

BHA BRIEFING: Education Bill

Lords Report Stage, October-November 2011



Briefing from the British Humanist Association (BHA)

The Education Bill implements proposals set out in the Schools White Paper, *The Importance of Teaching*. We believe that some measures proposed by the Bill may further fragment education based upon religion or belief.

In particular, we have serious concerns about how the Bill makes voluntary aided 'faith' schools, the most extreme type of 'faith' school, the easiest type of school to set up. We are also concerned about voluntary controlled schools converting to Academies then being able to choose to increase their religious discrimination in admissions.

Schedule 11: Amendment to reverse changes making voluntary aided schools easier to set up

Schedule 11

BARONESS MASSEY OF DARWEN

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Page 87, leave out line 11

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Page 87, leave out lines 35 to 38

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Page 87, leave out lines 42 and 43

What this amendment proposes

Currently, when a proposer wishes (for whatever reason) to establish a new foundation, voluntary (controlled or aided) or foundation special school outside of a competition, they need consent of the Secretary of State to do so. Following consent, the local authority runs a consultation on the proposals.

The Education Bill, if passed in its current form, would change this so that for voluntary aided schools, consent from the Secretary of State would no longer be needed. Consent would still be needed for foundation, voluntary controlled (VC) and foundation special schools.

This amendment seeks to reverse this change.

Problems with voluntary aided schools

Almost all voluntary aided (VA) schools – 99% – are 'faith' schools. VA 'faith' schools are the most extreme type of 'faith' school:

- Admissions are determined by the school, and can discriminate against all pupils on religious grounds. In VC schools, local authorities set the admissions, and only about a quarter of local authorities have chosen to allow some or all of their VC schools to religiously discriminate, either in whole or in part
- The school can use a religious test in appointing, remunerating and promoting all teachers (and even some non-teaching staff). In VC and foundation schools, this is only one fifth of teachers
- The religious organisation sets the Religious Education curriculum in accordance of the tenets of the faith of the school. In VC and foundation schools, the locally agreed syllabus is usually taught, which is not confessional to a particular faith.
- The religious organisation appoints more than half the governors. In VC and many foundation schools, this is a quarter

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The change proposed by the Education Bill will make voluntary aided 'faith' schools the most attractive option to religious groups seeking to set up schools, because they will become the easiest to set up. This is especially so if the local authority is readily in favour of the school, in which case proposals would be extremely likely to succeed before they have even started.

It is hard to see how this change is justified, in light of the drive towards Free Schools, and the fact that Free Schools cannot religiously discriminate in admissions for more than 50% of their intake – surely a reflection that faith-based admissions criteria should be curbed, not increased.

This will increase religious segregation in admissions, extend discrimination against staff of no religion, and increase the number of schools teaching faith-based Religious Education. In summary, it would further the segregation of state schools on the basis of religion.

New Clause: Amendment to the Academies Act 2010 to discourage voluntary controlled 'faith' schools which convert to Academy status from increasing the priority of religious criteria in their admissions policies

After Clause 60

BARONESS MASSEY OF DARWEN

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Insert the following new Clause—

“Discrimination on grounds of religion or belief (No. 2)

After subsection 1(9) of AA 2010 (Academy arrangements) insert—

“(9A) Subsection (9B) applies if the school is a voluntary controlled school which is designated by order under section 69(3) of SSFA 1998 as a school having a particular religious character.

(9B) The Academy agreement must include terms imposed for the purpose of securing that no greater percentage of pupils are selected on the basis of religion or belief after, as compared with before, the conversion date, unless the Secretary of State has by order provided that section 124AA of AA 2010 does not apply to the school.””

What this amendment proposes

This amendment seeks to prevent VC converters from increasing the amount of religious discrimination in admissions, unless they have also chosen to be able to use a religious test in appointing all teaching staff (i.e. had the Secretary of State disapply section 124AA of AA2010). This creates a process that is more analogous to that of when a VC school converts to a VA school. By tying the two things together, it would make it less likely that a VC converter chooses to religiously discriminate in admissions.

Voluntary Controlled (VC) 'faith' schools, which prior to the Academies Act 2010 made up 37% of all 'faith' schools and 13% of all schools in total, cannot typically use faith-based admissions criteria. Local authorities set the admissions for these schools, and only about a quarter of local authorities have chosen to allow some or all of their VC schools to discriminate religiously in admissions, either in whole or in part.

A VC school can, following consultation, choose to become a Voluntary Aided (VA) school. VA schools control their own admissions arrangements, and can discriminate on religious grounds in selecting all their pupils – in addition to being able to use a religious test in appointing all teaching staff, having the religious organisation appoint most of the governors, and teaching confessional Religious Education. However, it is rare for a VC school to convert into a VA school, and the decision-maker on the proposal would be the local authority.

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Academies can also discriminate on religious grounds in selecting all their pupils, and must consult on any changes to their admissions arrangements. VC schools that have converted to Academies (VC converters) initially keep the same admissions arrangements as they had before conversion. The Government have argued that VC converters should (following consultation) be able to choose to increase the percentage of pupils selected on the basis of religion, just as VC schools can convert to VA schools and become able to religiously select pupils.

However, the two are not analogous. A VC school converting to a VA school is a large step which involves making a deliberate decision to change type of establishment, and then changing a wide variety of characteristics of the school – not just admissions arrangements. On the other hand, changing just admissions arrangements is a smaller step. In particular, Academies are required by law to consult on their admissions arrangements once every seven years, as a matter of course. So it is quite likely that, seven years after converting to an Academy, many VC converters will have chosen to increase their religious discrimination in admissions. Furthermore, the decision maker on the proposals will be the school itself, whereas with a VC school converting to a VA school, it would be the local authority.

This amendment, in tying together a VC school choosing to increase the amount of religious discrimination in admissions, and choosing to be able to use a religious test in appointing all teaching staff (i.e. had the Secretary of State disapply section 124AA of AA2010), makes it less likely for a VC school to choose to do the former – certainly not as a matter of course. It creates a process that is more analogous to that of when a VC school converts to a VA school.

Problems with faith-based admissions criteria

Discrimination by ‘faith’ schools can cause segregation along both religious and socio-economic lines. Professor Ted Cantle, author of a report into community cohesion in Blackburn, describes religious schools as ‘automatically a source of division’ in the town.¹ In other areas, ‘faith’ schools which are their own admission authorities are ten times more likely to be highly unrepresentative of their surrounding area than ‘faith’ schools where the local authority is the admission authority.² Separating children by religion, class and ethnicity is totally antithetical to aims of social cohesion.

Additionally, voluntary aided ‘faith’ schools have, on average, 50% fewer pupils requiring free school meals than community schools.³ Pupils starting at ‘faith’ schools are also, on average, more academically able than pupils starting at inclusive schools.⁴ This is because ‘faith’ schools’ selection criteria mean that they usually take a less than representative sample of deprived children and more than their share of the children of ambitious and wealthier parents.

The BHA wants all schools to include and educate pupils of all beliefs together, so that they can learn about and from each other, instead of being segregated by their religion.

This amendment would ensure that voluntary controlled schools which had not previously been permitted to discriminate are unlikely to begin discriminating after conversion to Academy status.

¹Comment reported in http://www.lancashiretelegraph.co.uk/news/blackburn/4351852.Cantle_report_Blackburn_a_divided_town

² Sara Tough and Richard Brooks, ‘School Admissions: Fair choice for parents and pupils’, IPPR (2007) <https://www.ippr.org.uk/publicationsandreports/publication.asp?id=546>

³ Prof Rebecca Allen in corrected transcript of oral evidence taken before the Children, Schools and Families Committee on ‘Diversity of Schools: Faith Schools’, 12 march 2008 <http://www.publications.parliament.uk/pa/cm200708/cmselect/cmchilsch/c311-iii/c31102.htm>

⁴ Stephen Gibbons and Olmo Silva, ‘Faith Primary Schools: Better Schools or Better Pupils?’, IZA Discussion Paper No. 4089 (2009) <http://ssrn.com/abstract=1369835>

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About the BHA

The British Humanist Association (BHA) is the national charity working on behalf of non-religious people who seek to live ethical and fulfilling lives on the basis of reason and humanity. It is the largest organisation in the UK campaigning for an end to religious privilege and to discrimination based on religion or belief, and for a secular state.

Our expertise lies in the 'religion or belief' equality strand, which includes non-religious beliefs such as Humanism, and how that strand relates to and intersects with other protected characteristics. We also work closely with others on wider equalities issues in a range of forums. The BHA is a member of the National Children's Bureau Sex Education Forum (SEF) and the Children's Rights Alliance for England.

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