed in Chapter 1: The Case for Change, we intend to develop a wider measure to capture the experience of children from ordinary working households, whose parents may not be eligible for income-related benefits or tax credits but nevertheless earn moderate incomes and just about manage to get by.

10.   Other studies suggest that there may be an association with poorer educational consequences for those pupils not attending selective schools in areas where selection is allowed. For example, one study found that pupils in non-selective local schools in selective areas performed worse – by around one GCSE grade point – than pupils with the same prior attainment educated in comprehensive schools in non-selective areas. In contrast, research for the Sutton Trust found no adverse effects of existing grammar schools on GCSE results for pupils in other schools.[12]

11.   Some studies have noted the relatively small group of FSM pupils in selective education. In January 2016, 2.5% of pupils in selective schools were eligible for free school meals, compared to 13.2% for all state-funded schools. However, as discussed in Chapter 1, there is no clear understanding of the number of children of ordinary, working families in selective education or the relative incomes of parents. We believe there is a case for looking at the wider impact of selective education of those on low

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[10] See for example http://www.suttontrust.com/wp-content/uploads/2008/10/SuttonTrustFullReportFinal.pdf

[11] Atkinson, A., Gregg, P. and McConnell, B. (2004) The results of 11 Plus selection: an investigation into equity and efficiency of outcomes for pupils in selective LEAs, cited in Coe et al (2008) Evidence on the effects of selective educational systems, CEM Centre, Durham University for the Sutton Trust

[12] Sutton Trust (2008) 'Evidence on the effects of selective educational systems' by the Centre for Evaluation and Monitoring, Durham University'

incomes or who just about manage.

Proposals for reform

12.   We want to retain and increase the academic success of selective education, while at the same time improving the educational outcomes for those that do not attend selective schools. To do so, we propose to allow the expansion of selective education in England on the explicit condition that action to expand existing selective schools or establish new selective schools is accompanied at the same time by support to ensure good quality non-selective places locally . In practice that means:

13.   <u>Support for existing grammar schools to expand</u>. We will allow good and outstanding selective schools to expand, subject to certain conditions as set out below. To support them to do so, we will make available dedicated funding of up to £50m a year and we will fund expansion of places upfront on the basis of estimates, not retrospectively, thus removing a financial disincentive to expansion. We know that some existing selective schools have expressed an interest in expanding onto a satellite site while maintaining a single integrated school across the sites. Supporting this expansion will provide additional good quality selective places in the system and would help to meet existing unmet demand (although it would not increase the number of selective schools overall).

14.   <u>Permitting the establishment of new selective schools.</u> We will enable new wholly-selective or partially-selective schools to be established by removing the existing restrictions on selection, subject to meeting certain conditions as set out below. These would be established as free schools set up in response to local demand and they would have the flexibility to select 100% of their intake on the basis of ability. Partially-selective schools take a proportion of their places by ability or aptitude and a proportion without reference to aptitude or ability.[13] There are currently only a small number of these schools, with levels of partial selection varying (most being between 10% and 35%), but we will support proposals to establish new partially selective schools.

15.   <u>Permitting existing non-selective schools to become selective</u>. We will allow

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[13] The Office of the Schools Adjudicator defines 'aptitude' as the potential to attain and 'ability' as actual attainment.

existing non-selective schools to become selective by removing existing restrictions on selection, subject to meeting certain conditions as set out below. These schools would become selective in response to local demand and would have flexibility to select 100% of their intake on the basis of ability. We will consider measures to preserve school diversity in areas where schools choose to convert in this way.

Q: How should we best support existing grammars to expand?

Q: What can we do to support the creation of either wholly or partially new selective schools?

Q: How can we support existing non-selective schools to become selective?

16. These measures will increase the number of state school places provided by good and outstanding providers – albeit the places will be selective. To ensure that we also increase the number of good and outstanding places in non-selective schools, we intend to apply conditions on new or expanding selective schools. These conditions may vary from school to school but we propose to use the following menu of options to ensure that new or expanding selective schools contribute in a meaningful way to improving outcomes for all pupils:

- Take a proportion of pupils from lower income households. This would ensure that selective education is not reserved for those with the means to move into the catchment area or pay for tuition to pass the test;
- Establish a new non-selective secondary school, with the capital and revenue costs paid by government;
- Establish a primary feeder in an area with higher density of lower income households to widen access, with the capital and revenue costs paid by government;
- Partner with an existing non-selective school within a multi-academy trust or sponsor a currently underperforming and non-selective academy. Under these arrangements, we would expect selective schools to share resources, assist with teaching, provide curriculum support, assist with university applications and contribute to governance expertise.
- Ensure that there are opportunities to join the selective school at different ages, such as 14 and 16, as well as 11. This might be facilitated through the

partnership or sponsor arrangements with other schools.

17.   In all cases, we would expect non-selective schools established or in partnership with selective schools to be rated good or outstanding within a certain number of years of establishment or of the selective school taking over.

Q: Are these the right conditions to ensure that selective schools improve the quality of non-selective places?

Q: Are there other conditions that we should consider as requirements for new or expanding selective schools, and existing non-selective schools becoming selective?

Q: What is the right proportion of children from lower income households for new selective schools to admit?

18.   It will be important to hold selective schools to account for these conditions. We propose to require selective schools to provide information on their websites about their partnership with other schools and on their success in recruiting a fair proportion of below-average income pupils. We expect that all selective schools will want to provide greater opportunity for all children, at both selective and non-selective school. We will monitor this through the work of the Regional Schools Commissioners and Education Funding Agency and existing data collections.

19.   Where schools are not meeting expectations or selective schools do not deliver good or outstanding non-selective education alongside new selective places, we will consider a series of sanctions. These would entail:

- Removing access to any additional funding streams. We will consider removing additional funding for new pupils or programmes;
- Removing the right to select by ability (either temporarily or permanently) for the offending school. We will prevent selective schools from using their freedoms;
- Restricting access to future growth. We will bar selective schools from further expansion.

Q: Are these sanctions the right ones to apply to schools that fail to meet the requirements?

Q: If not, what other sanctions might be effective in ensuring selective schools contribute to the number of good non-selective places locally?

20.   We would expect the proposers of a new school to work with the relevant local authorities, regional school commissioner or central government as appropriate in considering where best to locate a new selective school. For those new schools established through the free schools route, the application process will identify how the school will meet local demand; how it will secure applications, including for encouraging these at different ages, such as 14 and 16, as well as 11; and how it will meet the conditions. In this process, and when existing schools are converting to become selective, we believe that geography and the level of pre-existing selection are important factors. While not limiting the number of good school places, we will look at ways to particularly encourage the location of new schools where there is local demand and a need for additional good school places. Research for the Sutton Trust found that around a fifth of grammar school pupils come from outside the 36 LAs in which grammars are located[14], so there is evidence of wider demand outside the immediate areas of existing selective schools.

Q: How can we best ensure that new and expanding selective schools and existing non-selective schools becoming selective are located in the areas that need good school places the most?

Existing schools

21.   These proposals currently apply to new and expanding selective schools and existing non-selective schools becoming selective. We believe there is a case for existing selective schools to do more to support children at non-selective schools. We therefore propose to do the following:

- Encourage multi-academy trusts to select within their trust. We will make clear that multi-academy trusts and/or other good or outstanding academies can already establish a single centre in which to educate their "most able" pupils. This centre could be 'virtual' or have a physical location. This would enable the

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[14] Source: Sutton Trust 2008 report http://www.suttontrust.com/wp-content/uploads/2008/10/SuttonTrustFullReportFinal11.pdf

schools to provide a more challenging and targeted curriculum, and to create an ethos within the centre of excellence which supports all children to achieve their potential. As pupils are identified as 'most able' pupils after they had been admitted to their individual school through a non-selective admissions process, this is currently permissable.

- <u>Require existing selective schools to engage in outreach activity</u>. The best selective schools already work closely with local primary schools to raise aspirations, improve educational practice, and promote wider access. In order to ensure that disadvantaged pupils are encouraged to apply, we will expect existing selective schools to work closely in partnership with local primary schools to identify individual pupils who may benefit most from targeted activity. This may include identifying and helping children from disadvantaged backgrounds, teacher and pupil exchanges, shared resources, or financial support for transport and uniforms, which can be barriers to poorer households considering selective education.

- <u>Fair admissions and access</u>. Selective schools also need to ensure that the pupils they admit are representative of their local communities. All schools have been able to start the process of prioritising the admission of pupils entitled to the Pupil Premium since the current School Admissions Code came into force in December 2014. We need to increase the pace at which selective schools are ensuring fair access. We therefore propose to require all selective schools to have in place strategies to ensure fair access. Legislation would require selective schools to prioritise the admission of, or set aside a number of specific places for, pupils of lower household income in their oversubscription criteria.

Q: How can we best ensure that the benefits of existing selective schools are brought to bear on local non-selective schools?

Q: Are there other things we should ask of existing selective schools to ensure they support non-selective education in their areas?

Q: Should the conditions we intend to apply to new or expanding selective schools also apply to existing selective schools?

22.   The schools funding formula should recognise that there are additional costs associated with meeting the needs of pupils from families that are just about managing and pupils with low prior attainment. We are committed to the introduction of a National Funding Formula which will bring in fair funding for all schools – selective or non-selective. In our consultation earlier this year we proposed that the key factors to be included in the formula might include measures on the number of poorer pupils and the number of pupils with low prior attainment. We will ensure that the formula rewards those schools that support schools with a higher proportion of lower attaining pupils and those from less wealthy households. We will be consulting shortly on the value and weighting to be attached to these factors.

Faith schools

Case for change

1.   Schools of a religious character, or faith schools, make up around a third of all mainstream schools in England – almost 7,000 out of just over 20,000 state funded schools. The large majority of faith schools are either Church of England schools (67%) or Catholic schools (29%).

2.   The vast majority of these are high-performing schools whose performance compares well with mainstream schools. They are more likely to be rated good or outstanding by Ofsted and consistently achieve higher performance in exam results. It is also the case that pupils from poorer backgrounds perform better at faith schools than at other schools.

3.   Faith designated schools and academies are allowed to prioritise children of their faith when they are over-subscribed. Voluntary-aided faith schools (including those which have converted to become academies) are able to select up to 100% of pupils on the basis of faith. Many faith schools choose to open up a proportion of places to children of other faiths or none, and some do not apply any faith criteria at all.

4.   For new academies and faith schools that have been opened under the free schools programme, a 'cap' was introduced on faith-based admissions in order to support inclusivity and tolerance, meaning that when the free school is over-subscribed it can only apply faith-based oversubscription criteria to the first 50% of places.

5.   The effect that this has had in promoting inclusion and community cohesion is, however, questionable. In open free schools designated for minority faiths in the English school system (Islam, Judaism, Sikhism and Hinduism) the intake has been predominantly of pupils from similar ethnic backgrounds. This means we need to consider other ways in which we can ensure that these schools promote inclusivity and community cohesion. In addition, the cap is also not working to promote parental choice and access to high-performing faith schools. Some faiths have felt unable to open new schools through the free schools route because they say it contravenes religious rules. This has meant, for example, that in areas where there has been significant growth in the Catholic population, the Catholic Church has not set up sufficient school places to meet demand.

6.   This consultation therefore proposes that we replace the 'cap' for faith free schools – including for existing schools – with a series of strengthened safeguards to promote inclusivity, thereby allowing free schools with up to 100% faith-based admissions.

Evidence

7.   The vast majority of faith schools provide a high standard of education and their performance in Ofsted inspections and test and examination results compares favourably with non-faith schools. In all cases, faith schools are more likely to be good or outstanding as compared to non-faith schools (89% as compared to 86% at primary; 81% as compared to 75% at secondary).[15]

8.   Key Stage 2 tests and GCSE examination results show that in overall terms faith schools are more likely to achieve the expected standard as compared to non-faith schools. At primary level the differences are relatively small, though there are more significant differences for secondary schools where the proportion of pupils in faith schools that are achieving 5 GCSE A*-C including English and Maths is four percentage points higher than for non-faith schools.

9.   As can be seen in the table below, whilst free schools are currently limited to admitting a maximum of 50% of their pupils on the basis of faith when oversubscribed, this has not resulted in a mixed ethnic intake. In minority faith free schools (Islam, Judaism, Sikhism and Hinduism) the ethnic make-up is formed of pupils from predominantly similar ethnic (and very likely religious) backgrounds.[16]

10.   By contrast, as can be seen from the second table below, Catholic schools have a far better record on ethnic diversity than most minority faith free schools, in spite of the fact that no new Catholic free school has been established since the 50% rule was imposed because they say it contravenes religious rules. In Catholic schools the largest ethnic group (white) is less than 75% of the pupil population. "Other Christian" free schools have nearly a fifth of pupils of Asian origin and nearly a tenth from black ethnic

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[15] Source: Ofsted official statistics: Maintained schools and academies inspections and outcomes as at 31 March 2016
[16] School Census January 2016.

families, with just 55% of White ethnic origin. While ethnicity data is not a perfect match to religious affiliation, it does demonstrate a high degree of diversity not apparent in other faith settings that apply the 50% rule.

Ethnicity data for faith designated free schools

	Number of schools	Proportion of pupils classified as white ethnic origin	Proportion of pupils classified as mixed ethnic origin	Proportion of pupils classified as Asian ethnic origin	Proportion of pupils classified as black ethnic origin	Proportion of pupils classified as any other (including Chinese) ethnic origin	Proportion of pupils unclassified	Total pupil count (including those with unclassified ethnicity)
Church of England	10	63%	8%	15%	8%	5%	1%	1,538
Other Christian	36	55%	7%	19%	9%	3%	7%	6,818
Hindu	2	2%	5%	91%	0%	1%	1%	887
Jewish	6	84%	5%	2%	2%	3%	4%	456
Muslim	11	1%	4%	80%	9%	5%	1%	2,630
Sikh	11	2%	3%	89%	1%	4%	0%	1,887
Total	76	36%	6%	43%	7%	4%	4%	14,216

Ethnicity data for faith designated and non-faith state-funded schools

	Number of schools	Proportion of pupils classified as white ethnic origin	Proportion of pupils classified as mixed ethnic origin	Proportion of pupils classified as Asian ethnic origin	Proportion of pupils classified as black ethnic origin	Proportion of pupils classified as any other (including Chinese) ethnic origin	Proportion of pupils unclassified	Total pupil count (including those with unclassified ethnicity)
Church of England	4,590	81.7%	4.8%	6.3%	4.8%	1.6%	0.8%	885,339
Jewish	47	79.0%	2.2%	2.8%	1.3%	1.2%	13.5%	16,935
Methodist	25	88.9%	4.0%	4.6%	0.6%	1.3%	0.5%	3,511
Muslim	24	0.8%	3.7%	77.0%	13.1%	4.9%	0.5%	8,496
No religious character	13,362	75.0%	5.2%	11.5%	5.2%	2.2%	1.0%	5,182,291
Other	4	3.4%	4.2%	90.2%	0.8%	1.0%	0.4%	1,510
Other Christian Faith	149	76.1%	5.4%	7.9%	6.5%	2.9%	1.3%	86,012
Roman Catholic	1,968	73.7%	6.0%	7.2%	10.0%	2.3%	0.8%	648,674
Sikh	10	0.5%	6.1%	80.7%	0.5%	11.8%	0.3%	3,435
Total	20,179	75.6%	5.2%	10.5%	5.6%	2.1%	1.0%	6,836,203

Proposals for reform

11.   The existing limitations on the proportion of pupils that may be admitted in oversubscribed free schools are determined by the Department for Education and enforced through the funding agreement.

12.   <u>Given the evidence that the 50% rule does not promote diversity, we will remove these limits and replace them with a series of strengthened safeguards to promote inclusivity to</u>: ensure that faith free schools promote inclusivity, enhance understanding of other faiths and those with no faith; promote community cohesion and properly prepare children and young people for life in modern Britain. These would build on existing requirements currently included in the funding agreements and inspected by Ofsted, of all faith free schools, which require them to: act inclusively by enabling pupils of all faiths and none to play a full part in the life of the school and not disadvantage pupils or parents of any faith (or none); and actively promote the fundamental British values of democracy, the rule of law, individual liberty, and mutual respect and tolerance of those with different faiths and beliefs.

13.   In place of the 50% rule, we propose the following requirements for new faith free schools:

*   <u>Prove that there is demand for school places from parents of other faiths.</u> We propose that faith schools should be required to prove, through local consultation and signatures, that parents of other faiths would be happy to send their children there;
*   <u>Establish twinning arrangements with other schools not of their faith</u>. This would be required under the funding agreement and could be achieved by creating links between young people in different schools in structured programmes, including sharing teachers and resources and conducting joint lessons and assemblies. A number of existing faith free schools engage in twinning with schools of different faiths, which has included exchange trips and joint lessons to help develop closer ties and understanding. For example, the Tauheedul Education Trust, an academy trust with Muslim and non-faith schools, has twinned its Muslim schools in Hackney and Blackburn with a Jewish and Church of England School respectively;

- Consider setting up mixed-faith multi-academy trusts, including becoming a sponsor for underperforming non-faith schools. This would help ensure that the high standards and effective practice demonstrated by many faith schools is used to help improve others. It could also help to bring together schools with pupils from different backgrounds. Such arrangements could be used to promote greater cohesion through shared teaching arrangements, learning activities and partnering on extra-curricular activities;

- Consider placing an independent member or director who is of a different faith or no faith at all on the governing body of new faith free schools. This will help ensure that there is independent input into the governance of the school and will help ensure that they have a wider perspective beyond their own faith.

Q: Are these the right alternative requirements to replace the 50% rule?

Q: How else might we ensure that faith schools espouse and deliver a diverse, multi-faith offer to parents within a faith school environment?

14.   We would ensure that new faith schools had clear plans to meet these requirements by strengthening the guidance to free school applicants and ensuring that clear consideration of their multi-faith arrangements is part of the written and interview elements of the application process.

15.   We would monitor the compliance with provisions in the funding agreement, by checking how well these schools meet the requirements relating to inclusivity and fundamental British values and how well they promote community cohesion. Closer monitoring here would include an increased focus on how these schools are meeting the requirements as part of the regular visits from DfE education advisers in the first two years of the school's operation in the run up to their first Ofsted inspection. We would also look to strengthen our intervention powers where schools do not meet our expectations, including in relation to uniform policy, food policy and curriculum.

16.   Schools that do not meet these requirements would lose the right to admit on the basis of faith and become a non-faith school.

Q: Are there other ways in which we can effectively monitor faith schools for integration and hold them to account for performance?

Q: Are there other sanctions we could apply to faith schools that do not meet this requirement?