

Reclaiming Education Bill 2015

“Time to Act” - Introduction

Over the last year the Reclaiming Education Alliance has been promoting seven key principles that we think should be at the heart of a new government’s education policies. We believe that they all need to be implemented if we are to build a school system that promotes high standards, fairness and equality across the country.

As we approach the election, we have developed our ideas about how the principles can be put into practice.

To this end we have prepared a draft Education Bill which we will be presenting for debate to an open meeting at the House of Commons on 25th February and publicising widely thereafter. This draft bill will:

- Broaden the National Curriculum to include promoting the emotional well-being of young people;
- Establish a fully comprehensive system by ending selection by ability or aptitude;
- Prevent schools from manipulating the admissions system so as to get themselves a more favourable intake;
- Ensure that there is no discrimination against young people of any kind - those who have special educational needs or disabilities, those who have different ethnic or social backgrounds or because of their gender or sexual orientation.
- Establish a common funding system that applies equally to all kinds of school and meets the needs of all young people;
- Promote co-operation between schools rather than competition;
- Require inspections to be supportive and to promote improvement rather than being essentially punitive as is the case currently;
- Ensure that all teachers have qualified status and are entitled to regular continuing professional development.
- Return all academies to maintained status so that these proposals apply to all schools. All schools should have the same rights and responsibilities and the same level of autonomy.

We intend to promote these ideas as widely as possible in the hope of influencing positively the policies that will be followed over the next few years.

So we are asking all our supporters to come and join in the debate on 25th February and to use every opportunity to persuade the political parties to adopt these ideas.

The Reclaiming Education Alliance comprises:

*The Alliance for inclusive Education
Comprehensive Future
Information for School and College Governors
The Socialist Educational Association*

*The Campaign for State Education
Forum Journal
New Visions for Education*

Reclaiming Education Bill 2015

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Make amendments to the Education Acts so as to give effect to measures to restore democratic accountability to state education; to ensure that all schools working cooperatively as part of a national system are fairly funded to provide quality inclusive education for pupils in their areas without selection or preference; to ensure that all state schools are fully staffed by qualified teachers and assisted by an inspection regime which is both rigorous and supportive

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1. National Curriculum

Section 78 of the Education Act 2002 is amended so as to provide as follows –

78 General requirements in relation to curriculum

The curriculum for a maintained school or maintained nursery school satisfies the requirements of this section if it is a balanced and broadly based curriculum which—

- (a) promotes the spiritual, moral, cultural, mental, physical *and emotional* development of pupils at the school and of society,
- (b) prepares pupils at the school for the opportunities, responsibilities and experiences of later life, and

2. School Admissions

- (1) Paragraph (c) of subsection 86(3) of the School Standards and Framework Act 1998 is repealed.
- (2) Regulations shall make transitional provision consequent on the abolition of selection by reference to ability or aptitude occasioned by the repeal in subsection (1)
- (3) Subsection (2) of section 89 of the School Standards and Framework Act 1998 is amended so as to provide –
 - “(2) Before determining the admission arrangements which are to apply for a particular school year, the admission authority shall if it is the local authority, consult the following about the proposed arrangements, namely—

- (a) the governing body,
- (b) the admission authorities for all other maintained schools in the relevant area or for such class of such schools as may be prescribed,
- (c) the governing bodies for all community and voluntary controlled schools in the relevant area (so far as not falling within paragraph (a) or (b)),
- (d) the admission authorities for maintained schools of any prescribed description, and
- (e) in the case of a foundation or voluntary school which has a religious character for the purposes of Part 2, such body or person representing the religion or religious denomination in question as may be prescribed.

and the consultation required by this section shall be undertaken with a view to securing a consensus agreement.”

- (4) For subsection 89(2A) of the School Standards and Framework Act 1998 there is substituted -

“(2A) In a case in which the admission authority for the school is the governing body, the governing body shall consult the following about its proposed arrangements, namely —

- (a) the admission authorities for all other maintained schools in the relevant area or for such class of such schools as may be prescribed,
- (b) the governing bodies for all community and voluntary controlled schools in the relevant area (so far as not falling within paragraph (a) or (b)), and
- (c) the admission authorities for maintained schools of any prescribed description

and shall not determine those arrangements without the agreement of the local authority for the relevant area.”

3. Inclusive education

In the exercise of the powers conferred upon them by this or any other enactment it shall be the duty of the Secretary of State, of local authorities having responsibilities for education in their areas and of the governing bodies of schools to ensure so far as is reasonably practicable that the educational needs of every child are satisfied to the fullest extent possible without discrimination on any ground prohibited by the Equality Act 2010 and including in particular discrimination by reference to special education needs or disabilities and without the segregation of children by reference to any such characteristics.

4. Fair funding of schools

- (1) The “schools funding principle” is that such monies as are available from public funds to meet the expenditures necessary in the provision of education are distributed fairly without preference of any one school or category of school and having regard to the needs of pupils generally.

(2) The Secretary of State shall have responsibility for devising and maintaining a national formula for the funding of schools consistent with the schools funding principle.

(3) It shall be the duty of both the Secretary of State and of local authorities having powers in relation to the funding of schools to exercise those powers in a manner consistent with the schools funding principle.

5. Co-operation amongst schools

(1) It shall be the duty of the Secretary of State and of every other person or body having functions in relation to schools to promote cooperation amongst the schools in an area.

(2) No person or body having responsibility for the management and conduct of a school shall carry out those functions in a manner inconsistent with the duty to promote co-operation.

(3) The Secretary of State shall publish and from time to time review guidelines as to the manner in which the duty to promote co-operation is to be discharged.

(4) Subsection 5(5B) of the Education Act 2005 (matters to be reported upon as the result of an inspection) is amended -

(a) in sub-paragraph (a) by the deletion of “and” and its replacement with “,” and by the insertion of “and emotional” after “cultural”

(b) by the addition thereto of paragraph (c) as follows-

“(c) the compliance or otherwise by those responsible for the management and conduct of the school with the duty to co-operate under section 5 of the Reclaiming Education Act 2015.”

6. School Inspections

(1) It shall be the duty of persons and bodies having responsibilities in relation to the inspection of educational establishments -

(a) to discharge their functions in a manner consistent with the principle that persons employed to work whether as managers, teachers or otherwise in the educational institutions which are subject to inspection shall be supported by the inspection process and its outcomes and given positive guidance as to the manner in which improvement may be achieved in the event that an inspection is considered to reveal a need for improvements to be made;

(b) to promote the development and sharing amongst maintained schools of best educational practice.

(2) Subsection 5(5) of the Education Act 2005 is amended by the addition thereto of the following-

“by reference to criteria from time to time determined by the Secretary of State following consultation with all interested parties”

7. Requirement for qualified teachers

- (1) Save as mentioned in subsections (2) and (3), no person other than a qualified teacher may be employed to work as a teacher in a maintained school or in the provision of funded nursery education provided otherwise than at a maintained school or maintained nursery school.
- (2) A person who is not a qualified teacher may be employed to work as an assistant to a qualified teacher and perform such work as may reasonably be delegated to him or her by a qualified teacher provided –
 - (a) the person is at all times subject to the direction and supervision of a qualified teacher in accordance with arrangements made by the head teacher of the school; and
 - (b) the head teacher is satisfied that the person has the skills, expertise and experience required to carry out the work that may be delegated to him or her.
- (3) A person who is seeking to achieve qualified teacher status by an approved route which involves working in a maintained school may perform such work as may reasonably be delegated to him or her by a qualified teacher provided the person is at all times subject to the direction and supervision of a qualified teacher in accordance with arrangements made by the head teacher of the school
- (4) The Education Specified Work (England) Regulations 2012 and the Education (Specified Work and Registration) (Wales) Regulations 2004 are revoked.

8. Entitlements to continuing professional development

- (1) This section applies to teachers employed to work in maintained schools or in the provision of funded nursery education provided otherwise than at a maintained school or maintained nursery school.
- (2) Teachers to whom this section applies shall be entitled in the course of their employment to access training and other facilities for their continuing professional development.
- (3) An order under section 122 of the Education Act 2002 may contain provision requiring teachers to whom this section applies to undertake courses and other forms of training appropriate to their professional development.
- (4) Regulations may provide for persons employed to work as assistants to qualified teachers in accordance with sub-section 7(2) to become qualified teachers by the successful completion of a period or periods of service as assistants and otherwise upon such conditions as to training as may be specified.

9. Academies

- (1) The following are repealed –
 - (a) The Academies Act 2010

(b) Sections 6A, 7A and subsection 11(A1) of the Education and Inspections Act 2006.

(2) Regulations may make provision for schools established as Academies prior to the coming into effect of this Act to be converted to maintained schools and transitional provision for their continued operation as Academies pending such conversion.

EXPLANATORY NOTES

1. This document in the form of a Bill to be introduced in Parliament is designed to show how legal effect can be given to the seven principles set out in the Reclaiming Education manifesto 2015. An actual Bill would necessarily be longer and more detailed to address technical legal consequences of the adoption of the seven principles. Also an actual Bill would be drafted following conventions a little different from those used here to make the effects of the Reclaiming Education Bill more easily understandable. This Reclaiming Education Bill however illustrates that a change to a fairer, more equitable and democratically accountable education system providing quality of education and real equality of opportunity for all our children can be achieved by the next government.
2. The Bill is not a comprehensive expression of the views of members of the Reclaiming Education coalition, neither individually nor collectively. There are many other measures and changes which these organisations would wish to see enacted. The Bill is concentrated on the seven core principles which the group considers to be the priorities for a new government.

3. **Clause 1**

Reclaiming Education's Principle No. 1

1. The National Curriculum should be what it says – a curriculum for all children in all English schools. As originally promised, it should be a curriculum to which all children are entitled, broadly based, balanced and designed to promote children's emotional, as well as intellectual, development.

NOTE

The amendments to Section 78 of the Education Act 2002 (appearing in italics in the text) insert the requirement that the National Curriculum shall additionally promote emotional development. This is a minor amendment with a major impact shifting the National Curriculum away from its concentration on academic and skills development to a more child holistic approach.

The Reclaiming Education coalition group also advocates a process for deciding the content of the National Curriculum which involves all interested parties in consultation with a view to achieving the maximum consensus. The curriculum should not be influenced by the opinions of which ever politician happens to be Secretary of State for Education at a particular time.

4. **Clause 2**

Reclaiming Education's Principle No. 2

2. No school should be allowed to choose its pupils.

Admission to schools should be fairly administered according to well understood rules drawn up by a locally elected education service. Selection tests must end. No child should be branded a failure at 11.

NOTE

The relevant part of section 86 of the 1998 Act currently provides

(1) A local education authority shall make arrangements for enabling the parent of a child in the area of the authority—

(a) to express a preference as to the school at which he wishes education to be provided for his child in the exercise of the authority's functions, and

(b) to give reasons for his preference.

(1A) ... [not relevant]

(1ZA) ... [not relevant]

(2) Subject to subsection (3) and section 87 (children excluded from two or more schools), the admission authority for a maintained school shall comply with any preference expressed in accordance with arrangements made under subsection (1).

(2A) ... [not relevant]

(3) The duty imposed by subsection (2) does not apply—

(a) if compliance with the preference would prejudice the provision of efficient education or the efficient use of resources; or

(b) ... [not relevant]

(c) *if the arrangements for admission to the preferred school—*

(i) are wholly based on selection by reference to ability or aptitude, and

(ii) are so based with a view to admitting only pupils with high ability or with aptitude,

and compliance with the preference would be incompatible with selection under those arrangements.

The repeal in sub clause 2(1) of the Bill would remove the words in italics. The effect would be to end selective admission.

Sub-clause 2(2) of the Bill allows regulations to be made to deal with the obvious short term consequences of the abolition of selection by aptitude or ability.

By the addition of the words in italics sub-clause 2(3) of the Reclaiming Education Bill adds to the existing law a requirement that consultation on admissions arrangements must have the objective of securing consensus.

Sub-clause 2(4) of the Bill disposes of a provision in existing law that would become redundant after other changes and replaces it with a new subsection (2A) in section

89(2A) of the School Standards and Framework Act 1998. This has the effect that where the governing body of a school is responsible for making its own admission arrangements, these arrangements must be agreed by the local authority for the area before they can take effect.

5. **Clause 3**

Reclaiming Education's Principle No. 3

3. Inclusion and equal opportunities need to be at the heart of education provision and discrimination and segregation tackled in all their forms. The needs of every child, including those with SEN and disabilities, should be fully met.

NOTE

The new clause would make Reclaiming Education's principle No.3 a statutory requirement

6. **Clause 4**

Reclaiming Education's Principle No. 4

4. All schools should be treated equally and funded according to a common formula which responds to pupils' needs.

NOTE

The new clause would make Reclaiming Education's principle no.4 a statutory requirement.

7. **Clause 5**

Reclaiming Education's Principle No. 5

5. All schools within the same area should work together, rather than compete against each other. A locally elected education service should guide, support and monitor schools as well as take decisions on school places.

NOTE

This new clause would give statutory effect to Reclaiming Education's principle No. 5.

The first amendment to subsection 5(5B) of the Education Act 2005 simply replicates Clause 1 of the Bill to ensure consistency.

The second amendment to subsection 5(5B) of the Education Act 2005 adds a mechanism for enforcing the requirement by making it one of the issues to be reported on following an inspection. After amendment Subsections 5(5) to 5(5B) of the Education Act 2005 would then read.

(5) It is the general duty of the Chief Inspector, when conducting an inspection under this section, to report on the quality of education provided in the school.

(5A) The Chief Inspector's report under subsection (5) must in particular cover—

- (a) the achievement of pupils at the school;
- (b) the quality of teaching in the school;
- (c) the quality of the leadership in and management of the school;
- (d) the behaviour and safety of pupils at the school.

(5B) In reporting under subsection (5), the Chief Inspector must consider—

- (a) the spiritual, moral, social and cultural development of pupils at the school;
- (b) the extent to which the education provided at the school meets the needs of the range of pupils at the school, and in particular the needs of—
 - (i) pupils who have a disability for the purposes of the Equality Act 2010, and
 - (ii) pupils who have special educational needs.”

(c) the compliance or otherwise by those responsible for the management and conduct of the school with the duty to co-operate under section 5 of the Reclaiming Education Act 2015.

8. **Clause 6**

Reclaiming Education's Principle No. 6

6. The inspection system, perceived by schools as hostile and threatening, should be replaced by one which is supportive, as well as rigorous. Standards should be agreed through a national consultation process and inspectors should help schools by developing and sharing successful practice.

NOTE: Sub-clause (1) if enacted would require that inspectors follow a principle of supportiveness, and promote the development and sharing of best practice.

The addition by sub-clause (2) to subsection 5(5) of the Education Act 2005 would make that subsection provide:

“(5) It is the general duty of the Chief Inspector, when conducting an inspection under this section, to report on the quality of education provided in the school by reference to criteria from time to time determined by the Secretary of State following consultation with all interested parties.”

The word “criteria” has been used rather than “standards” in the Reclaiming Education principle so as to avoid any confusion as between educational standards and the “reference points” to be used in inspections.

It is noted also that this Clause assumes the continuation of an inspection process but not the continuation of the Office for Standards in Education.

9. **Clauses 7 and 8**

Reclaiming Education's Principle No. 7

7. All those whom we employ to educate our children should have qualified professional status. Continuing professional development should be an entitlement and requirement for all staff. Unqualified staff should be given appropriate training to become qualified.

NOTE

This clause is a simple form of a provision which would restore the requirement that all persons employed as teachers must be qualified teachers. Sub-clause (2) would permit teaching assistants to support and assist teachers in on the conditions specified and sub-clause (3) would authorise “on the job” teacher trainees to be employed as teachers. The revocation of the Education Specified Work (England) Regulations 2012 and the Education (Specified Work and Registration) (Wales) Regulations 2004 would remove those more lengthy and more permissive regulations which currently permit higher level teaching assistants to do teaching work.

Clause 8 would establish an entitlement for teachers to CPD and a statutorily required opportunity for teaching assistants to acquire QT status.

Teachers may also be placed under a required to participate in CPD. Clause 8(3) would achieve this by providing that the statutory School Teachers Pay and Conditions Document may contain provision to this effect.

12 **Clause 9**

NOTE

This clause would prevent the establishment of new Academies and provide for existing Academies to be reintegrated into the maintained sector to which Reclaiming Education's seven manifesto principles will apply. The repeal in sub-clause (2) would restore the power to local authorities to establish new community schools without their being forced to invite bids from Academy sponsors. An equitable state education service providing quality education for every child cannot be achieved with the two tier system created by the present government. This clause would begin the return to a unified democratically accountable system designed to secure a good local school for every child.