

# HOW BRITISH SCHOOLS CAN ESCAPE FROM THE STATE:

OPTING-OUT OF THE NATIONAL CURRICULUM,  
STANDARD ASSESSMENT TESTS, LEAGUE TABLES  
AND NATIONAL INSPECTION IN THREE EASY STEPS

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PART I

Development  
work and  
experiments.

Education Reform Act 1988

Special cases

16.—(1) For the purpose of enabling development work to be carried out, the Secretary of State may direct as respects a particular maintained school that, for such period as may be specified in the direction, the provisions of the National Curriculum—  
(a) shall not apply; or  
(b) shall apply with such modifications as may be so specified.

(2) A direction under subsection (1) above shall not apply in such cases as may be specified in the direction.

The government promised schools freedom from local government control: the jewel in the crown of its educational reforms allows schools to opt-out of their Local Education Authority. That was the good news. The bad news is that this freedom came at the price of heavy—and heavy-handed—central government intervention. Safeguards to ensure all children were given the basics of literacy and numeracy sprouted into the cumbersome ever-mutating National Curriculum; uncomplicated pencil-and-paper checks on students and teachers swelled into unwieldy, unreliable, and unloved national testing; attempts to open information to parents expanded into compulsory raw-data league tables; a simple filing cabinet for lists of private inspection firms transmogrified into an even more bureaucratic Her Majesty's Inspectorate.

## THE LOOPHOLE

Why all this centralization occurred, apparently against the wishes of those in government, is of great interest to students of politics: teachers in schools have the hardship of living through it. It's surprising how stoically they have endured it. More surprising is that some of their endurance might not have been necessary: the architects of the 1988 Act left an important loophole—a loophole which seems to have gone completely unnoticed by those dissatisfied with the current arrangements. Hidden deep in the government's legislation is an opt-out clause. In three, as yet untried, steps, schools can opt-out where no-one has opted out before. The key lies in the National Curriculum. The National Curriculum is the national examination syllabus. Without it, there can be no SATs (Standard Assessment Tests), and without SATs there can't be any of the new league tables. Without the National Curriculum, too, the Inspectorate's all-encompassing plans are thrown.

The loophole? Section 16 of the 1988 Education Reform Act, reads:

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“For the purpose of enabling development work or experiments to be carried out, the Secretary of State may direct as respects a particular maintained school that, for such period as may be specified in the direction, the provisions of the National Curriculum—

(a) shall not apply; or

(b) shall apply with such modifications as may be so specified.”

That is, in plain English, with the Secretary of State's permission, any school may opt out of the National Curriculum, in part or in whole. Of course, the school would need to convince the Secretary of State that it was doing development or experimental work; that doesn't seem beyond the imagination of teachers to contrive. Discussions with the National Curriculum Council reveal that *not one* school has applied to opt-out in this way. Yet the arrangements do not on the face of it seem difficult. Schools need the support of their governing body, and the agreement of their local education authority, and the Secretary of State. If a school is already Grant-maintained, that it can avoid the local education authority, and with the governors' permission, go straight to John Patten.

## ALL CAN APPLY TO OPT OUT

So teachers: *there is a way out. You do not have to endure the unendurable any longer.* And this applies equally to teachers who simply object on the margins to some of the reforms, as well as to those who are out of sympathy wholesale with this government's interventions in education. For example, those teachers of mathematics who are annoyed by the nebulous and vague 'using and applying mathematics', with its emphasis on group work, meandering investigative tasks and overruling of didactic methods; teachers of History, who cannot abide by the curriculum's emphasis on skills and empathy; teachers of technology, who object to the Orders which don't make any mention of the *quality* of the products children should be producing, that seem distant from the requirements of technology in employment; or teachers of English who disagree with the particular works prescribed in the Literary Canon: all can apply to adjust the curriculum to suit the genuine aspirations they have for their students. All can apply to opt-out of the relevant parts of the National Curriculum. And it shouldn't be hard to make a 'developmental' or 'experimental' case for doing so, based on the many writings of educationalists who are objecting to these, and other facets, of the Statutory Orders.

## LIBERATION DAY!

That's really the most important part of what I want to say. I want teachers, headteachers, governors and other education-

alists to take note of this opt-out clause. I want them to go and discuss it with colleagues. And I'd love to see some school somewhere setting the whole process in motion. (I wouldn't mind if someone remembers that they read about the opt-out clause first here, and invited me over on 'Liberation Day'!). But there might be one important misgiving about my proposal which I should address. This concerns the purported benefits of the National Curriculum. There's something about the National Curriculum, warts and all, that appeals to teachers and educationalists, on the political left and right alike. If any school should succeed in undermining its national application, wouldn't this be a loss for the nation at large?

I have challenged the arguments behind a national curriculum at greater length elsewhere.<sup>1</sup> But here let me focus on three issues which I think are of greatest concern, issues of equity, standards and accountability.

## EQUITY

Take the case of equity first. The Conservative government paid lip-service to this as a motivation for the National Curriculum; similarly, the left-wing Institute for Public Policy Research, influential on the Labour Party before the last general election, also stressed equity as a major motivation for its work on an Alternative National Curriculum. But is a national curriculum a good way of addressing problems of inequality of opportunity? If there were unlimited funds in the Educational Budget then this may be the case. But given limited resources, perverse effects result. A national curriculum takes funds from the education budget, and distributes them *willy-nilly*. The school with the excellent academic reputation has the same resources devoted to it through the national curriculum, as the underachieving school in the inner city! Why is this the best solution to the problem of the 'failing' school? And the resources in question are not trivial: the current National Curriculum costs 4% of the total central government school's budget. With national testing, this rises to 14% of the total budget allocated to schools.<sup>2</sup> If there were, say, 100 'sink' schools, even the 4% could provide *five extra teachers to each 'sink' school*. That might be one better way of targeting schools in need than to distribute funds to all schools, most of which have perfectly satisfactory curricula already. By opting-out of the National Curriculum, your school can be saving the government resources, which could be directed elsewhere!

## STANDARDS

I can't see that raising standards needs a national curriculum either. The government said that standards can be raised by "setting clear objectives for what children over the full range of ability should be able to achieve".<sup>3</sup> Now, the National Curriculum points out the levels of attainment which an average child should be achieving for his or her age. Even if we could be assured of the scientific accuracy of these levels, how will they help schools "to challenge each child to develop his or her potential"?<sup>4</sup> A teacher of an 11-year old boy at level 2 realises that an average child of his age should be at level 4. So should the teacher challenge him to do better? Surely the issue of professional autonomy arises here. For the teacher might know that the child in question is already working at maximum capacity, and that what is needed is not comparisons with children of average ability, but praise for doing so well. Similarly a girl who is at level 4 *may* require the teacher to praise her a great deal, but equally she may need to be cajoled into doing even bet-

ter, depending on whether she is of average, or above-average ability. Without levels given by a national curriculum, good teachers will already have reasonable ideas about these matters, based on the *traditions of teaching within which they have been initiated*, in their schools and teacher education establishments. To suppose that simply insisting that all teachers abide by national average levels of attainment will lead 'poorer' teachers to stretch their children seems rather far-fetched. A teacher who underestimates the potential of, say, Afro-Caribbean children, is not going to react to them differently because there are now published levels for the average child: the teacher has low expectations of them *precisely because he or she has assumed that the children are below average!*

## ACCOUNTABILITY

But couldn't it be argued that parents can, with the National Curriculum, now see that some teachers are doing their children a disservice? This is an important point, and brings in the notion of accountability. Checks and balances *are* of course needed on teacher professionalism. But, now that there are some mechanisms of the internal market in place, of open enrolment, *per capita* funding, and of choice amongst some alternatives, these can at least start to bring about far greater accountability, and hence a raising of standards, than could be delivered through a national curriculum. For more accountability, let's campaign for more of the internal market, not for the stultifying rigidity of the National Curriculum.

## HURRY!

Opting-out of the National Curriculum will not be disastrous, even if it could mean the end of the National Curriculum for all. A National Curriculum is not needed for equity, nor for excellence, nor for accountability. It does undermine teacher autonomy, and opting-out of it will enable teachers to regain their sense of worth and professionalism, with consequent benefits to students.

The National Curriculum is beginning to buckle under its own bulk. I hope that opposition nationally from teachers will increase. Crucially, I hope that this opposition can be channelled *away* from the assumption that things will be better if only some other political party could get hold of the curriculum. Things would be as bad, if not worse, as I try to show elsewhere.<sup>5</sup> But meanwhile, schools can apply to opt-out of the curriculum, and show the government the seriousness of their misgivings. But hurry! If too many schools catch on, the Secretary of State might get wise and attempt to plug this remaining escape route.

## NOTES

1. James Tooley, *A Market-Led Alternative for the Curriculum*, Tufnell Press, London, 1993.
2. Department of Education and Science, *Appropriation Accounts 1990-91: Vol 8 Classes XL and XII: Education and Science and Arts and Libraries*, HMSO, Oct 16 1991; National Curriculum Council, *The National Curriculum Council Corporate Plan 1990-91*, National Curriculum Council, York, Feb 1990; Secondary Examinations and Assessment Council, *The Secondary Examinations and Assessment Council Corporate Plan 1991-4*, SEAC, London, April 1991.
3. Department of Education and Science and Welsh Office, *The National Curriculum 5-16: A Consultation Document*, HMSO, London, 1987, p. 3-4.
4. *Ibid.*
5. See footnote 1.