



# Education not for Sale

a TUC research report

## Acknowledgements

This research paper was written by Martin Johnson and Warwick Mansell and was commissioned to inform the “Education not for Sale” campaign that the TUC and the affiliated education unions are taking forward.

Martin Johnson is a Policy Assistant at the Association of Teachers and Lecturers and Warwick Mansell is a freelance education journalist.

Please note that the TUC has produced a 6-page campaign pamphlet that draws on the findings in this research report and which sets out a number of specific policy recommendations.

The pamphlet - “Education not for Sale: a campaign document”- is available on the TUC website.

## Executive Summary

### **Introduction**

The TUC commissioned this research report to investigate the current and potential impact on education and society of the privatisation of state education services in England. (The report is not concerned with the established private sector, the independent schools which consistently enrol about seven per cent of England's pupils.) It did so in the light of trends towards the entry of global edubusinesses into domestic markets which have been created by policy development over the past quarter of a century, and in the context of international trade negotiations aimed at further liberalisation of trade in services; education is the world's second largest traded service.

Schools and colleges have always bought goods and services from the private sector. In the case of schools, until the early nineties local authorities acted as purchasing agents, increasing purchasing power and providing contract compliance expertise; but there is a clear distinction between selling rulers and roofs, on the one hand, and core professional duties of teaching and leadership, on the other. The report finds that this boundary is being crossed, with the clear possibility of the flow becoming a flood.

### **The theory of the market**

The marketisation of schools in England is influenced by the neo-liberal theories of economists such as Hayek and policies enacted in the 1988 Education Reform Act. The theory is relatively simple: the features of a market for schools are:

- schools enjoy autonomy and are seen as independent
- schools are funded on a per pupil basis, providing an incentive to recruit
- parents (the 'consumer') can choose schools, and are enabled to be well informed about them
- schools must compete for pupils in order to remain viable; the outcome is that 'good' schools thrive, while 'poor' ones close, thus producing whole system improvement.

Proponents of a market have described four requirements:

- parents must value and be able to identify educational success
- parental choice must be meaningful
- schools must find it beneficial to be popular and to grow
- popularity must accrue to high quality teaching and learning rather than, say, 'cream-skimming' (recruiting high performing pupils).

None of these requirements are met more than partially in English schools; nor are they practicable, certainly without radical change to admissions policy. At present, oversubscribed schools (other than community schools) select pupils. This explains

the call from theorists of the right for selection by lottery. Expansion is often unwelcome to schools.

Many academics and politicians do not understand that the ERA made all English state schools amongst the most autonomous in the world (the supposed freedoms of academies are marginal extras); they hire and fire and manage their staffs, and control their budgets, which are provided largely on a per pupil basis, so that a voucher system would scarcely make a difference. Academy autonomy is a system weakness, making an academy like a small business with no human resources capacity, with consequent poor and unlawful practice. Fewer than a quarter of free schools seem to know about the 2010 Equalities Act and their duty to promote equality for women, black, LGBT and disabled pupils and staff.

Successive governments have attempted to enable parents to act as 'rational consumers', partly by producing more data about school performance, but across the country most parents do not prefer a school solely or mainly on the basis of its pupil performance scores.

There are other significant problems with this theory. For a market to operate there must be spare capacity in the system to allow pupil mobility. In reality, the shortage of school places in many parts of the country is a major challenge for the government and will remain so.

Another problem which is not discussed in the literature is the phenomenon of the closing school. Closure is not unproblematic; even if there is spare capacity in the locality, transfer can be traumatic and disruptive for parents and pupils.

While autonomy, with associated attempts to badge schools as offering variety, and competition have been encouraged by successive governments, two factors are at odds with this approach. Firstly, while the inspection agency Ofsted and the publication of league tables may provide consumers with data about schools, their effect on schools is to produce convergence and compliance, thus undermining choice and creating the appearance of centralisation. Secondly, in the same period policymakers have learnt about the success of an alternative improvement strategy, collaboration between schools. It is now understood that the quality of teaching and learning goes up when staff are facilitated to learn from their peers in their own and other schools. Such practice is inhibited if schools behave competitively.

Lastly, underlying all these difficulties for proponents of marketisation, is the fallacy of school effectiveness. Overwhelming academic evidence points to the school having a very small effect on pupil performance. Around 85% of pupil performance variation is accounted for by personal and social factors. The next largest factor is the classroom effect, that is the quality of teaching and learning. The effect of the school is close to zero. This was confirmed when 'contextualised value-added' scores were introduced; the very large majority of schools in England were shown to be statistically indistinguishable in terms of their effectiveness. While this runs counter to the dominant political discourse, it is undeniable.

## **Higher education**

Although there are 115 universities, the coalition government has attempted to introduce more competition into the market by encouraging private providers. It doubled the loan available to students on private HE courses although private providers are not regulated by HEFCE like all other institutions, and has allowed them to become VAT-exempt. It has allowed easier granting of degree awarding powers. These policies led to an overspend crisis in BIS.

Many private providers are small and highly specialised, but the largest, BPP, was bought by the notorious US company Apollo in 2010, with other American giants also in the market. Their main interest, however, is in forming partnerships with mainstream British further and higher education institutions, which have been required by the steady reorganisation and reduction of state funding to become more businesslike. Both Kaplan and Laureate, also notorious, have formed domestic partnerships with a number of universities which focus on foundation and post-graduate courses aimed at foreign students.

Following the establishment of a campus of the Manchester Business School in Hong Kong in 1995, other universities have established campuses abroad, particularly in emerging economies, using a variety of partnership models.

British universities have a high global reputation for quality. There are large opportunities for expansion in parts of the world with a rapidly growing middle class. But universities are learning the pitfalls of partnerships with both local institutions and global edubusinesses. Since the latter have substantial reputational problems there are risks associated with such partnerships.

## **Marketisation and academies**

The academies scheme, conceived in Labour's first term after 1997 and transformed under the coalition, is the vehicle to strengthen marketisation. At first academies were established by sponsors who needed to donate £2 million to their scheme, but by 2009 this had been scrapped and by 2012 selected sponsors were being offered extra cash.

In 2011 the government introduced a new form of academy, the free school, which are new schools billed as established by parents, teachers, and other local community groups. However, in practice these schools are more often established by existing chains of academies.

By 2012 the DfE had been reorganised with a third of the staff working on the academies programme, with around 500 working on 'performance and brokerage' alone. The government allowed first 'outstanding' and then all schools to opt for academy status and provided for enforced conversion of schools judged to be underperforming. Conversion has often been imposed by the DfE against the wishes of parents, teachers, and other local community groups. By January 2014 there were 3,600 academies, including half of all secondaries and 10% of primaries. 60% of these are 'converters'; these are completely independent schools. The remaining 40% are sponsored, but only 400 schools are members of chains of more than 20 schools.

## **Academies and privatisation**

Aspects of the academies and free schools programme amount to privatisation of England's schools. Privatisation is the transfer of a collective, shared public good to individual or private interests. While direct profits from managing state funded schools are not allowed, Michael Gove, as Secretary of State for education, has made contradictory statements about the direction of travel towards direct profit making, and the report identifies a number of ways in which privatisation is taking place.

### **Indirect privatisation**

Current rules require academies and chains to be run by charitable trusts. However, some trusts have been established by for profit companies, including foreign companies including private equity. Examples are Mosaica Inc, EdisonLearning Inc, IES, and Kunskapsskolan. The trust then buys services from its parent.

A similar arrangement is more common; a trust buys a package of services from a management company. A number of global organisations are in this business, including Babcock, Mott Macdonald, Capita and Serco. In both cases the services purchased go far beyond the traditional services required by a school, such as HR, legal advice, or catering and cleaning, which formerly were provided cost-effectively by local authorities but are now often expensively out-sourced.

Now being outsourced are core school functions, such as leadership and management, including school improvement, and the provision of curriculum and pedagogical models. This converts teaching into a commodity, sometimes trademarked. One consequence of this model, if generally pursued, would be the de-skilling of the teaching profession and the eventual loss of system capacity for innovation.

### **Academy chains acting like business**

Organisations which sponsor academies often behave in a business-like (not businesslike) way. They commonly pay their chief executives, who lead executive lifestyles, rewards in excess of the salary of the Prime Minister.

They pay great attention to branding and marketing, for example incorporating their name into the names of their schools, and their accounts treat test and exam results as 'key business indicators'. They are also expansionist, competing for the favour of the DfE to sponsor further schools and competing for pupils.

### **Privatisation of policy and administration**

The public expects their public services to be provided in a transparent way. They demand accountability. They want the government to be open in its dealings. The conduct of the policy and administration of the academies and free schools policies substantially breaches that principle. It reduces the allocation and funding of services to private arrangements.

Academies, including free schools, are set up through a private contract between the Secretary of State and the sponsor. All academies are established through a funding agreement, a lengthy contract between the two parties which sets out legal obligations on both sides. While other state funded schools are governed by law and regulation, academies are governed by these private arrangements. It could mean that pupils and parents have different entitlements in different kinds of schools.

An academy trust may appoint all school governors except for two elected parents. There is no other formal monitoring of the school, and parents have found themselves unable to raise issues with their schools. A trust with more than one school does not have to show in its accounts the spending by each school, unlike the standardised accounts produced by all other state funded schools.

In all these ways, taxpayer funded services are unaccountable to the taxpayer. Even the monitoring that is in place is conducted in private by the DfE which avoids accountability by not answering parliamentary questions or Freedom of Information requests.

There are substantial system weaknesses arising from this privatisation. There is heightened likelihood of fraud or misuse of funds. There is a lowered capacity for early identification of a school's difficulties.

### **Cronyism**

An aspect of the privatisation of policy and administration is the growth of cronyism and conflicts of interest. There are very close links between a number of individuals who have been at or near the centre of decision-making power within the Department for Education in recent years. There are obvious contacts between former DfE advisers and officials and others with close links to the department. Many have links through ARK Schools, a chain frequently promoted by ministers.

The DfE follows government policy in appointing non-Executive members of the board with a finance or other business background. In December 2013 they were Theodore Agnew, who also chairs the DfE Academies Board, Paul Marshall, David Meller, and Jim O'Neill. Sue John, a headteacher, was the only non-exec with an education background. Of these, Agnew, Marshall and Meller are also academy sponsors, and Agnew is a Conservative Party donor.

Other individuals who are not acknowledged at all at an official level support the work of Agnew in influencing decisions on academy conversion and chain expansion. These include Tom Attwood, a venture capitalist who is a director of a large chain, and David Hoare, a management consultant. A source close to an academy chain has said that Agnew told him he needed to talk to them. Agnew also said that no-one should be put on the chain's board without the agreement of Lord Nash. Attwood and Hoare then advised the source that the board needed to be changed, and followed up with phone calls and meetings at the flats of Hoare and Agnew.

Decisions about which persons and bodies are to run taxpayer funded schools are being made in this way.

## **Pupil outcomes in a marketised system**

Proponents of marketisation claim that competition between schools coupled with parental choice and product information forces up attainment. It might be argued that marketisation and privatisation would be justified if that were the case.

There are serious methodological problems in assessing the effect of marketisation on pupil performance. One is that the expansion of academies is too recent to enable effects to be observed. Another is to control for pupil intake factors. As observed earlier, academies cannot be contrasted with other state schools in terms of autonomy since all are highly autonomous.

Two recent reviews of the evidence have been conducted by researchers broadly sympathetic to marketisation. One concludes that the evidence does not support the contention that increased competition between schools leads to higher performance, with the possible exception of a faith school effect. The other concludes that the evidence that does exist at best shows only small beneficial effects on overall pupil performance. We can say that the evidence to date does not show that competition leads to improved performance.

Inflated claims by politicians should be discounted.

A further issue arises in respect of the social mix of school populations. In general, selective school systems have a high degree of social segregation. A 27 country study placed England towards the top of a middle group. Measurement of segregation is a contentious issue, but where FSM entitlement is used as a proxy for poverty, there is an inverse link between segregation rates and the proportion of community schools. Segregation did not increase after 2008 owing to the widespread increase in eligibility for FSM.

## **Education, a global business**

### **US higher education**

Six of the ten largest edubusinesses operate colleges in the US. The largest is Apollo, most of whose income is from the University of Phoenix. In 2013, Apollo narrowly avoided being placed 'on probation' by the US Higher Learning Commission because of failings in administration and governance. A US Senate report in 2012 had found that Apollo spent little on instruction, more than four times as much on marketing and four times as much was profit. It also found aggressive recruitment techniques and student loan irregularities. In the last two years Apollo has suffered reductions in enrolment, earnings and profits, with consequential halving of share price. Other US college private providers, such as Corinthian, Kaplan and EMC are in similar positions for the same reasons.

Much of the for profit higher education sector in the US operates by recruitment of a non-traditional population consisting of adults, often in employment, seeking vocational qualifications, and by new on-line methods. There has been relatively little attention to quality of provision, which has been addressed only indirectly by highlighting substantial drop-out rates. However, high levels of marketing staff



and low levels of teaching and student support staff suggest an inadequate learning experience for millions of students in the US. The recent down-turn in recruitment, profits and share-price signal a crisis for US edubusiness.

### **US Charter schools**

This sector has steadily grown in size and changed in nature over the past 20 years. However, fewer than 5% of US students attend charter schools and fewer than 15% of charter schools are run for profit. There has been a tendency for low-quality providers to come and go, but as states develop accountability systems the average quality has risen. The sector remains extremely varied, both within and between states, according to the varied legal frameworks established by states.

Much of the available research is of doubtful utility. There are serious methodological problems in comparing the performance of students in different institutions, and some of methods used to define control groups lack validity. Another problem is the small sample sizes in many studies. However, it is safe to conclude that social segregation in US schools has increased since the introduction of the charter school policy. However, this is in the context of pre-existing high rates of segregation resulting from socially segregated housing. This trend is an almost inevitable result of introducing choice into enrolment in a society with very high inequalities. A new phenomenon in state education, however, apart from social segregation may be social isolation produced by the growth of virtual schools.

The varied provision is connected to varied outcomes in terms of student performance. The 2013 evidence is of a mixture, with the most common outcome being that charter schools perform at the same level as comparator public schools. About a quarter do better at reading and just over a quarter at math, but the differences are small. Schools run for profit have very similar outcomes to other charter schools. There is good evidence, however, that charter schools produce greater value added for poor black and Hispanic English learners than their public school neighbours, with differences of a term's learning per year in some cases.

Apart from effects on students, charter schools also raise issues of governance, accountability and probity, with the for profit sector of particular concern. Where the legal framework is weak, as in Florida, dissatisfied parents have little effective redress, providers are subject to insufficient scrutiny, and networks of edubusinessmen make profit from school real estate contracts. In Michigan, high quality schools lose out to aggressive marketing, including gifts for students on recruitment, from expanding but ineffective chains. Meanwhile, in more regulated Massachusetts such practices do not occur.

The schools' edubusiness does contain examples of concentration of ownership; in 2011, Pearson acquired Connections Education (see above) for over \$400 million. Other larger companies remain independent, but their growth has stalled and they seek expansion in the virtual school market or abroad. At the same time, there remains a very large number of small providers, many responsible for a single school. Quality control is an issue for schools managed by providers large and small.

The standard method of dealing with poor performance is to cancel the charter contract and close the school, although in some states monitoring and support programmes are provided. Closure of failing schools is a key aspect of the marketised approach to school supply: where there is choice and competition, the good schools will thrive and the poor will decline and close. This theory is not working in Michigan, but nowhere in the literature is there discussion of the effects on communities and students of the closure of their school.

If some charter schools and some large providers are successful, while others are not, it may be time for researchers to switch their attention towards investigating the characteristics of the more successful schools – and since the same applies to public schools, perhaps the structural debate should be replaced by a school quality debate. On the other hand, there is extensive anecdotal evidence of negative practices in the for profit sector which may be a concern for public policy independent of student performance issues.

### **Sweden Free schools**

There are many similarities between free schools and charter schools. The evidence, while inconclusive, suggests that in both systems any effects on student performance are small. In both there is a large range of quality, with weak controls and accountability. The government plans to tighten legal requirements on free schools while there is evidence that previous legislation has been ignored.

However, there is a major difference which has had a significant effect. In the US, until recently venture capital has largely restricted its interest in edubusiness to higher education. As noted above, in Sweden large providers of schools have been taken over by private equity, including by the US company Providence. Whereas in some states of the US school providers may be forced out of business by the cancellation of contracts for quality reasons, in Sweden schools have been closed by providers for lack of profitability. In the case of JB Education, this business decision was taken hastily and without consultation. In two towns, municipal schools were left to pick up the pieces and offer school places to students.

As discussed earlier, the closure of a school is not an unproblematic event as assumed by the proponents of a market model. Whatever the impact on future cohorts, the difficulties and disruption to the cohort within the closing school should not be ignored. All the students displaced by the abrupt closure of six secondary schools and an elementary school by JB Education have been found places elsewhere, but their transfers are unlikely to cause no difficulties.

Another issue raised by the application of a market model in Swedish schools is that of efficiency and value for money. Free schools are funded on the state student voucher system, but there is protection for municipal schools which are undersubscribed. As the government has reported, this leads to additional costs. There are no clear benefits derived from these costs.

## Summary

Some trends in global edubusiness:

- After some twenty years, the US and Swedish markets are unstable. Operators continue to enter and leave the market. There are many small enterprises.
- In many jurisdictions there is infrequent monitoring and accountability, and inadequate quality assurance. There is a low propensity for the classic market mechanism of supply and demand to force up quality or squeeze out poor quality; Market exit is generally due to state regulatory action. There is no evidence for the private sector providing a substantially higher quality product than state education.
- The profitability of edubusiness is problematic in the longer term. The very large higher education companies in the US and the relatively smaller school companies in Sweden are seeing reductions in enrolment, turnover and profit. While demographics play a part in this trend, so does the pressure on public spending which holds down the levels of government grant on which all edubusiness depends except where higher education is funded by student fees and student loan arrangements are privatised. In the early period of a market, some firms manage high profit levels, but profit from the ‘core activity’ of providing learning tends to reduce. Successful school companies might expect a return of around five per cent.
- A low level of profit may be satisfactory to small enterprises which have a public service ethos. Larger organisations are prone to takeover by individuals or companies with a greater stress on the profit motive. In some cases, this leads to corruption, fraud, or (as in Florida schools) the treatment of school management as a real estate opportunity. However, more usually such companies, especially private equity which has invested in some sectors, soon seek to diversify in two dimensions:
  - More profitable education products. Chief of these is on-line learning. Virtual colleges, and now schools, is a fast-growing sector of the market. Another approach is not to try to run schools and colleges directly, but to provide services, such as materials, particularly on-line, and management and school improvement services.
  - Geographical expansion. The developing English market has its share of entrants from both the US and Sweden, but many analysts doubt whether there are large opportunities in North America and Europe for both demographic and fiscal reasons. The Westminster government has identified China, India, Brazil, Saudi Arabia, Colombia, Turkey, Mexico, Indonesia and the Gulf as targets for British edubusiness. In the early 21st century, China’s policy of welcoming British universities to set up subsidiaries proved very attractive, but then China reviewed its approach and rowed back from privatising higher education. Today, the smart money appears to be on India, with a number of companies mentioned above opening schools there.
- The continuing interest of private equity firms in edubusiness suggests that the developments outlined above appear attractive. However, the purpose of such organisations is little connected with the products and services of the companies they manage; they aim instead to extract maximum value from their companies before selling.

## **Overall concluding remarks**

It is clear that marketisation has encouraged negative developments which up to this point might be seen to matter for two reasons. First, the current position could be seen to be of concern in its own right. Moving England's schools system from one where institutions have a meaningful formal relationship with each local community through the governing body, and one where changes to the legal rules governing what happens in each school is subject to public debate and is then binding across the system, to the more fragmented, potentially less democratic structure of academies could be seen to be a problem in itself.

Moving from a system whereby the guiding philosophy has traditionally been thought of as one of public service towards a structure of competing academies and their chains, large elements of whose philosophy seem to be borrowed from the commercial world of competing companies could also be seen to be of concern. Schools are in the grip of two opposing forces, competition and collaboration; they know that the constant drive for improved pupil performance can best be met by cream-skimming, enrolling the most capable pupils, a practice not open to all schools, but otherwise by co-operation with other schools in learning from each other better teaching techniques, or at least better test-passing techniques.

This is the real damage: schools have become individual economic entities. Schooling starts to become a commodity. Worse, as described above curriculum and pedagogy become commodities. The appearance of trade marks on the curriculum sections of school websites is anathema to professionals whose work depends on sharing good practice. If there is no bottom-up curriculum innovation teachers become de-skilled and curriculum development falters.

England's schools are replicating the nature of privatisation found elsewhere; they are rarely run directly for profit. The profits go to companies which enter into long-term management contracts, or provide more specific services such as school improvement or staff development, as well as curriculum and pedagogy packages. The economics of privatisation depends on companies converting into commodities intellectual property (skill and knowledge of professionals) which until now has been held in common, and charging schools for this property. Privately managed state schools are, for the moment at least, funded at the same level as all other schools, but pay for services, sometimes in the form of a management fee to a chain including a component for profit, thus depriving pupils of resources which are provided by the taxpayer for their education.

The second reason for concern is that developments so far show how power to take major decisions over the direction of both individual schools and of the system as a whole may rest in the hands of a few individuals. The Secretary of State has 2,000 powers, a substantial centralisation of power from schools and local and diocesan authorities to Whitehall. Free schools were supposed to be locally developed by parents, teachers and community groups, but are now more likely to be handed to academy chains. Might the danger be that England's system could be steered by the interests of a small number of individuals, including those with commercial interests? In other words, has there been a privatisation of decision-

making behind the scenes, with the potential to take the system in directions which the public might not like but might be relatively powerless to stop?

Research evidence does not show that marketisation in England has led to improved pupil performance. It is time that politicians who claim otherwise were challenged. Increases in headline results rates on average in schools are due to the other levers on school behaviour, Ofsted and league tables.

Evidence from the US and Sweden is that marketisation is associated with increasingly socially polarised intakes to schools. It is too early to observe the same effect in England, but it is inevitable if present policies continue. Since social selection is tantamount to academic selection, increased segregation will result in lower system performance.

It is time also to challenge a basic premise of supporters of marketisation and privatisation. An education market only makes sense if education is considered an individual good. Market theory places the parent as the purchaser of the good on behalf of their child. Further, most theory assumes that the good can be measured by end of school exam results narrowly defined. Incidentally, it is only on this basis that the notion of virtual schooling could arise.

This is an impoverished view of education on two levels. Firstly, since the Education Reform Act English children have had a right to a universal, broad, and balanced curriculum, which must be far wider than the narrow range of subjects making up league tables. The current pressure on schools to focus on this narrow curriculum, which is directly related to the requirement for 'market information', amounts to a denial of this statutory right.

Secondly and more generally, education is about far more than the formal curriculum. In the sociological jargon, it is the key site for secondary socialisation. In other words, it is where children learn to be social and learn social skills. It is where children experience cultures other than their own. Where children can learn the satisfactions of achievements through group endeavour, can practise their creativity, individually and collectively, where they can reflect on ethical and spiritual issues together.

In such social enterprises, children learn about their community. Their school can support, and be supported by, their community. A school must be accountable to and responsive to its community. A school is a vital community resource.

None of this computes with supporters of marketisation or the money people who wish to commodify schooling. Unless the trends towards marketisation and privatisation are reversed, England's schools, and the communities they serve, will be impoverished.

## 1. Introduction

When the World Trade Organisation was born on 1 January 1995, it brought with it into the world GATS, the General Agreement on Trade in Services. Amongst other provisions, GATS formally established education as a commodity, although this was limited by Article I(3) which excludes ‘services supplied in the exercise of governmental authority’, interpreted by the WTO as including education services provided by a government in non-market conditions. In the following two decades, there has been a huge increase in the global trade of education services.

However, some governments have been dissatisfied with the pace of discussions within GATS aimed at further liberalisation of international trade rules. In early 2012 the United States and Australia proposed the establishment of negotiations towards a Trade in International Services Agreement (TiSA), and these are now progressing towards completion in mid-2014. While a joint US/Australia paper did not include education as one of its 10 priority issues, TiSA has a broad scope and could cover education, and some governments have been seeking this. In a recent White Paper the UK government stated: ‘In order to ensure the UK is best placed to take advantage of global opportunities in the education services sector, the Government will look actively at how significant trade negotiations, both ongoing and future, could address the market access barriers which our education services suppliers face in some third country markets.’<sup>1</sup>

Whatever the outcome of the TiSA talks, the global edubusiness will continue to expand. Almost all countries have a mixed economy of public and private provision of education, and few could claim to have no market, thus possibly rendering GATS article I(3) inoperable.

Education is the second largest global service after healthcare, with spending at \$4.5 trillion in 2012. More importantly, it is expected to continue to grow with population increase and rising middle class prosperity with propensity to spend on education.<sup>2</sup> The government estimates that edubusiness earned the UK almost £17.5 billion in 2011, 75% of which related to foreign students studying at language schools, schools, colleges and universities in the UK. The remainder related to students studying for UK qualifications or at UK-based institutions in their home countries, and to the sale of goods and services.<sup>3</sup>

Although the provision of schools and colleges constitutes a large element of edubusiness, the rapidly developing global access to advanced communications technologies provides openings for on-line learning. The world’s largest education

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<sup>1</sup> International Education: Global Growth and Prosperity London, UK: Department for Business, Innovation and Skills, July 2013; par.3.25 Available online at: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/229844/bis-13-1081-international-education-global-growth-and-prosperity.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/229844/bis-13-1081-international-education-global-growth-and-prosperity.pdf)

<sup>2</sup> ‘It is also significant that many emerging economies see education as a priority and are spending comparatively high proportions of household income on education – 13% in China, 11% in India and 10% in Brazil.’

<sup>3</sup> BIS, op cit, p12

company, Pearson, offers curriculum, qualifications, and pedagogy services but does not run many schools.

In the UK, edubusiness is concentrated in England. While BIS looks at the global market, investors and entrepreneurs have responded to an increasingly benign political climate at home. Over the past two decades, the English education system has been progressively marketised, and there have been instances of privatisation. However, a number of key policies implemented by the current government has arguably led to a step change in the potential for the expansion of for-profit providers and ultimately wider privatisation in the very near future. Key policies driving this trend include the rapid acceleration of the Academy programme, the development of free schools and opening up the FE and HE sector to more for-profit providers.

In the light of these trends, the TUC commissioned this research report to investigate the current and potential impact on education and society of the privatisation of education services in England. The report is not concerned with the established private sector, the independent schools which consistently enrol about seven per cent of England's pupils. While some independent schools are run to make their owners a profit, the vast majority are run as charities, a status which is subject to debate. Modern states commit significant proportions of public spending to education, believing it to meet important economic and social needs, and this report considers the implications of the private provision of state education.

Section two looks at the development of marketisation and privatisation in England. Section three describes some characteristics of global edubusiness, with a close look at the United States and Sweden. Section four contains a commentary on the findings and draws some conclusions.

## 2. England's Education: open for business?

This section is about England. Education policy is a devolved matter within the UK, and England is clearly the 'odd man out' in terms of policy direction and ideology. This is an aspect of the greater propensity for the Westminster policy debate to be conducted on the territory of neo-liberalism than in Cardiff, Edinburgh or Belfast.

State funded schools and colleges in England have always had connections with markets and for profit organisations. They have bought goods and services, from rubbers to roofs. Until the 1990s and with the exception of higher education, purchases were made through an overarching body: the local authority. It is now difficult to remember how things worked when schools did not even have cheque-books. Education institutions were not seen as economic entities.

The movement towards changing this perception and creating a market for education services themselves was marked by the Education Reform Act of 1988. This wide-ranging Act created a national curriculum and national tests, but also a legislative framework for new universities and for highly autonomous schools. The policy debate around this reform was not about privatisation but pressed the virtues of marketisation. Essentially, it is suggested that the performance of education institutions improves when they are required to compete for 'clients' within funding systems based on enrolment numbers. Provision of data on performance and quality from tests and inspections facilitates client choice.

A drawback to this model is that 'clients' suffer during an unsuccessful institution's decline and closure. There are other problems. Without intervention there could be no guarantee that pupil places would be available when and where needed. In addition, competitive behaviour can produce negative impacts, such as inappropriate teaching and assessment practices to optimise key indicators, with desirable but difficult-to-measure outcomes relegated.

Nevertheless, there has been a longstanding consensus amongst the leaderships of the main political parties in favour of the policy of marketisation of education and other public services. Although logically marketisation does not lead inevitably to privatisation, before 2010 there were instances of private company takeover of institutions and services, and under the coalition government this tendency has grown quickly. Although public provision still dominates, as in the other countries considered in this report, everything is in place to permit a rapid expansion of private provision.

### 2.1 Higher Education

English universities have always strongly defended their independence, but have been regarded as public bodies (except for public accounting purposes). They are charitable organisations, subject to public sector rules on issues like information and transparency. They have been dependent on public funding, until recently, in the form of grants administered by statutory funding councils. They are empowered to award degrees by Order of the Privy Council. Their precise legal



status is complex and differs between pre-1992 and post-1992 institutions. In 2012, there were 115 universities with more than two million students.

For some time universities have reacted to funding and other pressures by becoming more businesslike. As Universities UK put it, ‘The distinction between for-profit and not-for-profit operation is becoming less relevant in the UK since most not-for-profit higher education institutions now operate in a businesslike manner and seek to generate surpluses from many of their activities. A key distinction is how these surpluses are distributed – for private or public good.’<sup>4</sup>

Alongside the universities are hundreds of relatively small organisations offering private higher education, largely to overseas students, with a strong focus on pathway courses towards university entrance. Others cater for specific vocations such as BPP, a provider of qualifications in accountancy, law, and now other professions. Private providers have enrolled an estimated 50,000 students or more (BPP claims 30,000), clearly much less than 5% of HE students, and the current policy uncertainty around visa requirements has created difficulties.

The Universities and Science Minister, David Willetts, entered office in 2010 with a clear aim to open up English universities to private provider competition. ‘Internationally, for-profit higher education providers are becoming more significant ... They have something to contribute and should have the chance to do so.’<sup>5</sup> This repeated a position stated as early as 2008. While in office the minister has met a number of private equity companies, including Apollo, EMC, Kaplan, Laureate, Warburg Pincus, Sovereign Capital, Providence, Silverfleet, and Exponent; most of these companies are mentioned later in this report.

Willetts drove through a wide-ranging programme of reform,<sup>6</sup> one important component being the funding system. The government grant to universities was cut by 80% and replaced by tuition fees of up to £9,000 per student. The grants distributed by the Higher Education Funding Council of England (HEFCE) remain subject to regulation and quality assurance. In 2011 Willetts doubled to £6,000 the loan available to students on private HE courses. However, private providers are not required to be regulated by HEFCE; entitlement for their students to take out student loans is granted by BIS after a relatively simple application process.

These changes created a level of state funding for private HE sufficient to encourage new providers into the market and it was enhanced in the 2013 Budget when private FHE providers became VAT-exempt. Apart from changes to funding, Willetts introduced measures to allow easier granting of degree awarding powers and the right to use the title ‘university’. Figure 1 illustrates the growth in state support for students in private institutions; only a small fraction of their students apply for loans.

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<sup>4</sup> Universities UK 2010 *The growth of private and for-profit higher education providers in the UK* London Universities UK p4

<sup>5</sup> Willetts D. 2010 *speech to annual conference of Universities UK* 9 September 2010

<sup>6</sup> See, e.g. Brown R and Carasso H 2013 *Everything for sale: the marketisation of UK higher education* Abingdon Routledge

Figure 1: Growth in student support costs at alternative providers, 2006/07 to 2011/12<sup>7</sup>

<b>Student support costs at alternative providers</b>	<b>Number of alternative providers</b>	<b>Number of students accessing support</b>	<b>Student support (£m)</b>	<b>Proportion of total student loan funding</b>
2006/07	64	3,280	19.1	0.5%
2007/08	60	2,820	18.5	0.4%
2008/09	65	3,270	22.7	0.4%
2009/10	82	4,230	29.2	0.4%
2010/11	94	5,860	42.2	0.6%
2011/12	110	12,240	100.3	n/a

Three providers, GSM (formerly Greenwich School of Management), BPP University College and the London School Of Science & Technology, account for almost 40% of the 12,000 students who received loans in 2011/12, while many other institutions, like the All Nations Christian College, the Wales Evangelical School of Theology Ltd, and the MGA Academy of Performing Arts, had around 10 claimant students each. In November 2013 it was reported that this policy had led to an overspend of £80million on the BIS budget as recruitment by private providers to HND and HNC courses expanded from 13,000 in 2011-12 to 30,000 in 2012-13. This is an outcome of providing financial incentives to private providers without regulating them. Having realised the unsustainability of this approach, the government will introduce controls on student numbers from 2014-15.

While the small organisations comprising the bulk of this sector may be marginal within the context of HE as a whole, BPP is large enough to have attracted the attention of Apollo Group, which bought the business in 2010. BIMM (Brighton Institute of Modern Music) and GSM were bought by Sovereign Capital, a British private equity company founded in 2001 by John Nash, currently the junior minister responsible for the academies policy, and others with interests in health care and support services as well as education. It also owns chains of private schools in England and abroad and Paragon, a work-based training provider. A third big player is Kaplan, another US based company, which owns Holborn College (not situated in Holborn) and a range of institutions offering degrees which are accredited by a number of English universities and professional qualifications.

<sup>7</sup> BIS 2012 *Applying Student Number Controls to Alternative Providers with Designated Courses* London BIS p23

But the major interest of US and other private equity and edubusiness companies lies not here, but in the mainstream universities. As described later, many of these have an international reputation and are well-placed to expand in emerging markets in Asia, South America and elsewhere. Following the establishment of a campus of Manchester Business School in Hong Kong in 1995, various models of foreign partnerships have evolved. In 2006 there were nine, in 2011 25, with further development since then. A more common but risky approach is to franchise foreign institutions. It is already clear that such expansion is not a simple route to profit.

Partnerships between British universities and universities abroad are now common. However, partnerships between British universities and edubusiness tend to focus on expansion at home. An example is Kaplan, which apart from its own institutions has established Kaplan International Colleges in partnership with Bournemouth, Brighton, Glasgow, Liverpool, Nottingham Trent, Sheffield, and Westminster Universities and seeks further expansion. They offer foundation and postgraduate diploma courses aimed at overseas students. Kaplan would like to acquire a university. While its turnover in US declines, Kaplan International increased revenue by 5% in the first nine months of 2013, although profit was down partly due to investment in growth.

The huge on-line provider, Laureate, under heavy scrutiny in the US for student recruitment and programme quality issues, also aspires to penetrate substantially the UK HE market. Its Laureate International Universities network includes more than 65 accredited campus-based and on-line universities with more than 750,000 students in 29 countries in North America, Latin America, Europe, Asia, North Africa and the Middle East.

As long ago as 1999 Laureate entered a partnership with Liverpool University to provide on-line postgraduate courses. Liverpool claims ‘total academic oversight of the programmes, their curriculum, the faculty members, the assessment of students and the awarding of degrees. Laureate provides the marketing, programme design, infrastructure and administrative support for the online programmes.’<sup>8</sup> This programme has expanded recently; it has 5,000 graduates but more than 10,000 students currently enrolled. In 2012 a similar partnership commenced with the University of Roehampton, which offers three on-line postgraduate degrees in business. The programmes are validated by the University of Roehampton but delivered online by Laureate.

In summary, the award of a Royal Charter to the University of Buckingham in 1983 has not been followed by a proliferation of private universities. Instead, US companies seeking European expansion have linked with existing institutions, which benefit from recruitment of additional students. It is possible to see this intervention as marginal in a number of ways. Firstly, the number of students is relatively small. Secondly, most courses are either foundation or postgraduate and the curriculum areas are limited, with an emphasis on more directly vocational

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<sup>8</sup> Accessed at <http://www.liv.ac.uk/study/online/faqs/the-role-of-laureate-online-education/> 19 November 2013

courses. Thirdly, the recruitment focus is overseas students. However, universities run clear risks in engaging in these partnerships. Given the very poor track record in the US of the private partners, universities must be able to monitor recruitment techniques and course quality in both virtual and ‘bricks-and-mortar’ settings, as well as maintaining stringency in validation. The global attractiveness of British higher education rests on its reputation for quality; it must not allow partnerships with private providers with very poor track records damage that reputation.

The overall strategy of private education providers, and indeed the more entrepreneurial British universities, is global. The growth of the urban middle class, particularly in parts of Asia, the Middle East and South America, is creating expanded effective demand for higher education. Whether on their own, in partnership with local institutions, or in partnership with edubusiness giants, British universities are learning the pitfalls of these arrangements. Whichever of the large number of typologies of arrangements is used, the issue is clearly one of ‘mission or motive’<sup>9</sup>.

## **2.2 The marketisation and privatisation of England’s schools**

England’s schools system may already be well on the way to having been privatised, over a comparatively short period of time and with very little public debate. Here we examine moves away from the system of local authority oversight of state education which prevailed for more than 60 years after World War Two, towards arguably a much more privately-managed future. While full privatisation in terms of schools being allowed to be run directly for profit has yet to arrive, reforms which have taken place in the past 25 years would seem to provide a platform for this to happen relatively easily, if politicians have the appetite for it.

There are compelling arguments that privatisation in at least some important senses of the word has already happened to large swathes of England’s state-funded provision, against the backdrop of a system which hands huge and largely unchecked powers to ministers to drive through a particular political agenda, more or less whatever others, including local communities, may think and often with comparatively little discussion.

### **2.2.1 The theory of the market in schools**

In England, the proposition that schools would be more effective if organised as a market can be traced back through think tanks such as the Institute for Economic Affairs to the liberal economist Hayek. The foundations for change in that direction were laid in the Education Reform Act (ERA) of 1988. Amongst other things, it required schools to become locally managed, with their own budgets based largely on the number of pupils on roll.

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<sup>9</sup> Levy D 1986 *Higher education and the state in Latin America: private challenges to public dominance* Chicago University of Chicago Press

The OECD rates the English system as one of high autonomy, but this is not with reference to academies, but to all maintained schools. The ‘freedoms’ claimed for academies are as follows:

- to opt out of the national curriculum; yet all kinds of schools experiment with curriculum, they are not obliged to teach only the national curriculum and in practice they are not inspected for curriculum coverage;
- to opt out of national pay and conditions of teachers; yet the national contract gives very substantial flexibility to managers and in practice hardly any academies have felt the need to use this;
- to vary the school day, term or year; but this is available to all schools;
- to retain the funding ‘top-slice’ which is taken from community schools by the LA; but academies have to pay for services, and chains take their own top-slice;
- to become their own admissions authority, a privilege shared with VA and foundation schools.

However, even respected researchers such as Machin and Silva typically misunderstand both the formal and informal arrangements of school administration:

‘Starting with community schools, these institutions are mainly organized and managed through the local education authority (LEA) and their governing body is predominantly composed by members of the staff and representative of the LEA. Responsibility for recruiting, human resources decisions and admissions is in the hands of the LEA.’<sup>10</sup>

In fact, in community schools at least a third of the governors must be parents, and at least a fifth must represent the community, with a maximum of a third from the staff. Recruitment and HR decisions, including dismissal, are the responsibility of the governors, not the LA.

As discussed later, the error is made by researchers who use academies compared with community schools when seeking to compare more autonomous with less autonomous schools in their analyses of the effects of marketisation. Researchers are not alone. Twenty years after the implementation of local management reforms, including the rights to recruit and dismiss staff, to determine the curriculum (within national limits), and to spend their own money, it is perplexing to still find political and media references to local authorities controlling their schools. It is true that English schools have become much more constrained over that period, but this is due entirely to prescription from national bodies, particularly Ofsted and the DfE.

There is a very substantial consensus in favour of ‘autonomous schools’, a policy strongly supported by the OECD as reflected in its analyses of PISA results. Many virtues are claimed, although much of the debate suffers from woolliness; exactly what kinds of autonomy, and in what areas of operation, are rarely specified, and

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<sup>10</sup> Machin S and Silva O 2013 *School Structure, School Autonomy and The Tail Centre for Economic Performance Special Paper 29* London LSE p4

the strength of the countervailing constraints is usually underestimated. In fact, the areas where autonomy improves pupil performance are connected to pedagogy: the practice of teaching and the organisation of resources to support effective teaching. For the purposes of this report one associated outcome of autonomy as practised in England is particularly important: schools have become independent economic entities.

The form of autonomy enjoyed by academies gives no more professional independence to teachers with regard to their classroom practice. Indeed, many have less independence, being required to teach according to the model, and in some cases exactly to the model, provided by the chain sponsor. On the other hand, academy autonomy has significant system drawbacks. It reduces day to day accountability and responsiveness, including to the community, with the DfE clearly unable to monitor all academies. It increases the chance that poor practice will go unchecked.

One important aspect of this is the attitude of academies to equalities issues. While this is a concern for all schools, 40 per cent of which were found to be unaware of their Public Sector Equality Duty (PSED), academies are particularly prone to ignore their duties. A 2013 study found that fewer than a quarter of them referred to their PSED duties, with an even lower figure for free schools.<sup>11</sup> A number of cases have arisen in which they have rejected the admission of disabled pupils and claimed their funding agreements exempted them from the appeal procedure (see below). Furthermore, fewer than a quarter of free schools seem to know about the 2010 Equalities Act, and their duty to promote equality for women, black, LGBT and disabled pupils and staff.

Staff often feel they have nowhere to go to deal with problems with their conditions, including failure to adhere to equalities principles. In local authority schools, there are clear mechanisms for dealing with such issues. This kind of autonomy is a system weakness, not a strength. It makes an academy like a small business with no human resources capacity, with consequent poor and unlawful practice. This has a negative impact on pupil learning since it tends to distract staff and reduce the level of commitment without which schools cannot succeed.

The ERA also changed pupil enrolment procedures to increase the influence of parental preference, usually misrepresented as parental choice, and permitted schools to opt out of local authority control. Together, the measures introduced a number of elements of a market. The proposition is that parents are aware consumers, with a choice of schools. Schools then compete for pupils in order to maintain viability, and the competition raises effectiveness. For the market to be effective, schools must be differentiated products.

As we shall see, the most radically marketised school systems use vouchers to enhance the concept of parent as consumer, but even in those systems there is no price competition, normally considered an essential element of a market. For that

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<sup>11</sup> ROTA 2013 *Do free schools help to build a more equal society? An assessment of how free schools are complying with statutory requirements on equality* London Race on the Agenda accessed at [http://www.rota.org.uk/webfm\\_send/241](http://www.rota.org.uk/webfm_send/241)

reason, the term ‘quasi-market’ was introduced by Le Grand<sup>12</sup>. Since the implementation of the ERA, successive governments have attempted to reform schools to increase their resemblance to a market. While the three main political parties argue about policy detail in order to create an impression of difference, the thrust of policy towards marketisation has been constant regardless of which of them has formed the government.

In a 2010 paper for the RSA project ‘The 2020 Public Services Trust’, Allen and Burgess describe four requirements of a market for schools:

- Parents must value and be able to correctly identify educational success as a school characteristic
- Parental choice must be meaningful and capable of affecting the allocation of pupils to schools
- Schools must find it beneficial to be popular and to grow
- The best way for schools to be popular must be to raise the quality of teaching and learning, rather than engage in other activities (such as cream-skimming easier to teach children).<sup>13</sup>

The authors’ measured discussion of these requirements indicates serious impediments to the operation of a market even though schools have become dominated by some of the associated demands. However, the emergence of a Conservative-led coalition government in May 2010 encouraged policy theorists of the right to press the claims of further mechanisms to strengthen market behaviour in public services, despite the stubborn reluctance of citizens to support marketisation. Think tanks such as Policy Exchange, the Institute of Economic Affairs and the Adam Smith Institute have published papers with such proposals.

‘School Vouchers for England’, by Croft, Sahlgren and Howes is a recent example.<sup>14</sup> It takes for granted that overall attainment would be increased by more choice and competition, despite referring to the same research as described here later which produced inconclusive results.<sup>15</sup> It proposes both demand side and supply side reform, on the supposition that current arrangements insufficiently resemble a market.

On the former they propose a voucher for parents which could be redeemed at any state school or participating private school, despite accepting that maintained school funding is already heavily based on pupil numbers, and ‘the release of all data regarding school performance. The market would decide the best use of this

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<sup>12</sup> e.g. Le Grand J 1991 *Quasi-markets and Social Policy* The Economic Journal 101 pp. 1256-1267

<sup>13</sup> Allen R and Burgess S 2010 *The Future of Competition and Accountability in Education* London 2020 Public Services Trust pp15-19 accessed at: [http://clients.squareeye.net/uploads/2020/documents/ESRC\\_Allan%20and%20Burgess\\_FINAL.pdf](http://clients.squareeye.net/uploads/2020/documents/ESRC_Allan%20and%20Burgess_FINAL.pdf)

<sup>14</sup> Croft J, Sahlgren GH and Howes A 2013 *School Vouchers for England* London Adam Smith Institute

<sup>15</sup> Croft, Sahlgren and Howes 2013 Op cit p11 footnote 8

data; software developers would create efficient applications for parents, similar to how most other industries operate.<sup>16</sup> The case for the voucher is assumed, not argued. To ensure school performance is not raised by quasi-selection, it would be outlawed, along with geographical admissions criteria, and oversubscription should result in a lottery.

Like too many other education policy wonks, liberal economists have a completely misplaced faith that school leaders behave like the rational consumer of economic theory. Croft et al assume that by graduating the value of the voucher, so that pupils with SEN or other specific needs are worth more, schools will be incentivised to enrol such pupils. It is often argued that as the pupil premium increases in value, precisely this effect will be seen. Not only is there no evidence that schools behave like this, but the consensus of professionals in the administration of school admissions is that on the whole high achieving schools would rather do without the extra cash and avoid the extra demands.

According to Croft et al, on the supply side it should be made much easier to set up a school; profit should be permitted, the sponsor would be expected to provide the premises, and registration would consist only of Ofsted approval. There should be no application or vetting procedure involving local or central government. Since one of the authors (Sahlgren) is a proponent of Swedish free schools, it is not surprising that they are seen as the model.

One major difficulty with such ideas was in reality suggested by Allen and Burgess (RSA project report) described above: people often do not behave in the ways assumed by economists. They are very unlikely to do so if they do not believe a particular service amounts to a commodity. This is precisely the case with parents and state schools.

Parents choosing a school are interested in its proximity and the social class composition of the intake as well as attainment, and they judge the latter on raw measures that do not indicate school quality.<sup>17</sup> This has forced schools to concentrate on the raw scores to the detriment of real learning and a broad and balanced curriculum. The lack of relationship between popularity and quality prevents choice mechanisms from forcing up quality.

On parental choice, the current operation of admissions procedures results in selection by residence in the case of oversubscribed schools. The only way to make choice effective is to introduce significant spare capacity, which is an intention of the coalition government's academies and free schools policies, but which is expensive to the point of being unaffordable at a time when, according to the Schools Minister David Laws, '...[the shortage of school places] is certainly a massive challenge for the Department'.<sup>18</sup>

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<sup>16</sup> Croft, Sahlgren and Howes 2013 Op cit p5

<sup>17</sup> Johnson M 1999 *Failing school, failing city* Charlbury John Carpenter pp51-56

<sup>18</sup> Laws D 2013 oral evidence to House of Commons Education Committee 23 October 2013 accessed at <http://data.parliament.uk/writtenevidence/WrittenEvidence.svc/EvidenceHtml/3144>



Allen and Burgess recognise that there is no incentive for schools to grow in response to demand even though they do not discuss the very real constraints posed by buildings and land issues, nor the fear that expansion would negatively affect ethos and organisation. They suggest that this incentive can only be provided by the introduction of profit. However, the price of land in most parts of England makes the suggestion that sponsors should supply the premises for new schools completely impracticable; as mentioned earlier, returns to investors in global edubusiness are low and uncertain, and the level of start-up costs would make schools unprofitable even in the long term. Finally, they accept that popular schools do ‘cream-skim’ applications without mentioning that some of the practices they describe are unlawful but unchecked.

In addition to these impediments to an efficient market, there is a huge tension between policies aimed at increasing competition and those targeting co-operation between schools. Although Adnett and Davies discussed a possible co-existence between the two<sup>19</sup> the Institute for Government’s review of recent policy suggests that this creates difficulties, and that the coalition government’s priority in practice is co-operation.<sup>20</sup> However, this analysis ignores the work of the government in increasing ‘choice and diversity’ and creating spare capacity.

Marketisation requires a more pronounced product differentiation, and various attempts have been made to complicate structures and governance, with a proliferation of school titles, but as early as 1997 it was shown that in the apparently crucial matter for English schools of uniform the trend was to uniformity, not diversity.<sup>21</sup> Indeed, other strands of government policy have been strong drivers of convergent practice by schools, strong enough to lead to the view that the dominant trend within schools policy has been not school autonomy but centralisation. The ERA gave the Secretary of State over 200 powers, which was considered excessive by some commentators. In 2013 the Secretary of State had over 2,000 powers, including direct rights of intervention in individual academies.

Recent developments highlight the dissonance between classic economic theory and administrative practice. Theoretically, and as advocated by right wing purists, schools would close when demand drops to the point of economic unsustainability. Yet parents have a tendency to loyalty to their children’s schools, even in the face of evidence of poor performance. In late 2013 the responsible minister, Lord Nash, took decisive action against two free schools which had been cause for concern; one was transferred to a different sponsor, another was ordered to close. Thus the government preferred to use state regulation on such schools, and was not prepared to allow the market to operate. This amounts to yet another

<sup>19</sup> Adnett N and Davies P 2003 *Schooling Reforms in England: from Quasi-Markets to co-opetition?* Journal of Education Policy 18(4) pp 393-406

<sup>20</sup> The Institute for Government 2012 *The development of quasi-markets in secondary education* London Institute for Government

<sup>21</sup> Halpin D, Power S and Fitz J. 1997 *Opting into the past? Grant maintained schools and the reinvention of tradition* in Glatter R, Woods P and Bagley C (eds) *Choice and Diversity in Schooling: Perspectives and Prospects* London Routledge

demonstration that in capitalist societies markets are only possible within a framework of and with the intervention of state regulation.

By far the most powerful drivers of school behaviour are the inspection agency Ofsted and what are popularly known as the league tables, the results of key stage tests (primary) and external exams (secondary). Since school inspection reports are published, both measures may be seen as providing consumers with product information. However, both measures are treated by practitioners directly as the main influences on their practice. Despite the well-known inconsistency within and between Ofsted inspection teams, schools continuously attempt to second-guess what the next inspectors will be seeking.

Schools also organise teaching with the overwhelming aim of optimising test or exam results, independently of whether pupils are learning or learning what they need to know. The optimum is not the overall best possible results, but the best possible results with respect to the published indicators at any given time. In secondary schools, entries for various exams are now subject to sudden and frequent changes according to changes in the indicators, and are not determined by professional judgement as to the most suitable courses and qualifications for pupils.

Exam results would appear to be important not just in the formal reporting but in the reality of whether each school or academy chain is seen as a success or a failure. While few would disagree with the idea that exam results are important for young people, the notion that the success or failure of an organisation can be distilled into a few numbers, in an exercise whose conceptual foundations seem to lie in the corporate sector, would seem to run the risk of further marginalising other aspects of the education which might be on offer in those schools. This perhaps privatised concept of what it means to be educated, this narrow view of curriculum, would appear to be contributing to the pushing-out of a broader conception of education, as embodied in the past in both the state sector and, perhaps, in England's independent schools, the latter of which are arguably less like corporate businesses than are some academy chains.

A fundamental problem with this approach is that in practice it generates misapprehensions about the differences between schools and the relative impact of schools on pupil performance. Cook's recent literature review of these issues demonstrates a high degree of consensus that in general schools vary little in their effectiveness and only a small proportion of the variation in pupil performance is due to the school.<sup>22</sup> Cook states, 'Estimates of the so-called "school effect", that is the percentage of a pupil's attainment that is attributable to the school attended, tend to range from around 10%-20% (Ainscow et al 2010). The most comprehensive estimate of the relative influence of individual, family, neighbourhood and school-level factors suggests that school-level factors make up

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<sup>22</sup> Cook W 2013 *How intake and other external factors affect school performance* London RISE, the Research and Information on State Education Trust accessed at: [http://www.risetrust.org.uk/pdfs/Review\\_Performance.pdf](http://www.risetrust.org.uk/pdfs/Review_Performance.pdf)

19% of pupils' GCSE grades (Rasbash et al 2010).<sup>23</sup> He goes on, 'CVA [contextualised value-added] measures of school performance found that once prior attainment and other pupil intake characteristics are controlled for the performance of the vast majority of schools is statistically indistinguishable from one another and a school's CVA measure is a poor guide to school performance in subsequent years (Leckie and Goldstein, 2009; Gorard et al, 2013)<sup>24</sup>

Cook's 58 references are a small and recent fraction of the literature. Even supporters of the school improvement movement that gained substantial momentum in the 1990s finally concluded that the school effect on pupil performance was relatively small.<sup>25</sup> A 2005 review suggested that in relevant studies the amount of variance in pupil performance due to schools was found to range between 5% and 18%<sup>26</sup>, and a 2007 study using half a million pupil records from the national pupil database found that in secondary schools the factor was 14%.<sup>27</sup> In other words, pupil achievement is overwhelmingly due to individual characteristics and social background, not school factors.

Yet these findings require some reflection since they are so counter to the political discourse shared by all major political parties for two decades. On the other hand, the literature supports another strand of this shared narrative. Within the 20% or less of the variation in performance which is attributable to the school, by far the largest single factor is the classroom effect, that is the teaching practices of staff.

Unlike many countries, England does not operate any central or local system of allocation of staff to schools, and there is no evidence that the operation of teacher recruitment leads to uneven distribution of quality. This leads to the inevitable

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<sup>23</sup> Ainscow M, Chapman C, Dyson A, Gunter H, Hall D, Kerr K, McNamara O, Muijs D, Raffo C and West M 2011 *Social inequality: can schools narrow the gap?* Macclesfield British Educational Research Association.

Rasbash J, Leckie G, Pillinger, R and Jenkins J 2010 *Children's educational progress: partitioning family, school and area effects* Journal of the Royal Statistical Society 173(3)

<sup>24</sup> Leckie G and Goldstein H 2009 *The limitations of using school league tables to inform school choice* Journal of the Royal Statistical Society Series A 172(3).

Gorard S, Hordosy R and Siddiqui N 2013 *How Unstable are 'School Effects' Assessed by a Value-Added Technique?* International Education Studies 6(1)

<sup>25</sup> see eg Mortimore P 1998 *The Road to Improvement: Reflections on School Effectiveness* Lisse Swets & Zeitlinger, and

Teddlie C and Reynolds D 2000 *The International Handbook of School Effectiveness Research* London Falmer Press

<sup>26</sup> Chevalier A, Dolton P and Levacic R 2005 *School and Teacher Effectiveness*, in Machin S. & Vignoles A *What is the Good of Education?*, Princeton, Princeton University Press

<sup>27</sup> Cassen R and Kingdon G 2007 *Tackling Low Achievement* York Joseph Rowntree Foundation

For a review of these findings and their relationship to policy, see: Johnson M 2007 *Reforming Urban Education Systems* in Pink WT and Noblit GW Eds *International Handbook of Urban Education* Dordrecht Springer

conclusion that marketisation policy relies on misleading parents as to the relative merits of schools in terms of pupil performance. Policymakers cannot overtly support differentiation of schools in terms of the social composition of their intakes, but since parents are concerned about this when ‘exercising choice’ policymakers are in fact using performance as a proxy for social background.

In summary, any ‘unique selling point’ of a school competing for pupils cannot honestly be about pupil performance, but could be about social factors. The conditions as described by the RSA for a market (or quasi-market) in schools are unrealistic. A marketised system would need substantial over-supply of places at a time when shortage of capacity is the most serious problem for the government. As discussed later, international evidence suggests that introducing a market produces negative system outcomes, including the infrequently discussed impact on some groups of pupils of the closure of their school.

## **2.2.2 Marketisation and academies**

The vehicle for the project to strengthen marketisation, the movement away from local authority influence towards something very different, is the academies scheme. This was set up under Labour in 2000 and expanded exponentially, in terms of numbers of schools taking on academy status, since 2010 by the Conservative-led coalition government.

Academies, originally known as City Academies, were conceived under David Blunkett when Secretary of State for Education and Employment as a radical approach to the problems of inner-city secondary schools which were felt to be underperforming.<sup>28</sup> With bold new ideas felt (by those at the political centre) to be needed in addressing the multiple challenges facing these schools, they were to be given new freedoms: principally the ability not to follow the national curriculum but to tailor what they wanted to teach to pupils towards the priorities the school felt were most important; and not to have to abide by the nationally-agreed system of teachers’ pay and conditions. Many new academies also came with expensive new buildings funded by central government, often to the order of tens of millions of pounds per institution.<sup>29</sup>

Perhaps more significantly in the long run, however, was the dramatic change in the governance and legal structure that academies represented compared to that

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<sup>28</sup> City Academies effectively replaced the “Fresh Start” scheme, New Labour’s first attempt to overhaul secondary schools which were perceived to be failing. Fresh Start schools received extra money, were given new names and were spearheaded by “superheads” but did not feature the sponsorship by private individuals which was a key element of the City Academies policy. Fresh Start suffered a string of high-profile setbacks in Labour’s first term, including the resignation of several of the “superheads”. See <http://bit.ly/1cMT1Sa>

<sup>29</sup> A report published in 2007 by the House of Commons Public Accounts Committee said the average capital cost for early academies was £27 million. <http://bit.ly/1dZ81Jx>

One of the first academies, the Business Academy, Bexley, cost £35 million to build. See <http://bit.ly/1dZ8xly>

pertaining in the non-academy or maintained school sector. While, as discussed above, maintained schools ensure representation on governing bodies for elected local authorities, parents and teachers, academies were always conceived of as giving only two parties meaningful influence: the Secretary of State for Education and the sponsor.

Under Labour, in return for this influence, the sponsor had to donate £2 million towards the scheme. Gradually, however, this stipulation was relaxed, with sponsors in 2005 given the chance to receive reductions on that figure in return for sponsoring multiple schools<sup>30</sup>; then, in 2007, with academy sponsors from the university and college sector exempted from the need to donate, and then, in 2009, all £2 million fees for academy sponsorship scrapped. By 2012, the DfE was itself offering selected new sponsors extra cash, in the form of sponsor capacity funding.<sup>31</sup>

Crucially, the system of funding agreements for individual academies, or groups of academies, has represented a departure from the legal structure which has traditionally applied to state-funded institutions in England. Whereas in relation to a conventional maintained school the law governing each school is entirely defined through Acts of Parliament<sup>32</sup> which are, therefore, subject to Parliamentary debate, the central legal document for each academy is not the system of national education laws but that individual funding agreement contract with the Secretary of State. The content of that funding agreement, though it will be made public after the academy opens, is essentially a matter of private negotiation between the Secretary of State and the sponsor. Tracing, and debating, exactly what legal regulations are governing these state-funded schools can then be a matter not simply of scrutinising national education laws but of trying to check the funding agreements of, potentially, thousands of individual institutions setting out the arrangements they have come to with the Secretary of State.

This may have serious implications for those being educated at an academy. According to David Wolfe, a barrister specialising in education law at the London firm Matrix Chambers, ‘academies are set up by a legal contract between two parties [the academy trust and the Secretary of State]. They both have rights. No-one else does’. Parents and pupils’ rights in maintained schools are subject to Acts of Parliament which, in Mr Wolfe’s words, ‘said the governing body of a school shall do this, the head teacher shall do this’. Parents finding that a school had broken these rules could therefore bring legal proceedings.

By contrast, academies could take a different course, in those of its activities which are only regulated by its funding agreement. Mr Wolfe said: ‘The strict legal answer from the academy is to say [to a parent who challenged them]: “what is it

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<sup>30</sup> See this “buy three, get one for free” offer to academy sponsors from 2005: <http://bit.ly/116ASSE>, <http://bit.ly/1f02pFa> and <http://www.tes.co.uk/article.aspx?storycode=2415959>

<sup>31</sup> See this guidance, published in 2013 <http://bit.ly/1athB6b> See also <http://bit.ly/1dsWcyd>

<sup>32</sup> Along with ‘regulations’, codes of practice and guidance which are made under statutory powers and are applicable to all maintained schools

to you? We have a contract with the Secretary of State, and you have no rights under that contract, so you can go and whistle.”<sup>33</sup>

### **2.2.3 Academies under the coalition**

By the time the coalition came to power in 2010, then, the key legal groundwork had been provided for a major restructuring of England’s state schools. The legal arrangements around academies which had already been put in place by Labour were seized upon by Michael Gove, the new Education Secretary, who announced plans to put ‘rocket boosters’ under the scheme by allowing hundreds – and, ultimately, thousands – more schools to apply to become academies.

No longer was academy status to be the province entirely or even mainly of schools in challenging catchment areas which were said to be getting poor results. Instead, Mr Gove initially allowed any school deemed to be ‘outstanding’ by Ofsted to apply for academy status, with the argument that schools which had proved to be successful were worthy of the extra freedoms that went with academy status. Yet this ability was then quickly extended to all schools. Under this version of the scheme, there was no necessity for a school to be under the governance of an external sponsor. At the same time, those schools adjudged to be underperforming, either as a result of failing an Ofsted inspection or having test or exam results which meant they were below ‘floor standards’ or targets set centrally for them by the Department for Education, could also be compelled into academy status, in these cases always under a sponsor. The effect on the structure of England’s schools system has been dramatic. DfE figures show that, as of January 2014, 3,613 academies were open, including 1,714 primary schools (10 per cent of the total) and 1,674 secondaries (51 per cent).

Under the coalition, the number of schools grouped under academy federations or chains has also grown dramatically. As of January 2014, 1,459 academies were sponsored (the rest are standalone ‘converters’) and there were 66 academy chains which had five or more schools grouped within them, with the 12 largest chains each having at least 20 schools and together 397.<sup>34</sup> Of the top 12 largest chains, at least three have links to the Conservative party through donations: Lord Harris of the Harris Federation has been a Tory donor; Lord Fink, a director of Ark Schools, is a former Conservative Party treasurer and major donor; and the David Ross Foundation was set up by David Ross, the co-founder of Carphone Warehouse who has also donated to the party.

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<sup>33</sup> Mr Wolfe says that, while the above is true, academies have also increasingly started coming under more general ‘statutory controls’ setting out legal requirements. For example, permanent exclusions in academies are now regulated by the Education Act 2011 and special educational needs admissions are to be regulated by the Children and Families Act, which was forthcoming at the time of writing. (January 2014).

<sup>34</sup> See *DfE list of open academies*, accessed 31/12/13: <http://bit.ly/191K3km>

Figure 2: Academy sponsors with over 20 schools, January 2014

Sponsor	Number
Academies Enterprise Trust	76
School Partnership Trust Academies	41
Kemnal Academies Trust	38
United Learning	36
Oasis Community Learning	36
E-ACT	31
Greenwood Dale Foundation Trust	25
Harris Federation	24
Ormiston Academies Trust	24
Reach2 Academies Trust	23
Ark	22
David Ross Education Trust	22

Since 2011, a new type of academy has been in operation. Free schools are institutions starting from scratch, in contrast to the conventional academy model, which sees an academy replacing a pre-existing maintained school. Free schools have had a high political profile, having been promised as part of the Conservative Party's 2010 general election manifesto. They were billed as giving parents, teachers and other local community groups, including religious organisations, the chance to establish their own schools, funded by the Department for Education, but subject to pre-approval by the DfE. As ministers would put it, the idea was both to provide local groups the chance to establish new provision where there was a shortage of school places or where what was on offer locally was not thought to be good enough by parents. In July 2013, Michael Gove stated that free schools 'devolve power to [Edmund] Burke's little platoons', suggesting that they were part of a movement developing entirely from the ground up, as local communities pushed for new and better provision.<sup>35</sup>

However, as time has passed, more free schools have been set up not by parents and teachers but by existing academy chains. An internal analysis, seemingly from the DfE and sent privately to the authors, shows that the proportion of free school applicants making it to interview stage which were from existing academy sponsors rose from eight per cent in 2011 to 25 per cent in 2013, making this the largest category of bidders. By contrast, applications making it to interview stage

<sup>35</sup> See <http://bit.ly/1cN3HzX>

and classed as from a “parent/community group” fell from 25 to 17 per cent over the period, while those from a “teacher-led group” fell from 24 to six per cent.<sup>36</sup>

#### **2.2.4 Maximising numbers of academies as a key government project, and the DfE’s means for doing it**

There is now strong evidence that the achievement of a change of the governance structure of many or all of England’s schools has been the defining mission of the Department for Education under Michael Gove. The vision has been a movement away from the influence and organisation of state-funded schools by elected local authorities and towards the system as described above: schools governed through contracts with the Secretary of State, with outside sponsors often given key decision-making powers.

It is unclear precisely why this policy has been backed so enthusiastically by this government, but possible reasons could include: a desire to sideline local councils which have been felt (by some of those with a right of centre worldview) to be part of a generally left-leaning consensus governing schools which is derided by critics as the ‘education establishment’; greater enthusiasm for a perhaps more private sector-orientated model as embodied by academy chains in particular; an enthusiasm among ministers and civil servants for the strengthening of Whitehall power that the bypassing of local authorities under the academies scheme involves; the idea that academies can be sold to the wider public as ‘independent’ schools, freed of state bureaucracy and therefore potentially more innovative; and the need for ministers, keen to demonstrate their commitment to education, to have a grand reforming project.

It seems that Gove’s move to put ‘rocket boosters’ under Blair’s academies scheme may have given the Conservatives the chance to realise the project it began in the late 1980s, through the Grant Maintained scheme, of moving state-funded schools away from auspices of local government, with central government their ultimate overseer and paymaster. Defenders of the academies policy would argue that it has helped to bring outside expertise and drive into the state-funded system.

However, if the motives behind the scheme may be complicated and contested, documentary evidence can leave little doubt as to the priority being given to the scheme. As of October 2012, 735 staff or nearly one third of the department’s 2,519 workforce at the time were working on academies and free schools. The figures were outlined in a paper presented by the Department for Education’s Permanent Secretary Chris Wormald to the DfE board.<sup>37</sup> It adds that there were “many more elsewhere in the department who now have a considerable part of their role and time devoted to academy-related issues”.

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<sup>36</sup> DfE 2013 *Profile of interviewed applicant groups* unpublished, sent to W Mansell October 2013. See also Parliamentary Questions, October 2013, accessed at <http://www.riseinformationcentre.org.uk/information-centre/structure-and-governance>

<sup>37</sup> DfE 2012 *Review findings on the management of Academies and Free Schools*, unpublished and marked “restricted-management”



Maximising the number of academies seems to be viewed as an end in itself within the DfE. Evidence for this comes in part from the revealing, and very organised, nature of the structure of the academies operation within the department. As of summer 2013 this featured seven divisions within the Academies Group.<sup>38</sup>

A DfE presentation quoted the responsibility of the regional divisions as ‘securing structural solutions [i.e. becoming sponsored academies] for underperforming primary and secondary schools’. Among the tasks of Academies Central Operations Division was ‘determining the appropriate academy solution for underperforming schools’. Academies Converter Division was ‘responsible for the delivery of academy conversions and ensuring that they are in line with ministerial decisions on the policy’. Sponsored Academy Projects Division had among its objectives ‘overcoming obstacles’. This seems likely to include local campaigns against academy status, Mr Wormald’s October 2012 presentation having documented one of the risks of the rapid expansion of the academies scheme in terms of numbers of schools, with its consequent greater demands on civil servants’ time, as ‘decreased ability to overcome resistance at local level’.

Since spring 2013, the DfE has also featured an “academies board”, chaired by the academy sponsor and Conservative Party donor Theodore Agnew, who is also a non-executive director of the department as a whole. It has been designed to ‘help strengthen the governance of the academies programme in the department’.<sup>39</sup> Another DfE document suggests that ministers may have had their own targets for academy numbers of which civil servants would have been aware.<sup>40</sup> This document set out a list of possible areas to cut back to make budgetary savings, including the possibility of backing down in some cases where local campaigns against academy conversions were particularly strong. Civil servants warned that one of the risks of such a move was they ‘will not meet ministerial demand on numbers of academies’. The putative saving was not approved by the ministers in charge, Michael Gove and the Liberal Democrat schools minister David Laws.

## 2.2.5 From marketisation to privatisation

There are compelling arguments that the model that has developed over the past 25 years in England, accelerating dramatically since 2010 under the Conservative-led coalition, amounts to privatisation in at least some important senses of the word, in relation to academies and free schools. This is despite the fact that the academies system does not – or does not yet – include what many would see as the signature element of full-scale privatisation: the ability for a company to make direct profits from the management of state-funded schools.

It is important to acknowledge, here, the nature of the current barriers in the way of academy sponsors profiting from the running of these state-funded schools. In

<sup>38</sup> DfE Academies Group PowerPoint presentation first accessed by W Mansell May 2013

<sup>39</sup> DfE website page *Academies board* accessed April 2013, no longer accessible as of 3/1/2014.

<sup>40</sup> DfE *What stops in IFD and EFA – table of proposals for review* unpublished document, seemingly completed in February 2013.

guidance to sponsors, published in July 2013, the Department for Education set out its rules. It said: ‘Sponsors cannot profit from sponsoring an Academy. Where an [academy trust, or AT] wants to deliver its own projects, they must do so ‘at cost’ with no profit margin factored in. This means without charging any element of profit on the goods and/or services provided.’<sup>41</sup>

However, there is strong evidence that the academies and free schools programmes have created other major opportunities for private firms, which have benefited from millions of pounds of funding from the Department for Education . In the absence of these changes to schools’ legal structures, this cash might have found its way to the classroom.

Our analysis of Department for Education spending data<sup>42</sup> over the period May 2010 to December 2013 shows that £76.7 million has been paid by the DfE to 14 private firms which have provided legal, accountancy, management consultancy and property service support for the academies and free schools schemes.

The companies typically provide back-office support for the legal, financial and property services needed either to create an entirely new school, in the case of free schools, or to convert school governance and legal structures, in the case of existing schools converting to become academies directly funded by government. This project management often, in the case of free schools, includes preparing the paperwork for bids to ministers to open a new school. Some support for changes in the education on offer to pupils, including developing new curriculums, is also included in the spending.

The data show that:

- Turner and Townsend, a management consultancy, was paid £10.06 million during the 18-month period of June 2012 to December 2013 to provide “technical and legal advice” to free schools and University Technical Colleges,

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<sup>41</sup> Accessed at

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/212573/sponsored\\_academies\\_funding\\_guidance\\_for\\_sponsors.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/212573/sponsored_academies_funding_guidance_for_sponsors.pdf)

The guidance continues: For people-based resources this will be based on a day rate calculated by dividing the salary of the person plus employment related taxes (for example, in the UK, national insurance tax, pension, essential training and reasonable office and other directly employee related costs) by 210 working days a year pro rata as appropriate.

Incidental travel expenses and (if required) accommodation and subsistence will also be at cost. Other services will operate within the no profit principle. All such calculations should be subject to open book and audit. Cost information should be transparent and clearly set out how the costs have been calculated. VAT is not chargeable where the AT delivers projects as this is not a commercial (trading) arrangement.

Where the AT itself incurs VAT charges (e.g. printing costs), the cost is expected to be reclaimed direct from HMRC where appropriate to the ‘provision of free education’.

<sup>42</sup> See <https://www.gov.uk/government/collections/df-department-and-executive-agency-spend-over-25-000>

which are a form of academy.

- EC Harris, a “built asset consultancy”, was paid £6.6 million over the period May 2010 to December 2013 to support free schools and the DfE’s “school formation and investment group”.
- PKF UK Ltd, an accountancy group – whose parent firm, BDO UK LLP, claims on its website to offer “discreet” tax planning services, including “offshore tax planning”, to “high net-worth individuals”<sup>43</sup> – was paid £8.31 million between December 2010 and June 2013 to support free schools and academies.
- Veredus, a firm owned by the outsourcing giant Capita which headhunts senior leaders to work in academies on a permanent basis as well as providing interim management teams for schools, was paid nearly £4.7 million over the period February 2012 to May 2013.
- The firm Jones Lang Lasalle, which describes itself as a “financial and professional services firm specialising in real estate services” and “specialists in local, national and international property”, received £2.93 million between September 2012 and December 2013 to provide legal and property advice to free schools and University Technical Colleges.
- The management consultants Appleyards Ltd were paid more than £130,000 to provide project management support for the conversion of just two traditional state funded schools to academy status, which involves detailed legal work. PKF UK Ltd was paid £81,239 to provide project management for a single new University Technical College project.

While setting up any new school will come with administrative costs including legal fees, the sums involved raise questions about value for money for the taxpayer: at the time of writing only 174 free schools had been established, with a further 123 announced as in development. In December, a report by the National Audit Office suggested 30 per cent of the places being made available in open or planned free schools were being set up in areas of no forecast need for extra school places. Among secondary free schools open by September 2013, this figure rose to 59 per cent<sup>44</sup>.

In relation to free schools, questions need to be asked as to whether, even in an area with a shortage of school places, adding a new school – with its attendant bureaucratic and commercial costs as detailed above – is the most cost-effective means of providing more capacity, rather than simply expanding existing schools.

Other academies – ie those which are not free schools - are not new schools at all, but existing institutions which have been changed only in terms of their legal and governance structures.

In relation to free schools alone, the DfE data shows that support firms were paid £40.41 million over the period May 2010 to December 2013, on services listed by the department in its spreadsheets as “free schools technical support” (£27.8m),

<sup>43</sup> See: <http://www.bdo.co.uk/services/tax/private-clients>

<sup>44</sup> See <http://www.nao.org.uk/wp-content/uploads/2013/12/10314-001-Free-Schools-Book.pdf>

“free schools property advice” (£5.4m), “free schools legal advice” (£2.2 million) and simply “free schools group” (£4.9m).

Spending on legal, project management and accountancy overheads, then, would appear to represent additional costs related to the bureaucratic aspects of setting up academies and free schools which might, were such technical changes to school structures not being pursued by the Government, be available to be spent directly on pupils’ education.

In addition, the DfE’s spending spreadsheets show that two legal firms who do not feature in the figures quoted above – Newcastle-upon-Tyne based Bond Dickinson (and its predecessor company, Dickinson Dees) and Bristol-based Veale Wasbrough Vizards – received £206.7m between them over the 15-month period of October 2012 to December 2013 alone, with Bond Dickinson being sent £37.8 million in the single month of December 2013.

The Department for Education said<sup>45</sup> that more than 98 per cent of the money finding its way to the two firms related not to their own fees for legal advice, but to funds needed to “purchase property or land for free schools, studio schools [a form of academy] or university technical colleges”. In other words, most of the DfE funding was passing to these legal firms in the same way that banks would send money to lawyers to finance an individual’s property purchase through a mortgage.

This represents, however, large sums of money being spent on property for free schools. Indeed, the transactions to Bond Dickinson and Veale Wasborough Vizards over the 15 month period include 15 individual transfers of more than £5 million, including one of £17.2 million and another of £13.6 million. The DfE’s spending spreadsheets, however, do not identify to which free school project the spending related.

In addition to the spending on land and property, the DfE allocated £302 million to free school projects between 2010 and the end of 2013 on building work, with the free schools programme as a whole having cost the taxpayer at least £637 million by the end of December 2013, the DfE data show.

Again, these look relatively large amounts to be spending on institutions many of which, separate data show<sup>46</sup>, are currently educating only small numbers of pupils.

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<sup>45</sup> DfE email to Warwick Mansell, 19/12/2013, in response to request for more information on DfE expenditure received by Bond Dickinson, and its predecessor, Dickinson Dees, and Veale Wasborough Vizards over the period October 2012 to September 2013.

<sup>46</sup> See <http://www.theguardian.com/education/2013/dec/13/half-free-schools-spare-places-figures> . Figures published in Hansard in January 2014 show that 154 free schools for which data were available together educated only 21,973 pupils as of autumn 2013: <http://www.publications.parliament.uk/pa/cm201314/cmhansrd/cm140106/text/140106w0003.htm> (question 181202)

The 154 open free schools for which official data<sup>47</sup> were available were, as of autumn 2013, teaching 21,973 pupils, or just 0.3 per cent of the 7.5 million pupils currently attending state-funded schools in England.

Pulling back from the detail of recent spending on free schools and academies, it becomes apparent that ‘privatisation’ can take different forms. It applies to various ways in which what was a collective, shared, public good is being transferred to individual or private interests. The following typology differentiates between some kinds of privatisation.

### **2.2.5.1 Direct privatisation**

After the 2010 election, education companies became more bullish in response to the political climate, and the new magazine ‘Education Investor’ grew like the business it reports. In May 2012, when Michael Gove, giving evidence to the Leveson Inquiry, was asked if it was his view that the government might eventually move to allowing for-profit operators into the free schools market, he said ‘it’s my belief that we could move to that situation...but...I think we should cross that bridge when we come to it’. The widespread expectation was that the bridge would be the 2015 election campaign or the early days of a Conservative administration to follow.

Indeed, at a conference held in London in February 2014 by ‘Education Investor’, entitled “Private Equity in Education”, one of the speakers indicated that, in private, ministers were very open to the idea of profit-making in relation to English education in general, and private equity involvement specifically.

Speaking in the opening session of the conference, which was entitled “Education is the hot sector in private equity firms right now. Why? And can it deliver?”, Aatif Hassan, a partner in the firm August Equity, said: “The current government is offering a pretty positive environment [to private equity in education]. Gove and his advisers are very pro private equity, and very pro-private. I’m sure if you got them under Chatham House rules, or spoke to them privately, they would back the [private] ownership of state schools, and of the involvement of for-profits in the state system.

“The political risk [for private equity] is what happens after 2015. But at the moment, it’s pretty positive.”

Hassan added that the value of a good education was that it was not available to everyone. He said: “If 100 per cent of the people in the UK had an Oxford education, the value of it would come down, because there is no value in something everyone has. Even it’s a great education.

“Do not get me wrong: it would be great for the world to have a great education for the population. But in terms of doing what education is supposed to be doing for the client [the student], it would not work.”

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<sup>47</sup> See

<http://www.publications.parliament.uk/pa/cm201314/cmhansrd/cm140106/text/140106w0003.htm>

Jose Rodriguez, a director of Sovereign Capital, the private equity firm co-founded by the education minister Lord Nash, said: “We decided over 10 years ago to focus on education as one of our key sectors.”

And Matthew Robb, a partner at The Parthenon Group, which sponsored the event and describes itself as having a “vision to the leading strategic advisor to the global education industry”<sup>48</sup>, said there were “lots of opportunities” in the early years sector of English education. He said: “Of every [sector of education] it’s the closest to a voucher system. Therefore, there are lots of opportunities in nurseries.”<sup>49</sup>

Other government actions reinforced the expectation that for-profit involvement in state education was coming. A series of for profit companies have been selected by the DfE to run academies. To avoid the ban, arrangements are made to keep the connection indirect. This replicates practice in many states within the US, and elsewhere, which have the same ban.

However, as a number of investment analysts have observed, it is not easy to generate profits from schools. Indeed, in a blog posted in September 2013 Sam Freedman, Director of Research, Evaluation and Impact at Teach First but from 2009-2013 a policy adviser to Michael Gove, wrote: ‘As many a CEO has found to their cost in America and Sweden it's very hard to make any money out of running schools. 80% of a school's costs are staff; without good staff you can't have a good school so offering lower salaries isn't really an option. There are only two ways you can make any money. First employ fewer teachers by using blended learning approaches. To put it kindly there's not a huge amount of evidence for these approaches (the for-profit "virtual" charter school sector in the US is an absolute scandal). Secondly, run so many schools that you make your money by cutting back-office costs. But the number of schools you'd need to make much profit make this pretty undesirable too. Most of the reputable firms that have run the numbers on schools have backed off pretty quickly.’<sup>50</sup>

Academies are largely funded on the same basis as other schools, with an addition for services which are provided by local authorities to their schools. Free schools’ revenue funding is more opaque and is almost certainly more generous at start-up, for example determined by planned and not actual intakes, while some free schools are undersubscribed. However, school budgets offer little room to generate surplus, particularly since they have been reducing in real terms each year since the last election.

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<sup>48</sup> See <http://www.parthenon.com/Industries/Education>

<sup>49</sup> Mr Robb added that “I personally would be delighted if the UK [education system as a whole] went into a voucher system but I do not see any realistic prospect of it happening in the medium term”.

<sup>50</sup> see <http://samfreedman1.blogspot.co.uk/2013/09/why-i-changed-my-mind-on-for-profit.html>

As discussed later, in the US a fast-growing ‘solution’ to reducing costs is the virtual school; pupils work (unsupervised) from home, and all work, including their contact with staff, is done on-line. A variant is ‘blended learning’: a blend between old-fashioned bricks and mortar schools and virtual learning. Too absurd for England? In a briefing for a new academy due to open in 2015, ARK states, ‘One of the innovations we are keen for the principal to explore is blended learning: a mix of traditional teaching and online learning, in an IT-rich environment.’<sup>51</sup>

Freedman’s change of heart on profit may or may not be connected with an apparent change of attitude on the part of his former master, Michael Gove. The following exchange took place in December 2013 in the House of Commons Education Select Committee:

Q115 Siobhain McDonagh: Do you think that you will ever see tax-funded schools run for profit?

Michael Gove: No.<sup>52</sup>

Given his approval of some of the arrangements described below, Gove can only be referring to a direct link, and not more indirect arrangements. It is important to be clear about the precise terminology used in the privatisation debate. This report shows that privatisation is taking place in the senses described, but not in the sense sometimes understood, of direct ‘ownership’ of a maintained school by for profit interests.

### **2.2.5.2 Indirect privatisation**

Indirect privatisation is the operation of significant core functions of the school, such as management and administration, teaching and learning, or performance management and improvement, under the control of a for profit company contracted for that purpose by an academy trust, which itself is a charity. It is common and growing, although its current extent should not be overstated. Just one-sixth of English schools are academies; of these, 60 per cent (2,154) are standalone converters; of the 1,459 converters and sponsored academies in chains, a tenth are sponsored by the churches and many more are local federations of schools, universities, and even the Co-op. As noted above, just under 400 schools are under the control of large chains. This is less than two per cent of state funded schools.

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<sup>51</sup> accessed at

<http://www.tes.co.uk/Upload/Attachments/TES/0377E40002/A%20new%20ARK%20Academy%20in%20London.pdf>

<sup>52</sup> House Of Commons oral evidence taken before the Education Committee: Responsibilities of the Secretary Of State 18 December 2013 Accessed at <http://www.parliament.uk/documents/commons-committees/Education/EdC181213.pdf>

The for-profit companies connected to sponsors are aware that significant profit can only arise from economy of scale. They are expansionist. They need a much higher penetration into England's schools than this two per cent<sup>53</sup>. This requirement is connected with the activities of people described later who are attempting to recruit schools into chains.

It might be argued that the trend towards contracts for core services is merely an extension of a tradition in England's schools to buy goods and services in an open market, but this argument has no validity. Firstly, until the introduction of local management, services were provided directly by or contracted by the local authority (thereby achieving economy of scale and capacity for sound contracting). Secondly, for two decades, schools have purchased their own goods and services, from rulers to roof repairs – and with more complex items, they often struggle without external support. Thirdly, rulers and roofs are of a different order from management and teaching, which are indeed core functions, undertaken by specialist professional staff. If those functions are carried out under the control of for profit organisations they are given a different perspective and purpose. One purpose, to be precise, is to make a profit.

The charitable trust which is the academy sponsor is in effect an intermediary between school management companies and the school itself. The infamous Mosaica Education Inc (discussed later) established a UK subsidiary, Mosaica Education UK Ltd, which in turn set up a charity, Aurora Education Trust. This in turn set up the Aurora Academies Trust, which was awarded a contract to run four primary academies in East Sussex. The schools use the Mosaica owned Paragon® curriculum and pay Mosaica £100 per pupil per year for the privilege, (£213,000 for services in total according to a report in January 2014);<sup>54</sup> Ofsted criticised Paragon® for its lack of a local dimension (as we shall see, replicating complaints in the US). What have these schools got which has not always been provided through the knowledge, skill and judgement of professional staff at no charge?

A more common form of profit relationship is exhibited by Edison Learning UK. This is a subsidiary of Edison Learning Inc and also has established a trust, the Collaborative Academies Trust, with seven academies. However, it also claims to have worked with 400 other schools, offering management and curriculum services, including other trade-marked products, such as the Flexed Learning Model™. Those services are, of course, traded and replace the normal work of staff.

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<sup>53</sup> Indeed, Edmund Lazarus, a managing partner of the firm Bregal Capital who was reportedly a university friend of the Education Secretary Michael Gove and whose opulent London home drew press attention here <http://bit.ly/1k0CdsN>, told the Education Investor conference in February 2014 that firms needed to be dealing directly with governments if they were to generate sufficient volume of business. He said: "To get scale in an individual market, you have to be selling to the state."

<sup>54</sup> *Guardian* report 13 January 2014, accessed at <http://www.theguardian.com/education/2014/jan/12/taxpayer-funded-academy-paying-millions-private-firms-schools-education-revealed-education>



Internationella Engelska Skolan, IES, was awarded a 10 year contract to run a free school, IES UK Breckland. Technically, the sponsor is the Sabres Educational Trust, which started as a community group campaigning against the closure of Brandon's middle school, but now appears to be a paper intermediary. It has no website and has not filed accounts for 2012-13, a breach of regulations.<sup>55</sup> The school opened in 2012 and is already controversial, with the departure of a number of staff including the principal in Autumn 2013. It was placed in special measures in March 2014.

An important opacity in the operation of such trusts is in their accounts. Unlike all other state schools, those in multi-academy trusts are not required to publish accounts in a standard form, including any payments for services to their trust. In turn, it may not be possible to identify payments from the trust to its parent company. Such information could reveal income derived by the for profit parent from the state funded school.

Another for profit company linked with schools in this way is Kunskapsskolan, the Swedish free school operator, run by Peje Emilsson, a Swedish Conservative Party politician. Its Learning Schools Trust runs four academies which use KED, a personalised learning programme 'owned' by the company.

Many other for profit companies offer services to schools without being academy sponsors. This may be a full management contract, or more limited management support, school improvement, or curriculum and assessment tools. While some of these services would necessarily be provided external to the school, some management and pedagogical services would normally be expected to be part of the work of staff. Indeed, the school system requires the continual development and renewal of expertise in teaching, learning and assessment. For example, without grass roots curriculum innovation, where would the next generation of curriculum designers to be found? To buy in ready made curriculum products is to deskill the teaching profession.

Some companies offering such services are: Babcock, a global engineering and management services company, with 1,200 education staff supporting over 700 schools; Cambridge Education, a subsidiary of another billion pound turnover company, Mott Macdonald, which as well as supporting schools offers free school establishment and academy conversion packages; and the ubiquitous Capita and Serco.

### **2.2.5.3 Academy chains acting like business**

The third kind of privatisation is the business-like (not businesslike) behaviour of organisations which sponsor academies. There are informal ways in which academy sponsors appear to have more in common with private enterprises than with, for example, local authorities with their roots in more conventional notions of the public sector.

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<sup>55</sup> As of 7 January 2014

There is evidence, for example, of charitable academy organisations, funded overwhelmingly by the taxpayer, providing large rewards to their chief executives. Several have received pay well in excess of the salary of the Prime Minister. Sir Dan Moynihan, once a humble headteacher paid less than £100,000, received adverse publicity when it was revealed he had been paid £318,000 in 2011 as Chief Executive of the Harris Federation.<sup>56</sup> Accounts for 2012 show that he took a pay cut the next year, having to make do on £298,362. Moynihan appears to remain the highest-paid individual within the 10 largest academy chains, as revealed by their most recent accounts. In the year ending 31st August 2012 he was closely followed by Sir Bruce Liddington, the former chief executive of the E-Act chain, who earned £288,784 in salary and employers' pension contribution, which was a 2.8 per cent increase on the £280,816 he earned the previous year. Liddington stepped down in 2013 after E-Act was given a financial notice to improve by the Government's Education Funding Agency. In February 2014, it was announced that E-Act was to give up 10 of its academies amid concerns over poor performance.

Therewards documented above can only mean that these individuals see themselves as businessmen and not as public servants. In the blog mentioned earlier, Sam Freedman wrote: 'In some cases I guess this surge of entrepreneurship is linked to desire for personal gain or status (you don't have to run a for-profit company to make a lot of money yourself).' These amounts are well in excess, for example, of the salaries currently paid to the chief executive of England's National Health Service, at £189,000.<sup>57</sup> Academy accounts show that four other organisations, among the 10 largest academy chains, had individuals earning well in excess of the Prime Minister's annual salary of £145,000 (as from April 2013). With staffing costs making up the great majority of any school's overheads, extra funding for those at the top comes from a reduction in the overall budget for other staff.<sup>58</sup>

Chains derive their income from the individual budgets allocated to each school in the chain by the standard formula developed and applied by the government through the Education Funding Agency. For example, in 2012-13 AET charged its schools £7,873,072, or 3.18% of their total budgets, for its services. The economy of scale derived from its size enabled the very large salaries to the chain's top staff.

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<sup>56</sup> see <http://www.dailymail.co.uk/news/article-2244916/The-320-000-superhead-State-funded-academy-chiefs-salary-soars-31---dozens-paid-figures.html>

<sup>57</sup> see <http://www.telegraph.co.uk/health/nhs/10400660/Blair-advisor-Simon-Stevens-appointed-new-NHS-chief-executive.html>

<sup>58</sup> ATL evidence to the School Teachers' Review Body June 2013, par 44-47, accessed at: <http://www.atl.org.uk/Images/atl-evidence-strb-jun13.pdf>

Figure 3: Salaries of selected academy chain leaders, 2011-12

Name	Organisation	Pay, £
Dan Moynihan	Harris Federation	298,362
Bruce Liddington	E-act	288,784
two staff	AET	210,000 – 220,000
	United Learning Trust	180,000 – 190,000
	Richard Rose Trust	170,000 – 179,000 <sup>59</sup>
	School Partnerships Trust	165,000
	Ark Schools	150,000 – 160,000
	David Ross Education Trust	140,000 – 150,000
	Oasis Community Learning	130,000 – 140,000
	Kemnal Academies Trust	130,000 – 140,000

The marketing and branding of individual academies can also be very carefully controlled from head office, just as is the case in, for example, chains of shops. Indeed, several academy chains routinely include the name of their organisation within the title of a school they run. Examples include schools in the Ark, Harris, Oasis and E-Act chains. In addition, anyone scanning an academy’s accounts – or those of the organisations running several of them – will see that exam results often appear to be treated like a corporate ‘bottom line’, with movements in pupils’ grades from one year to the next reported almost as if they are ‘key business indicators’.

At a more general level, the overall notion of academy chains competing for one another’s ‘business’ in attracting pupils seems borrowed from the corporate sector. Again, it seems at odds with more conventional notions of public service – that publicly-funded organisations should work together to help those they have been set up to serve – that have obtained in the past.

All in all, the image presented by many of the larger chains replicates much of higher education: these are businesses, with their leaders living executive lifestyles. The difference between them and corporations is that their financial strategies do not require surplus sufficient for distribution to shareholders.

#### 2.2.5.4 Privatisation of policy and administration

Today the public expects their public services to be provided in a transparent way. They demand accountability. They want the government to be open in its dealings. The conduct of the policy and administration of the academies and free schools

<sup>59</sup> The Richard Rose Trust has just two academies – one of which went into “special measures” in 2013, the other of which was rated as “requiring improvement” by Ofsted in December 2012.

policies substantially breaches that principle. It reduces the allocation and funding of services to private arrangements.

Legally, academies, including free schools, are set up through a private contract between the Secretary of State and the sponsor. All academies are established through a funding agreement, a lengthy contract between the two parties which sets out legal obligations on both sides. In a traditional non-academy state funded school the legal rules governing what happens are set through education legislation. This applies, of course, to schools across England. Any change in such legislation has to go through the Parliamentary process, which is subject to public discussion. In an academy, the key document setting out what should happen is the funding agreement. This is subject to amendment, but only subject to the agreement of the two parties to that document: the Secretary of State and the sponsor. Parents, and general members of the public, then, would not seem to get a say. This is also not a public process. Although funding agreements usually get published after an academy opens, changes are not generally subject to public debate and are not even likely to be highlighted publicly after the event.

This does not mean that Acts of Parliament do not apply to academies, or that funding agreements cannot be changed through changes in general education law<sup>60</sup>. But it does represent a substantial privatisation – in a literal sense of decision-making taking place more privately – of the legal framework around state-funded schools. When considering, in addition, the freedoms academies have over, for example, teachers' pay and conditions and the curriculum, this change in the legal framework helps to hand more direct influence to the Secretary of State and the sponsor than would be possible in a maintained school.

It also represents a departure from the principle that the law should apply to all state-funded schools across England in the same way. As David Wolfe put it in 2011, 'I have spent the past 20 years doing education law. Before the advent of academies, if I was presented with a kid from Exeter, or from Birmingham, or from Newcastle, saying they had been excluded, for example, it would be the same response: is this in accordance with education law? Now, my first question would be "which academy?" and then I go straight to download the funding agreement. The idea that a child in Exeter should be subject to the same law as one in Newcastle does not apply now; it depends on the funding agreements which apply to individual academies.'

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<sup>60</sup> It is still possible for the Government to include academies within the law governing mainstream state schools, on any issue the Government chooses. This would have the effect of superseding any individual academy funding agreement. But the Government would have to specify that academies were covered in any future education law, or else it would only apply to maintained schools; so academies are covered by their funding agreement unless the law says differently. As indicated elsewhere, this is gradually happening on a piecemeal basis in relation to some aspects of academy provision.

Academy rules can and do give the school's sponsor direct control over its governing body. Thus, the business of setting strategy for the school and holding its management to account can and does come under the private control of that sponsor, rather than being subject to more public influence.<sup>61</sup>

In academies, the sponsor can appoint most governors, with only two parents required to be elected to the board of trustees. By contrast, in most<sup>62</sup> community schools, at least a third of the governors must be parents, and at least a fifth must represent the community, with a maximum of a third from the staff. Indeed, in at least two prominent academy chains, the Harris federation and Future, a small chain of academies in Westminster, central London, set up by the academies minister Lord Nash, the sponsor and his wife both feature on the governing body.

In 2009, Lynne Izon, the parent of a pupil at Richard Rose Central Academy in Carlisle, spoke of how frustrated she was trying to get her voice heard by those in charge of the academy, which had recently failed an Ofsted inspection.<sup>63</sup> 'There was only one parent governor on the governing body which jointly covered the school and another local academy run by the same group. And the only way for parents to raise complaints was through an organisation, set up by the academy, called "Parents' Voice".' Ms Izon said this was no substitute for parents getting formal representation in decisions of school strategy through the governing body. She said: 'If the academy says: "we are not having any more parent governors" where do you go? The government says you should go to the school's foundation. But the foundation is run by the sponsor, who is also the chair of governors, who runs the academy. It's very frustrating.'

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<sup>61</sup> In the words of the most recent DfE Governors' Handbook, dated January 2014, which comes with a foreword by the minister – and academy sponsor – Lord Nash, "Academy trusts have almost complete flexibility to shape their governance arrangements and design the constitution of their boards and local governing bodies as they see fit."

<sup>62</sup> We use the word "most" as, in fact, the rules even for community schools have been changed under the coalition, with the effect of potentially downgrading the influence of elected parents on governing bodies. The regulations specifying that at least one third of governors be elected parents date to 2007, and continue to apply to community school governing bodies which were in existence before September 2012 and whose instruments of government have not changed. However, new governing bodies formed since then, or those using new instruments of governance, even when they are community schools, now only need have two elected parent governors, even though the governing body as a whole could feature more than 20 members, under changes introduced under the coalition. See: <http://www.education.gov.uk/schools/leadership/governance/a0056865/school-governance-regulations>

<sup>63</sup> See "School governors are becoming powerless 'pawns'", Guardian, November 2009 <http://bit.ly/1hltanV>

## 2.2.6 Privatisation of decision-making: forced academies

The centralisation of decision-making power under the academies scheme has perhaps been demonstrated most starkly in the case of ‘forced academy’ conversions. These are instances where ministers have pushed through the transfer of a school to academy status, under a centrally-selected sponsor, in the face of opposition from both the school and, often, the local community.

The concept, as argued for by the Department for Education, is that schools which are underperforming need a radical solution and that sponsored academy status, under a sponsor with a good track record, is the most likely route to future success. However, the precise rules for the initial triggering of proposals for such conversions have sometimes appeared unclear. In the initial years of the coalition in the primary school sector, a system of “floor standards”, targets for national test results which would start the process of sponsored academy conversion if schools failed to hit them, seemed to be to the fore. But in recent years, the key influence seems to have been a school’s Ofsted results, with schools failing an inspection facing visits from academy ‘brokers’ with the seeming end goal of conversion under an academy sponsor. Several high profile campaigns against this process, including cases involving the Harris federation of academies, have helped to illustrate the powers of ministers and sponsors in driving it and the difficulty local communities can have in fighting decisions.

In December 2011, parents from Downhills primary school in Haringey, north London, launched a campaign to fight the move towards sponsored academy status. This would end in failure the following year, bringing to an end more than 100 years of history for Downhills as a community school. Downhills would also lose its long-standing name, to be replaced by a title which starts with the name of the sponsor: Harris Primary Academy Phillip Lane.

The campaign was triggered after two DfE academy brokers visited the school with one, Jacky Griffin, telling governors, ‘The Secretary of State [has] said...that, in his view, the best option for schools where performance has been low for some time is that they become a sponsored academy...Our preference would be...that the school is going to be a sponsored academy.’<sup>64</sup> Four days later, the academies minister at the time, Lord Hill, wrote that Downhills’ results were not good enough and that Gove was minded to make an ‘academy order’, forcing academy status on the school, and to appoint a new governing body. Downhills was given just a few weeks to agree to pass a resolution to become an academy ‘with a named sponsor agreed with the DfE’.

In the event, the governors fought the move. However, they were then replaced by the DfE under the powers the department has to replace a governing body with an appointed Interim Executive Board. The board was led by Sir Daniel Moynihan, the chief executive of the sponsor the DfE favoured: the Harris Federation, a chain of academies. In a process set up to DfE rules, Harris also ran the consultation on whether or not the school should convert to academy status, and whether it should do so under Harris. This found three per cent of responding parents in favour of

<sup>64</sup> See “No choice but to become an academy?” Guardian December 2011. <http://bit.ly/1iyX5cv>

the move to academy status, with 94 per cent against. However, ministers approved the move to transfer the school to the management of Harris in any case, on this occasion Gove using his power to issue an Academy Order to force through the change. Harris Primary Academy Philip Lane replaced Downhills in September 2012. Campaigners were told in writing that the cost of the consultation process, which seemed to have had no influence on the final decision, was £45,000.

Roke primary school, in Kenley in Surrey, was hastened towards academy status, again under Harris, after a single bad Ofsted report in June 2012 saw the school go from a previous 'outstanding' rating to being classed as 'inadequate'. In the consultation exercise carried out by Harris, parents voted by clear majorities both against the school becoming an academy at all and, if it had to become an academy, against it doing so under Harris, with most local families preferring a local secondary school as the sponsor if they had to have one. Nevertheless, the school transferred to Harris in September 2013.

Converting under Harris at the same time was another school on the outskirts of south London: Camden juniors in Carshalton. This move occurred despite 98 per cent of the 545 respondents to the official consultation on the plans – again carried out by Harris – voting against the idea of the school becoming a Harris academy. The questionnaire to which parents had to respond was published near the back of a 10-page Harris brochure promoting the organisation. However, Lord Nash, the academies minister, in explaining why the DfE had chosen not to go along with the views expressed in the consultation, said this was partly because a local secondary school had biased the exercise by encouraging parents to support its own bid for sponsorship.

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#### **CASE STUDY: CHURCHILL GARDENS PRIMARY SCHOOL**

The recent history of Churchill Gardens primary school in Westminster, central London, could be seen as a case study of the dangers inherent in the academies scheme of concentrating power in the hands of sponsors and ministers. This seems particularly to be the case when, as in this example, the school's sponsor also happens to be the minister responsible for the academies project as a whole.

Churchill Gardens is a one-form entry primary school serving a very diverse catchment area of south Westminster. The school has had a mixed recent history. In 2003, it was rated as 'very successful' by Ofsted, a judgement which was followed up by an 'outstanding' verdict from inspectors in 2007. But a return visit from Ofsted in 2009, which coincided with a period of ill health for the school's head teacher, saw the school rated only 'satisfactory', the second-lowest of Ofsted's four inspection ratings at the time, and a 'requires improvement' judgement followed in 2012. However, the 2012 inspection report also noted that the school was improving under new leadership.

Nevertheless, it is understood that pressure first began to be brought to bear on Churchill Gardens' governing body in autumn 2011 from both Conservative-controlled Westminster council and the Department for Education through its busy academies broker Jacky Griffin, for the school to convert to sponsored academy

status. It soon became clear that one organisation, Future, was being lined up to take over the school. Future is an academies chain which had taken over the running of the neighbouring Pimlico school, a comprehensive, in 2008, and which also began sponsoring a nearby primary school, Millbank primary, in September 2012 and had plans for another primary in the grounds of Pimlico school from September 2013.

An independent report on the consultation<sup>65</sup> to turn Churchill Gardens into a Future-sponsored academy, published in December 2012, says that Future registered an interest in converting Churchill Gardens to a Future academy with the DfE and Westminster council. It adds: ‘The governors of Churchill Gardens subsequently commissioned work to identify other possible sponsors, but faced with very positive support for Future by the local authority and the Department for Education academy broker these could not be pursued.’ In November 2012 Churchill Gardens governors then, seemingly reluctantly, sought the views of parents, teachers and local stakeholders on converting to academy status under Future’s sponsorship. Only a minority of parents (44 per cent) backed Future’s sponsorship, with 35 per cent opposed and the remainder unsure. But the view from Churchill Gardens staff and governors was more emphatic, with only four per cent (two staff members of 45 returning questionnaires) in favour of the takeover by Future and 78 per cent (35 staff) opposed. Five of six governors were opposed, with the remaining one unsure, while of the eight other ‘stakeholders’ returning consultation forms, only one was in favour with five opposed. The governing body rejected the sponsorship proposal in December 2012.

Future Academies is one arm of a charity set up in 2006 by Lord Nash, who is now the unelected minister responsible for the academies policy at the Department for Education, and his wife Caroline. The organisation also runs The Curriculum Centre, led by Caroline Nash, which develops curricula for use in Future’s academies and more widely, and a ‘venture philanthropy’ arm which invests in a small number of charities including the Social Mobility Foundation.

As sponsor of Pimlico academy, Lord Nash co-chairs its governing body. Under the proposals for Churchill Gardens, Lord Nash would also chair its governing body when it became a Future academy. The governing body, which previously had comprised members drawn from Churchill Gardens staff, parents and the local community, would reduce to six, of which three would be Lord and Lady Nash and a third representative of Future. Lord Nash, as sponsor, would have the casting vote on the new governing body.

Lord Nash, then, would be the individual responsible for the policy at a national level, the sponsor of the school and the chair of its governing body.

One Churchill Gardens teacher, responding to the consultation, said: ‘Current governance of this school is democratic. If we accept Future, we give them the right to make whatever decision they want, with no possibility of challenge. This is outrageous in the 21st century.’ Among the concerns outlined by staff in the

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<sup>65</sup> The consultation report can be viewed here:

<https://www.dropbox.com/s/9fjxl2ujssl7zdd/churchillgardenscons040314.pdf>



consultation report were, in the words of the report itself, ‘the proposed structure for the governing body which potentially loses the richness of engagement with multiple stakeholders of the current Board of Governors and leaves itself open to being accused of rubber stamping whatever policy Future decide upon’.

Future has a very distinctive approach to the school curriculum, with a view that primary education should focus strongly on knowledge transmission. Yet several Churchill Gardens teachers strongly challenged the evidence base for this belief during the consultation. Summing up their concerns, the report cited them as centring on ‘Future’s perceived lack of experience and understanding of primary and Early Years education. In this area Future and The Curriculum Centre appear to have virtually no credibility amongst the committed primary education practitioners at the school’. It added that there was ‘an apparently widespread and fundamental disagreement [between Future and the staff teaching at Churchill Gardens] that a marked shift towards a knowledge-rich as opposed to a skills-based curriculum is better for primary and Early Years education’.

Yet, despite this opposition and the seeming lack of a local mandate from parents, teachers and governors for the move, governors re-visited the Future sponsorship proposal in May 2013, with one source saying governors felt there was little option but to go ahead. A statement from the governing body, in May 2013, said that Future had changed its offer to the school since the consultation report was published, with its revised offer having ‘addressed most of the governors’ concerns’. However, the chair of governors at the time did not respond to a request for further information on what had changed.

Churchill Gardens became a Future academy in September 2013.

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### **2.2.7 Cronyism**

There are very close links between a number of individuals who have been at or near the centre of decision-making power within the Department for Education in recent years. At a superficial level, this is obvious through contacts between former DfE advisers and officials and others with close links to the department. For example, Rachel Wolf is a former adviser to Michael Gove, the Education Secretary, who went on to found the New Schools Network, which promotes and advises on the establishment of free schools. Ms Wolf is married to James Frayne, who in 2011 and 2012 was director of communications at the DfE before moving to work for the Republicans during Mitt Romney’s campaign for the US presidency. Wolf left the New Schools Network to work for Amplify, the education company set up by the media tycoon Rupert Murdoch, for whom Mr Gove used to work while a journalist at the time and whom he has met many times since becoming Education Secretary.

Mr Frayne also once worked for Sterling in Europe, a pressure group, alongside Dominic Cummings, who served as a special adviser to Gove from 2011 to early 2014. Cummings is married to Mary Wakefield, deputy editor of the Spectator, which runs a well-attended annual conference on school reform and is a supporter of Gove’s approach. Before working for Gove at the DfE and even prior to the

2010 election, Cummings worked informally as an adviser to Gove and is reported to have emailed Gove after the election with a request that the New Schools Network (NSN) be handed ‘cash without delay’.<sup>66</sup> He then worked for the NSN from July to December 2010. When his departure as a special adviser was revealed in October 2013, Mr Cummings was reported as leaving to run a free school.

One academy organisation, ARK Schools, was co-founded by the hedge fund financier Arpad Busson; its trustees, as of December 2013, were drawn almost exclusively from the ranks of fellow financiers. Several individuals with connections to ARK also hold very powerful positions within national education quangos. Sir Michael Wilshaw is a former director of education at ARK who left in 2011 to become Her Majesty’s Chief Inspector of Schools, or effectively Ofsted’s chief executive. The chair at Ofsted is Baroness Sally Morgan<sup>67</sup>, who was an adviser to ARK, the charity overseeing Ark Schools, for at least five years from 2006. She remained in this position after taking up the position at Ofsted in 2011. She is a former official adviser to the New Schools Network.

At Ofqual, the school qualifications regulator, the corresponding position of chair is held by Amanda Spielman. Ms Spielman was one of the founding managers of ARK Schools and was serving as its research and development director at the time she was appointed to the Ofqual post in 2011. After her appointment, she was listed on Ofqual’s website as remaining an ‘education adviser’ to ARK Schools.<sup>68</sup> Ms Spielman has a business and banking background and is a former trustee of the New Schools Network. Meanwhile, the Department for Education’s board now has as its lead non-executive director Paul Marshall, chairman of ARK Schools and another former adviser to the New Schools Network who is also chairman and chief executive of Marshall Wace LLP, which the DfE describes as ‘one of Europe’s leading hedge fund groups’.<sup>69</sup>

In fact, the non-executive directors on the DfE board are comprised mainly not of educationists but of people from the financial sector. As of December 2013, the DfE had five non-executive board members, only one of whom, Dame Sue John, headteacher of Lampton School in Hounslow, west London, had a teaching background. The other four were Marshall; Theodore Agnew, who, as described above, is an academy sponsor with three academies and who is a trustee of the think tank Policy Exchange, which was co-founded by Michael Gove; David Meller, another academy sponsor with five academies and two University Technical Colleges, who is joint chairman of The Meller Group, which is described

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<sup>66</sup> See <http://bit.ly/1g5JfdE> and <http://www.thebureauinvestigates.com/2011/11/18/dominic-cummings-given-parliamentary-pass-while-at-new-schools-network/>

<sup>67</sup> Although there was controversy in early 2014 after Gove chose not to re-appoint Morgan for another term as Ofsted chair, amid reports that he wanted someone who was even more ideologically committed to his reforms.

<sup>68</sup> See <http://bit.ly/1f0uTi5>

<sup>69</sup> See <http://bit.ly/1cqDvtW>

by the DfE as ‘one of the largest luxury hair and beauty suppliers in the UK’ and who is another trustee of Policy Exchange; and Jim O’Neill, the former chairman of Goldman Sachs Asset Management.

According to a 2012 report on governance and leadership at the DfE by the House of Commons Education Select Committee, the appointment of non-executive directors from commercial backgrounds was not a policy confined to the department.<sup>70</sup> Rather, it was in line with general government guidance stating that non-executives ‘should primarily be ‘senior people from the commercial private sector, with experience of managing complex organisations’.<sup>71</sup>

But it is not uncommon to find individuals from banking, hedge fund and private equity backgrounds closely associated with the academies scheme. For example, the highest-profile private school-academy partnership, the Wellington College-sponsored Wellington Academy in Wiltshire near Andover, was established with the benefit of a £2 million donation from the former Goldman Sachs director Tim Bunting. As of January 2013, Mr Bunting, who remains highly influential on Wellington Academy’s governing body, was a partner in the venture capital firm Balderton, whose major interests include the payday loans company Wonga.<sup>72</sup>

Another approved academy sponsor, a charity called Bright Tribe, was set up by a charity called the Helping Hands Trust, which itself was established by Michael Dwan, who is a managing partner of firm called Equity Solutions and Partners Limited, which describes itself as ‘a leading multi-disciplinary infrastructure business investing in projects and partnerships that make a difference – in health and social care, education and the community’.<sup>73</sup> Equity Solutions and Partners has been involved, through the companies it has invested in, in several school rebuilding projects, including PFI schemes. Bright Tribe may become high-profile, as it is being spearheaded as education director by Professor David Hopkins, a former chief adviser on school standards to the Labour government. Its website lists Joe Smith, its chief operating officer, as a finance specialist with ‘extensive experience developing highly successful corporate ventures’<sup>74</sup>.

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<sup>70</sup> House of Commons Education Committee 2013 *Governance and Leadership at the DfE: Third report of session 2012-13* accessed at <http://bit.ly/1cqE4Uw>

<sup>71</sup> The gender and ethnicity of both non-executives on the board and of the DfE’s executive senior management, however, was striking. In December 2013 four of the five non-executives referred to above were male, and none was from an ethnic minority. Five of the six ministers were male, with none of them from an ethnic minority. And only three of eight directors listed as DfE management on its website were female. Again, none of these eight senior civil servants was from an ethnic minority. Across the whole of the ministerial, senior civil servant and non-executive management team at the DfE, then, 14 of the nineteen individuals listed on the DfE website were male, while all 19 were white.

<sup>72</sup> See <http://bit.ly/1dgE9I4>

<sup>73</sup> See <http://bit.ly/19EUQSm>

<sup>74</sup> See <http://bit.ly/1I79OTq>

There is some anecdotal evidence of perhaps more wide-ranging behind-the-scenes influence over the academies policy being wielded by individuals with connections to the private equity and consulting worlds but whose involvement seems not to have been acknowledged at all at an official, written level.

Sources close to a major academy chain have spoken to the author privately about having received regular talkings-to by two people with commercial backgrounds who apparently have been doing unpaid or 'pro bono' work for the Department for Education on academies policy. One individual is Tom Attwood, a venture capitalist who was managing director at private equity firm HG Capital from 1994 to 2012 and is now a non-executive director there. He also serves on the Government's Social Mobility and Child Poverty Commission. He is also a non-executive director at the Centre for Social Justice, the think tank set up by Iain Duncan Smith, the Work and Pensions Secretary, and a non-executive director of Impetus, the Private Equity Foundation. This is an organisation that invests in charities with a focus on children and young people. Impetus jointly manages the Education Endowment Foundation with the Sutton Trust, another organisation set up by a private equity alumnus, Sir Peter Lampl. The EEF has a £135 million fund provided for it by the Department for Education, and is the key DfE vehicle for promoting the use of research on what works in education to schools. Until August 2013 Tom Attwood was a director of one of the largest academy sponsors, the Kemnal Trust. He has also set up his own academy organisation, the Attwood Trust, but as yet it has no schools.

The other individual mentioned by the academy chain source was David Hoare. He co-founded Talisman, a management consultancy firm, in 1987 having previously worked for Bain and Company, another management consultancy with links to Mitt Romney. Bain carried out a spending review for the DfE in 2012-13 proposing 50 per cent cutbacks to the department's budget over the Parliamentary term 2010-15. Mr. Hoare's biography on Talisman's website lists him as a director of the Tom Attwood Academy Trust. Official information on any position in relation to the Department for Education is hard to come across, but an announcement of Sir Bruce Liddington's departure as chief executive of the E-Act academy chain in April 2013 said that Sir Bruce would be 'working with David Hoare, an independent consultant, who is providing pro-bono advice to the Department on developing high quality academy sponsors'.

One of the sources close to the academy chain talked about having been told by Theodore Agnew in summer 2013 that he 'needed to talk' to Mr Attwood and Mr Hoare. 'They are really good guys, working pro-bono,' the source was told. Agnew also allegedly told the source that no-one should be put on the academy trust's board without Lord Nash first agreeing it. At a follow-up meeting with Mr Attwood and Mr Hoare, the source said they strongly advised him that the board of the trust needed to be changed.

'Every week' thereafter, said the source, the academies trust received a phone call, with contact 'never in writing' from Hoare and Attwood. Information, he said, was then fed back into the department, to Lord Nash. The source also spoke of 'half a dozen' further meetings, one at the offices of HG Capital, another at Mr Hoare's flat, and another at Mr Agnew's flat, during which suggestions were made

for the future of the academies chain. For none of these meetings were DfE officials present, or were notes taken, the source said.

The membership of the trust's board has since changed substantially.

The source said he could see why figures from the commercial sector might be getting interested in schools. Back office services being provided for schools within an academies chain might be worth, say, 25 per cent of overall turnover. He said, 'If you have, say, 250 academies and are getting £8m a year [in income from the DfE] for a secondary academy, you would be looking at £2bn a year (income). You take 25 per cent of that basic figure, and on that you might start to turn a profit of, say, £50m a year. It's not too hard to think of this developing into a £1 billion private company feeding off 250 academies.'

### **2.3 The effects on pupils of a marketised school system**

It is a considerable intellectual and political journey from a policy aimed at improving the educational performance of the country's schools to some of the practices described above. The overall effects of this journey are discussed later, but first it is important to review the evidence in respect of the aims claimed by supporters of a market in schools. What, if anything, have been the effects of market reforms in England on the performance of schools? In the following section, trends in both the social segregation of pupils and their test performance are analysed. There is a research base for conclusions about the effects of marketisation on both social segregation and achievement as measured by external tests.

#### **2.3.1 Social composition of marketised schools**

The extent to which the pupils in a school have the same social characteristics as a comparison group, say nationally, regionally or locally, is usually measured by academics by means of a segregation index. When expressed as a percentage, it means that such a percentage of a school's pupils would need to leave and be replaced by others if the intake were to become representative of the country, region, or locality in a given characteristic. In England, the debate on methods of measuring segregation has been 'an ongoing war of words' to quote one commentator<sup>75</sup>, but Gorard and his collaborators are amongst the foremost researchers of school segregation. They have used a national pupil database with data from 1989 onwards covering all state-funded primary and secondary schools in England.

There is likely to be a strong connection between social segregation in school and social segregation in housing, not least because, as mentioned earlier, parents value a local school, particularly at primary stage. Of course patterns of housing occupation are very varied, with London for example having many pockets of luxury homes adjacent to social housing, while other cities have some highly segregated neighbourhoods. Amongst others, the Centre for Market and Policy Organisation at Bristol University has estimated that schools are more segregated

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<sup>75</sup> Harris R 2010 *Segregation by choice? The debate so far* CMPO Working Paper No. 10/251 accessed at <http://www.bristol.ac.uk/cmppo/publications/papers/2010/wp251.pdf>

than their neighbourhoods, not only on a poverty index but also on an ethnicity index, with faith schools playing an important part in these patterns. For the purposes of this report, an important question is whether choice and competition policies affect the level of segregation over time.

The most recent research by Gorard et al corroborates earlier findings with regard to national trends, that the segregation index for pupils claiming free school meals (FSM) was at about 35% in 1989, reduced to just above 30% in the mid-nineties, before rising again a little, levelling off in the early years of this century and falling again from 2008.<sup>76</sup> This means that nationally around a third of pupils would need to change schools in order that all schools had a representative number of pupils on FSM. Gorard et al constructed 12 indices in all, covering separately primary and secondary pupils on six characteristics: FSM take-up and eligibility, ethnicity, English as an additional language, statement of SEN and other SEN.

Gorard suggests explanations for these trends which lie outside the school system, and are located in economic and social change. In both the early nineties and after 2008 there were economic downturns and the proportions of pupils claiming FSM increased. What's more, the effects of the recessions were not restricted to geographical pockets but experienced nationwide, if unevenly, so that new claimants for FSM would be likely to be more widely distributed amongst schools and not concentrated in more longstanding areas of disadvantage.

A study of 27 rich countries showed a wide range of social segregation in secondary schools.<sup>77</sup> Jenkins et al noted a highly segregated group of countries, including Germany and Austria, with selective school systems, and a less segregated group comprising the Nordic countries as well as Scotland and Ireland. England stands towards the top of the middle group. They also pointed out that 28% of pupils in England attended secondary schools which used academic ability or feeder school recommendations as a criterion for admitting pupils, showing that the 164 grammar schools and the secondary modern schools associated with them have a considerable impact on segregation.

As well as their national study, Gorard et al selected 36 local authorities with a variety of patterns of school organisation and found that 'Segregation by poverty is highest in areas with fewest 'bog standard' schools, and lowest in areas with fewest independent, special, selective, faith-based, foundation, CTC or academy schools.' There was much greater segregation in areas which have retained grammar schools, with Trafford being the most segregated local authority in England. There was an even greater link between higher segregation and a higher proportion of converter academies. Machin and Vernoit found that early academies (2002-07)

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<sup>76</sup> Gorard, S., Hordosy, R. & See, B.H. (2013). *Narrowing down the determinants of between-school segregation an analysis of the intake to all schools in England, 1989–2011*. Journal of School Choice: International Research and Reform 7(2): 182-195

<sup>77</sup> Jenkins SP, Micklewright J and Schnepf, SV 2006 *Social Segregation in Secondary Schools: How Does England Compare With Other Countries?* ISER Working Paper 2006-2 Colchester University of Essex.

improved the performance profile of their intakes immediately on conversion<sup>78</sup>, and Wilson showed that these academies reduced their proportion of pupils claiming free school meals by 12.5%<sup>79</sup>. This amounts to good evidence that schools which are their own admissions authorities are more likely to select their intake on what are effectively social grounds.

To summarise the evidence, international studies suggest that levels of segregation depend largely on whether the school system is selective. England, being partly selective, is a middle ranking country for segregation. It is shown later that schools in the United States and Sweden have become more segregated as a result of marketisation, but it could be argued that England's traditional choice-based admissions system has had features associated with marketisation for many years. This would explain the consensus amongst researchers that there is as yet no trend (as measured to 2010) towards higher levels of segregation in England as a result of more recent policies.

If and when an economic upturn leads to reductions in FSM claimants, segregation may well increase again. The education policy environment on school intakes centres on an Admissions Code which permits schools to select pupils, and the very weak enforcement of the Admissions Code. It may be predicted that if the environment remains unchanged, secondary school segregation will also increase due to the large number of academies.

### **2.3.2 Pupil performance in a marketised system**

Proponents of marketisation claim that competition between schools coupled with parental choice and product information forces up attainment. Considerable research resources, particularly in the United States, have been applied to testing this claim. In England, the methodological problems of such research are particularly challenging.

As discussed above, schools are heavily incentivised to focus on performance in those tests which comprise league tables. The view is now commonplace that the very large increases in pupils' test scores over the last two decades reflects better test performance, not better acquisition of deep knowledge and skills. (This is not grade inflation, which is the award of higher marks for the same level of test performance and for which there is no evidence in general.) Other measurements of pupil performance, such as the tri-annual sampling of 15 year olds for PISA, support this view.

The challenge for researchers is to identify causal connections between pupil test performance and individual policy and practice innovations. Reform has been continual since the implementation of the ERA and it is difficult to calculate the impact of any one policy, particularly since performance datasets date only from

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<sup>78</sup> Machin S and Veroit J 2011 *Changing School Autonomy: Academy Schools and Their Introduction to England's Education* CEE Discussion Paper 123

<sup>79</sup> Wilson J 2011 *Are England's Academies More Inclusive or More 'Exclusive'? The Impact of Institutional Change on the Pupil Profile of Schools* CEE Discussion Paper 125

1989. As discussed earlier, the common methodology to use academies and community schools as a contrasting pair in terms of autonomy is misplaced.

Another difficulty is to establish an indicator for the degree of competition experienced by schools. Some studies use proximity to local authority boundary as a proxy, claiming that this has been observed to relate to competition. However, since the ‘Greenwich judgement’ in 1989 a school’s oversubscription criteria may not give priority on the basis of a child’s residence within the authority.

Despite methodological problems such as these, and notwithstanding the almost complete absence of a school effect on pupil performance, research into any relationship between schools and marketisation policies is quoted and misquoted by politicians and commentators. In one well-cited study, Gibbons et al tried to calculate the effect on pupil performance in English primary schools of both school choice and competition between schools.<sup>80</sup> When allowing for endogenous factors they found a small but significant relationship only in voluntary aided schools. They also pointed out that the mainly American literature was at best mixed in its conclusions. Machin and Veroit found improvement in the performance of early converter academies of about 3.5%, an improvement not replicated with later converters. When Machin and Silva re-analysed the data they found that no improvements were made by the bottom 20% of achievers, and in the case of later converters the effect of conversion may even be negative for this group of pupils.<sup>81</sup>

There have been two recent major reviews of the evidence, both conducted by researchers broadly supportive of a market approach. Allen and Burgess conclude that in general the evidence does not support the contention that increased competition between schools leads to higher performance, with the possible exception of a faith school effect.<sup>82</sup> The most recent review, by Machin and Silva, concludes: ‘Whilst there is a paucity of robust and coherent evidence to draw upon, it does not seem unreasonable to say that, on balance, the evidence that does exist at best shows only small beneficial effects on overall pupil performance...’<sup>83</sup> Once again we see that claims of politicians are at variance with reviews of academic evidence. We can say that the evidence to date does not show that competition leads to improved performance.

It could be argued that it is too early to reach any conclusions on the effects of marketisation because it takes 15 years for a cohort to pass from reception to GCSE, or at the very least five years to pass through a secondary school. This does not prevent politicians making inflated claims almost immediately when a reform is put into effect. However, as discussed below this experimental policy has very clear risks and disadvantages. The question must be, in the light of the clear

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<sup>80</sup> Gibbons S, Machin S and Silva O 2008 *Choice, Competition, and Pupil Achievement* Journal of the European Economic Association 6(4) pp 912–947

<sup>81</sup> Machin S and Silva O 2013 *op cit* p9

<sup>82</sup> Allen R and Burgess S 2010 *op cit*

<sup>83</sup> Machin S and Silva O 2013 *op cit* p12



evidence that as yet marketisation has not produced any substantial improvement, why do coalition government leaders remain so committed to this approach?

### 3. Education, a Global Business

This section of the report sets the international context for the marketisation and privatisation of England's education. It describes activities of for profit providers in schools and colleges in the United States and Sweden and the patterns of ownership of providers. Many of the organisations mentioned in this section appeared earlier in the description of trends in England.

In 2012, the IES Breckland school opened in Brandon, on the Suffolk/Norfolk border. It was a first – not the first state-funded school in England to be managed on a 'for profit' basis, but the first free school so managed, and on a 10-year contract. This contract was made between the Secretary of State and IES (Internationella Engelska Skolan), a small Swedish company which runs a chain of 22 free schools. IES had been established and led by Barbara Bergstrom, a teacher and entrepreneur who sought to implement her vision of good teaching.

But even as her company won its first contract in England, Barbara was thinking about her future. And in the very month Breckland opened, it was announced, not loudly, that she had sold the company to TA Associates, a private equity company based in Boston Massachusetts with offices in 4 continents and assets of \$18 billion. Its brochure states that it invests in companies 'capable of...organic growth of 15% or more.'<sup>84</sup> TA's London manager Chris Parkin is a member of IES four-strong board of directors, and Lovisa Lander, a TA Associate, attended the school's first Celebration of Achievement event in July 2013.

This story illustrates two aspects of the education business. Firstly, it is global. Of the world's top ten education companies by turnover, eight are based in the US, one (Pearson) in the UK, and Benesse is Japanese. But six of them operate in emerging markets in Asia, and eight in Europe, and all other world regions are covered (see figure 4). As the Introduction showed, the Westminster government sees the export potential for UK's education business, and the country has two clear advantages in global competition: English is the universal language, and England's elite schools and universities have high global prestige.

Secondly, edubusiness shares a characteristic of many economic sectors, a tendency towards concentration of ownership in the hands of private equity companies. Some edubusinesses are longstanding institutions which adopt marketised approaches, but many others start as small organisations formed by entrepreneurial education enthusiasts; these follow the classic route of growth, followed by the size dilemma (further expansion with a change of culture?), followed by merger with larger companies. This report contains examples of organisations at different stages of this development, but the trend is pronounced and has education policy implications.

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<sup>84</sup> Source: TA Associates brochure, p5, accessed at [http://www.ta.com/TA/media/Documents/TA\\_Brochure\\_3\\_13.pdf](http://www.ta.com/TA/media/Documents/TA_Brochure_3_13.pdf) 30 Sep 2013

Figure 4. Largest global education companies (by turnover)<sup>85</sup>

Education provider	Major activities	2011 revenue US\$bn	HQ in	Operational in
Pearson	education materials	7.0	UK	Europe, Asia, Americas
Apollo Group	colleges inc University of Phoenix, BPP and ULA Mexico	4.5	US	Europe, Americas
Benesse Education	Correspondence courses, prep schools, Japan.	3.7	Japan	Asia
Laureate	71 HE institutions, 29 in S America, 13 in Asia (also Roehampton and Liverpool partnerships)	3.2	US	Europe, Asia-Pacific, Americas, Middle East & N Africa
Kaplan	online university and 69 college campuses, prof training, test prep for schools and colleges (all US), English language schools	2.5	US	Europe, Asia, N America
McGraw-Hill Education	employs more than 6,000 people in 44 countries and publishes in more than 60 languages.	2.3	US	Europe, Africa, Americas, Middle East
Career Education Corp	90 colleges US, Europe: 57,000 students, 40% virtual, inc Colorado Tech University	1.8	US	Europe, N America
Corinthian Colleges	81,000 students in colleges US, Canada	1.7	US	N America
Cengage Learning	education materials global	1.6	US	Europe, Asia, Africa, Americas, Middle East
Houghton Mifflin Harcourt	education materials mainly US	1.2	US	Europe, Asia, Africa, Americas, Middle East

n.b. this table excludes Education Management Corporation although its income exceeds \$2 billion. In the past EMC enrolled 160,000 students, mostly on-line.

### CASE STUDY: PEARSON

Pearson declares itself ‘...the world’s leading education company, operating in more than 70 countries and providing educational materials, technologies, assessments and related services to teachers and students of all ages.’ Its financial statement for the first half of 2013 showed earnings of £2.756 billion, of which £730 million was derived from the FT group of publications and Penguin and the

<sup>85</sup> Sources: derived from BIS op cit, pp29-30, additional material from company websites

remaining three quarters from global edubusiness. (Profit was reported at £137 million.)

Its products range across assessment, testing and measurement services; distance learning; educational technology and e-learning; english language teaching (Wall Street English group of 450 language schools in 27 countries); reform and curriculum development; professional teacher development and educational leadership training; teaching and learning resources and materials; and vocational qualifications. Pearson owns or manages only a few schools and colleges.

Half of all schools in the US use at least one Pearson curriculum, pedagogy, assessment, or financial management product, and this generates 60% of turnover. In the UK 7,000 primary schools now subscribe to at least one of Pearson Primary online services, and it owns Edexcel, which offers a huge range of qualifications.

Pearson expects ‘...market conditions to remain favourable for our businesses in developing economies and education software and services’, but ‘challenging’ in the developed world. ‘Looking ahead, we see considerable growth opportunities in education, driven by trends including rapid growth of the global middle class, adoption of learning technologies, the connection between education and career prospects and increasing consumer spend on education, especially in emerging economies. We are therefore significantly accelerating our push into digital learning, education services and emerging markets...we are accelerating the work that is already under way to transform Pearson from the world’s most international education publishing company to the world’s leading global learning services business. We believe it will provide Pearson with a larger market opportunity, sharper focus on the fastest-growing markets, stronger financial returns and a greater impact on educational outcomes.’<sup>86</sup>

### 3.1 Higher education in the United States

As figure 5 shows, six of the largest edubusinesses in the world operate colleges in the US. The largest is the Apollo Group which earns 90% of its income from the huge University of Phoenix, with 328,000 students in 2012, but has nine other subsidiaries.

The following account of Apollo is taken from a report of the US Senate Health, Education, Labor And Pensions Committee published in 2012, ‘For Profit Higher Education: The Failure to Safeguard the Federal Investment and Ensure Student Success’.<sup>87</sup> The report contained detailed information on all of the significant institutions in the market, and the case of Apollo is typical except for its size. Apollo spent \$892 per student on instruction in 2009, compared to \$2,225 per student on marketing and \$2,535 per student on profit. In comparison, University of Arizona spent \$11,128 per student on instruction, Midwestern University

<sup>86</sup> Source: <http://www.pearson.com/news/2013/july/pearson-2013-half-year-results.html>

<sup>87</sup> at <http://www.gpo.gov/fdsys/pkg/CPRT-112SPRT74931/pdf/CPRT-112SPRT74931.pdf> pp 284-301 accessed 19 October 2013

\$10,219, and Phoenix College \$3,344. In the same year Apollo Founder and Chairman John Sperling received \$8.6 million in compensation, more than 13 times as much as the president of the University of Arizona, who received \$633,206 in 2009-10.

The committee found that Apollo used aggressive recruitment techniques, including encouraging applicants to falsify their loan applications. This followed a Government Accountability Office investigation which included undercover methods. No fewer than two thirds of students enrolling for Associate level (pre-degree) courses, which are run on-line, withdrew before completion, as did about half of Bachelor's students, in equal proportions from real and virtual courses. The GAO also investigated Corinthian, Kaplan and the Education Management Corporation (EMC) at the same time. These practices are connected with high rates of student loan default, which may be as high as 25% in the for profits sector compared with about 11% in the public sector.

Enrolment at the University of Phoenix reached a high point in 2011, but the company's fortunes have been in decline more recently. Group earnings for the year ending August 2012 were \$4.3 billion, almost 10% less than the previous year, with profits down from \$566.3 million to \$393.7 million. The first nine months of fiscal year 2013 continued the decline, with income at \$2.8 billion, a 12.9% decrease compared to the previous year. In that period enrolment at the University of Phoenix decreased 15.1% to 309,100. The stock market watches closely enrolment figures of Apollo and other major edubusinesses. According to one investment analyst, Apollo's value declined by 52.66% between February 2011 and October 2013 – although it was not alone; the average decline for six significant college providers was 57%.<sup>88</sup> Apollo is now seeking to diversify, including moving into the school on-line sector.

Most of Apollo's students learn on-line, and many are adults undertaking primarily vocational qualifications. Apollo's current problem (shared by all other for profit companies) is caused by a reduction in the student market in the US, possibly due to increased awareness of 'mis-selling', poor quality tuition and high dropout rates arising from the Senate investigations.

However, during 2013 Apollo avoided an even more damaging event. In February, the Higher Learning Commission, the accrediting organization for Arizona and 18 other states assigned by the US Department of Education, warned that it was minded to place the University of Phoenix on Probation because of failings in administration and governance. After intensive lobbying and a hearing in May, the HLC decided in July to place the University on Notice, a lesser sanction which involves a timescale for improvements.

Apollo may be the largest edubusiness in the US, but it is not atypical. Corinthian and EMC were also found to have undertaken improper recruitment practices. EMC, which operates a number of colleges which offer campus and on-line provision, was acquired in 2006 by a consortium of private equity firms including

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<sup>88</sup> AOL Daily Finance at <http://www.dailyfinance.com/2013/10/14/is-the-for-profit-education-mess-about-to-repeat-i/> accessed 15 October 2013

Goldman Sachs Capital Partners and Providence Equity.<sup>89</sup> Under this management, student enrolment doubled to nearly 160,000, almost entirely due to on-line provision. Like Apollo, EMC recruited aggressively and subsequently suffered high dropout and loan default.

Like Apollo, from 2011 it suffered reductions in student numbers, but its response, identified by one commentator as having Goldman Sachs ‘written all over it’ was to cut between 3,000 and 4,000 staff and engage in share buy-back.<sup>90</sup> EMC’s revenue declined from \$2.76 billion for the 12 months ending June 2012 to \$2.49 billion for the year ending June 2013, but the cost savings reduced its losses from \$1.51 billion to \$268 million.

Another of the ten largest edubusinesses, Kaplan, which is wholly owned by the Graham Holdings Company (formerly called the Washington Post Company), published similar results in October 2013 relating to three-quarters of the year. Its US higher education division saw a year on year reduction in student numbers from 73,261 to 65,158, or 11%, and 10 campuses were closed. Income for this division was 7% down on the same period in 2012 at \$811 million, half of all Kaplan income, with most of the other half relating to its international operations.<sup>91</sup>

Much of the for profit higher education sector in the US operates by recruitment of a non-traditional population consisting of adults, often in employment, seeking vocational qualifications, and by new on-line methods. There has been relatively little attention to quality of provision, which has been addressed only indirectly by highlighting substantial drop-out rates. However, high levels of marketing staff and low levels of teaching and student support staff suggest an inadequate learning experience for millions of students in the US.

The recent down-turn in recruitment, profits and share-price signal a crisis for US edubusiness. Some investment analysts consider this business to be a poor prospect in the long term because of the likelihood of increased pressure from regulators and the reliance on government funding which is likely to face continuing pressure. Apollo is exceptional not only because of its size but also because of lack of penetration by private equity companies which have bought into this market. As we shall see, private equity globally continues to view education as a growth sector, but perhaps the US domestic higher education sector has passed its peak. Both edubusiness and private equity now look abroad for growth.

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<sup>89</sup> UCU 2012 *Public service or portfolio investment? How private equity funds are taking over post-secondary education* London: University and College Union pp35-36

<sup>90</sup> UCU 2012 op cit p36

<sup>91</sup> Accessed at <http://www.washpostco.com/phoenix.zhtml?c=62487&p=irol-newsArticle&ID=1871316&highlight=> 22 November 2013

### 3.2 Charter schools

The development of for profit provision in the US school sector has followed a very different path from that of higher education. Few charter school organisations are run for profit except in four states, and there are no dominant large organisations in the market. Apart from the growth of ineffective virtual schools, the most recent evidence suggests variable quality within charter schools but little difference in average quality between them and the still dominant public school system.

The first state law providing for the establishment of charter schools was passed in Minnesota in 1991, and the first opened there the next year. 41 states and the District of Columbia have followed Minnesota. According to the National Charter Schools Resource Center there were 5,618 charter schools in 2011-12, some 5.8% of US schools, but enrolling 4.2% of pupils, since many schools are small elementary provision. The figures 2012-13 were 5,997 schools, 6.3% of all schools, and 4.6% of students. The recent trend has been for relatively steady numbers of new schools (547 in 2011-12) but a notable attrition rate, with about 150 closures in the same year.

All research findings confirm some features of charter schools, the chief of which is the very large variability in practice and performance. The laws passed by the 42 states have created a very wide range of practice. While some states accept a wide range of providers and target groups of students, others require provision for the urban poor. One state allows charters only in 'failing' districts. Within each state there may be a wide range of providers with their own methods. Variability is increased by the predominance of single school providers. The larger for profit providers are not typical of the scene.

There are some shared features. Charters are exempt from much state law and District provisions in matters such as admissions, curriculum, and staffing. Much debate concerns the importance of non-recognition of teaching unions, and in particular the rights to hire and fire staff. While states differ, many charters receive lower funding per pupil than public schools, with the provider expected to meet accommodation costs. This becomes a significant factor within the for-profit sector.

Miron et al<sup>92</sup> included in their 2006-7 research sample 90 for profit organisations running 550 schools, but 47 of these each had a single school, and only 13 had more than 10 schools each. Edison Learning stood out at that time with its 54 schools and 37,678 students, with only the Leona Group and National Heritage Schools (also for-profit organisations) approaching it. More typical were the enthusiasts running Bright Beginnings School, Inc., Educational Impact, Inc. (88 students), Montessori Schoolhouse of Tucson, Inc (two schools with a total of 46 students), and so on.

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<sup>92</sup> Miron G., Urschel J.L., Mathis W.J., & Tornquist E. 2010 *Schools without Diversity: Education Management Organizations, Charter Schools and the Demographic Stratification of the American School System* Boulder and Tempe: Education and the Public Interest Center & Education Policy Research Unit

In many states conditions are attached to the funding contracts which make their cancellation a very real prospect, and these include student performance data. It is clear that the charter sector is growing steadily, but with significant churn from closure of ‘unsuccessful’ schools. Proponents argue that after two decades, the sector is maturing and performance issues are being addressed.

It could be argued that the charter school movement has attracted world-wide interest and controversy far beyond its impact on the youth of the United States, and that the impact of for-profit is even more limited. But it has been argued that the impact on the schools system in the cities where charter schools are concentrated is much larger than the size of the sector might suggest. The charter movement has introduced school choice, and by the use of a range of enrolment techniques has encouraged marketisation.

### **3.2.1 Social composition of charter schools**

The impact of charter schools on the social composition of schools in the US has been much researched, but as Miron et al discuss weak methodology is commonplace, frequently with inappropriate control groups. They used local district controls to study the effects of EMO schools on the segregation or integration of schools by race, economic class, special education status, and language.<sup>93</sup> Other research has suggested that within a district, charter schools are representative in terms of student ethnicity, but Miron et al discovered that this finding hides what they call both white flight and minority flight, a much higher degree of segregation at school level; that is, individual charter schools are either predominantly white schools or minority schools, to a much greater extent than the district schools. Charter schools also increase segregation into affluent and poor schools.

Miron et al also showed that children with special educational needs and lack of fluency in English are also under-represented. The federal government collected data on students with disabilities and found a substantial under-representation (see figure 6).<sup>94</sup> There was considerable variation at state level; while in 28 states

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<sup>93</sup> Other studies which avoid false control groups:

Institute on Race and Poverty 2008 *Failed promises: Assessing charter schools in the Twin Cities* Minneapolis: University of Minnesota Law School

Powers J.M. 2008 *Charter schools, conventional public schools, and school segregation in California* Paper presented at the annual meeting of the American Sociological Association Annual Meeting, Boston, MA.

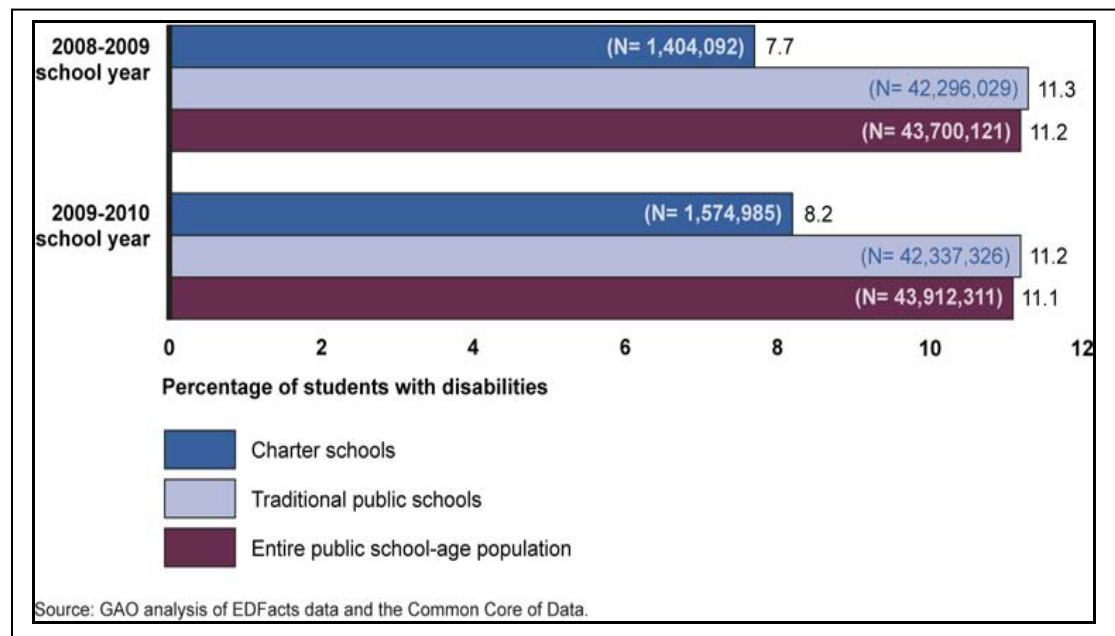
Zimmer R., Gill B., Booker K., Lavertu S., Sass T.R., & Witte J. 2009 *Charter schools in eight states: Effects on achievement, attainment, integration, and competition* Santa Monica, CA: Rand

<sup>94</sup> United States Government Accountability Office 2012 *Charter Schools: Additional Federal Attention Needed to Help Protect Access for Students with Disabilities*



charter schools had lower levels, in 8 states the levels were higher than traditional public schools<sup>95</sup>.

Figure 5. Percentage of Students in Charter Schools and Traditional Public Schools Who Had Disabilities Compared to Students with Disabilities' Overall Representation in Public Schools



Charter schools are bound by federal law with regard to enrolment, but as independent publicly funded schools are not bound by School District procedures and state laws, which almost universally allocate children to schools by neighbourhood, with a lottery system for oversubscription.

Welner investigated the enrolment practices of charter schools to shed light on the mechanisms which produce higher segregation.<sup>96</sup> He describes how they occupy what he calls ‘niches’, specialising in academic success, or autism, for example. They locate according to their niche and their marketing materials reflect it. Some states permit charter schools to give preference based on their theme or focus.

Some other practices are of more doubtful legality. Welner relied partly on the work of a Reuters journalist, Stephanie Simon,<sup>97</sup> who uncovered instances of applications made available just a few hours a year. They may be lengthy with

<sup>95</sup> Op cit, figure3 p8

<sup>96</sup> Welner K.G. 2013 *The Dirty Dozen: How Charter Schools Influence Student Enrollment* Teachers College Record

<sup>97</sup> Simon S. 2013 *Class Struggle - How charter schools get students they want* Reuters accessed at <http://www.reuters.com/article/2013/02/15/us-usa-charters-admissions-idUSBRE91E0HF20130215> 9 October 2013

requirements such as student and parent essays, report cards, test scores, disciplinary records, teacher recommendations and medical records. Social Security cards and birth certificates are required, contrary to federal law. There may be family interviews, entrance exams or other academic requirements, or documents about any disability or special need, which is illegal at college level but not in schools. Parents may be required to commit to longer days and hours, or even for service to the school. Such practices are common in standalone schools, while many of the larger networks, such as KIPP, and for profit schools, use very simple applications.

Welner found that applicants may be told that the school does not have the facilities to meet their needs, or simply steered towards an alternative public school. There is also evidence of encouragement to leave or even expulsion. According to a Washington Post review of school data, during 2011-12, when charters enrolled 41% of the city's students, they removed 227 children for discipline violations and had an expulsion rate of 72 per 10,000 students; the district school system removed three and had an expulsion rate of less than 1 per 10,000 students.

Proponents of the charter school movement had various ideas about their purpose, but the introduction of choice was common. There has been a steady increase in their number, and substantial diversity in their ethos and mission. Many of the standalone charters aim to improve the life chances of the urban poor, and may focus on particular minorities. In that scenario, it was almost inevitable that social segregation in US schools would increase, and indeed the evidence points clearly to that outcome.

### **3.2.2 Performance of charter schools**

Given the controversy within the US on the charter schools policy, it is hardly surprising that the academic performance of the schools has been widely studied and debated. This brief review concentrates on more recent and comparatively methodologically sound work.

The literature contains a number of studies of a very small number of schools, located in a single area. Two examples: Hoxby and Murarka found positive impact for all kinds of students in 42 New York City charters.<sup>98</sup> Angrist et al found positive impact in a single KIPP school in Massachusetts.<sup>99</sup> Abdulkadiroğlu et al studied student performance in charter schools in Boston in 2009-10<sup>100</sup>. The control group was public school students who had applied to charter schools but

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<sup>98</sup> Hoxby C. & Murarka S. 2009 *Charter Schools in New York City: Who enrolls and How They Affect Student Achievement* NBER working paper 14852

<sup>99</sup> Angrist D., Dynarski S.M., Kane T.J., Pathak P.A., and Walters C.R. 2010 *Who Benefits from KIPP?* NBER Working Paper No. 15740

<sup>100</sup> Abdulkadiroğlu A., Angrist J.D., Dynarski S.M., Kane T.J., & Pathak P.A. 2011 *Accountability and Flexibility in Public Schools: Evidence from Boston's Charters And Pilots* The Quarterly Journal of Economics 126 (2): pp699-748

were unsuccessful in the lottery for admission, a now standard methodology. Availability of lottery data enabled eight of the 16 charters to be included in the sample. In Boston schools around 45% of students are black and 30% Hispanic, compared with 70% and 20% in charters. No fewer than 85% are poor, as measured by FRL (free or reduced-price lunch entitlement), compared with 70% in charters. 50% are girls, compared with 60% in charter high schools. All of these factors are taken into account in the sampling.

The impact of this methodology is that the charter schools studied were all over-subscribed and perceived as successful, which is not the case for all Boston charter schools. This probably influenced the finding that gains in learning in English and Math in Boston middle and high charter schools were ‘impressive’, in comparison with matched students in public schools, although there were considerable differences between subjects, and between different groups of students. Those benefitting most appeared to be poor and black (the large majority).

Gleason et al had used a similar methodology in their Department of Education sponsored study of 36 charter middle schools across 15 states using data from 2004-5 and 2005-6.<sup>101</sup> This national study found a charter school student population relatively more white and less poor than the control group, with only 33% in receipt of FRL compared with 45% in the public schools.

They found that ‘on average, charter middle schools that hold lotteries are neither more nor less successful than traditional public schools in improving student achievement, behavior, and school progress’<sup>102</sup>. However, again the average hid a range of outcomes; across 32 schools the effects on reading scores after two years were positive in 11 and negative in 17, while math scores were positive in 10 and negative in 18. Again, it was found that the urban poor, and hence predominantly black, appeared to make the most gains. Gleason et al could find no correlation between performance and the policies and practices of the provider, and in particular whether the school was run for profit. The only exception was a smaller class size, which had a positive impact. Despite the average lack of impact, charter students and their parents were significantly more satisfied with their schools than public school families.

However, by far the most authoritative work in this area has been conducted by CREDO, the Centre for Research on Education Outcomes, at Stanford University. Its 2009 study *Multiple Choice: Charter Performance in Sixteen States*<sup>103</sup> has been widely used and abused. Instead of a lottery based control group, CREDO uses a very careful construction of a match to each charter student called a ‘virtual

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<sup>101</sup> Gleason P., Clark M., Tuttle C.C., & Dwoyer E. 2010 *The Evaluation of Charter School Impacts: Final Report (NCEE 2010-4029)* Washington, DC: National Center for Education Evaluation and Regional Assistance, Institute of Education Sciences, U.S. Department of Education

<sup>102</sup> Op cit, p xvii

<sup>103</sup> Center for Research on Education Outcomes 2009 *Multiple Choice: Charter School Performance in 16 States* Stanford, CA, CREDO at Stanford University accessed at: [http://credo.stanford.edu/reports/MULTIPLE\\_CHOICE\\_CREDO.pdf](http://credo.stanford.edu/reports/MULTIPLE_CHOICE_CREDO.pdf)

control record’, which is a match of characteristics such as gender, poverty, ethnicity and including prior attainment derived from seven students in the public school which would have been attended by the charter student. The study used data on 70% of US charter students. Its headline finding was that in 17% of charter schools students did better on the whole than their public school twins, in 37% they did worse, and in 46% there was no statistical difference. It was often misunderstood that the term ‘significant’ meant ‘statistically significant’, not ‘large’, and that the effects were actually small.

CREDO followed up this report in 2013, using the same methodology and a sophisticated battery of analyses. The National Charter School Study 2013<sup>104</sup> reported on no fewer than 95% of all US charter students numbering in excess of 1.5 million, from the 27 participating states, and the same number of control students. In the year 2011-12 there were 49,177,617 school students in the US – incidentally, 48% of all students were in poverty.<sup>105</sup>

In effect, there were two separate studies, which together provide a rich picture of US schools: the first added a longitudinal aspect by revisiting the 16 states which took part in the 2009 study, the second included all 27 states. Charter schools in the 16 states showed improvement between 2009 and 2013, largely due to the closure of the worst performing schools, 8% of the total.

An alarming finding from the 27 state study is that overall ‘growth’, or value-added, in reading and math in US schools declined during the study period, the six years up to 2010-11. It is against this trend of falling performance that charter schools are doing slightly better than in the 2009 report: in reading 25% of charter schools had statistically significantly stronger growth than their TPS counterparts, 56% were not significantly different and 19% had weaker growth; the corresponding scores for math were 29%, 40%, and 31%. It should be emphasised that the average differences are small, equivalent to up to seven days of learning over a year. However, there were much larger effects for two groups of students: black students in poverty who attend charter schools gain an additional 29 days of learning in reading and 36 days in math per year over their public school counterparts, while Hispanic ELL (English language learner) students in charter schools gained on average an additional 50 days of learning in reading and 43 additional days in math when compared to ELL students in public schools.<sup>106</sup> The effect is even larger for poor black students in the top half of the achievement range.<sup>107</sup>

To sum up the findings on charter school performance, there is a large variety of schools, in terms of their philosophy and target intake. Both nationally and within

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<sup>104</sup> Center for Research on Education Outcomes *National Charter School Study 2013* Stanford, CA, CREDO at Stanford University accessed at:

<http://credo.stanford.edu/documents/NCSS%202013%20Final%20Draft.pdf>

<sup>105</sup> CREDO 2013 op cit table 5 p16

<sup>106</sup> op cit, p56

<sup>107</sup> op cit, Technical Appendix, p20

states, there is a range of effectiveness, although overall the differences are quite small. However, the highly credible evidence from CREDO is that poor black and Hispanic students with English as an additional language do benefit more substantially from charter schools. This could well be explained by the prevalence in some cities of charter groups with a mission to improve the lot of these disadvantaged students.

### 3.3 For-profit schools

Data on for profit schools is derived from a report from the National Education Policy Centre at the University of Colorado Boulder<sup>108</sup> which relates to 2010-11, when it identified 758 schools managed for profit, with 400,000 students. Not all of these were charters; 46 were public schools, so there were 712 for profit charter schools. This review also covered 1,170 schools managed by not for profit EMOs.

Most states now allow virtual schools, which are operated by for-profit EMOs. A virtual school has some staff based in an office, but students work entirely on-line, with the assumption that this is from home. They rely on trade-marked curriculum programmes, as do some so-called 'bricks-and-mortar' charter school groups. In 2010-11 there were 79 were virtual schools enrolling some 115,000 students. Of these, 68 were run by five large-sized EMOs: Connections Academy, K12 Inc., Leona Group, Mosaica Education, and White Hat Management, with Connections and K12 Inc. the two dominant players. But virtual schools are growing fast: by 2013-14 K12 alone enrolled 128,550 students, compared with 65,400 in 2010-11. In 2013 K12 had revenues of \$848 million and profits of \$46 million. Connections enrolled 44,300 students in 2012-13 compared with 20,400 in 2010-11. Another recent trend is the growth of blended schools, where students study partly in school and partly on-line.

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### CASE STUDY: MOSAICA EDUCATION

Mosaica was founded in 1997. It offers a full management service to schools, typically on five-year contracts. It has recently taken over four schools in England and has established Hyderabad International School in Uttar Pradesh, India.

In October 2013 it claimed to operate over 40 elementary and middle schools with 11,000 students in eight states and an on-line preparatory academy. However, its portfolio of schools is extremely unstable. Research by Arizona State University showed that of the first 36 schools established by Mosaica, in 27 cases the contractor either closed the school or engaged a different provider, in some cases in the middle of a contract period.

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<sup>108</sup> Miron G., Urschel, J.L., Yat Aguilar M.A, & Dailey B. 2011 *Profiles of for-profit and non-profit education management organizations: Thirteenth annual report - 2010-2011* Boulder, CO: National Education Policy Center Accessed from <http://nepc.colorado.edu/publication/EMO-profiles-10-11> 15 October 2013

A common complaint from dissatisfied parents and districts is a lack of local involvement. Mosaica schools have a track record of local controversy. In many cases, student performance is poor in comparison with neighbours, although the company website has examples of awards for its schools. Other local difficulties have included test score irregularities, staff turnover and employing non-certified (unqualified) staff, the last still openly stated by the company to be its practice.

These difficulties have led to a pattern of operation in which a contract is won to manage a school but during the contractual period various fees for additional services are levied and the contract is profitable. The contractor does not renew the contract because of poor performance, but the company goes on to win further contracts elsewhere.

A recent example is Muskegon Heights, Michigan, the first entirely privatised school district in the country following the district's bankruptcy. Within a month of Mosaica taking over the high school in 2012 the principal resigned, followed within weeks by a quarter of the staff. Mosaica claims improved student performance during the first year.

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Raw score data suggest that for profit virtual schools are comparatively ineffective. This provision is an under-reported experiment which needs further research. It amounts to the implementation of the updated ideas of the de-schooling movement. While learning outcomes should be further investigated, the developmental and social impacts of computer-based learning at home also should be studied, in the light of the usual assumption that school is society's most important agent of secondary socialisation. Even K12, an aggressive provider with very poor raw outcomes, argues that virtual schools should serve a 'small percentage of the overall K-12 student population', broadly those students who don't fit in their local school.<sup>109</sup> Yet a 2013 investigation of K12 by investment analyst Whitney Tilson revealed a catalogue of poor practice, including inappropriate recruitment, inadequate teaching, and fraudulent student assessment.<sup>110</sup> K12's share value halved at the end of 2013.

Although EMOs tend to focus on elementary schools, with relatively fewer students, the virtual schools have thousands of students. 540 for profit schools, 71%, are located in just four states: Michigan, with 43 EMOs running 181 schools, Florida, 18 EMOs and 150 schools, Ohio, 14 EMOs, 107 schools, and Arizona with 34 EMOs and 102 schools. There is greater concern in these states about the conduct of some providers, such as Academica in Florida.

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<sup>109</sup> K12 2013 Form 10-K Annual Report for fiscal year ending 30 June 2013 to United States Securities and Exchange Commission pp7-8 accessed at: <http://investors.k12.com/phoenix.zhtml?c=214389&p=irol-reportsannual> 22 Oct 2013

<sup>110</sup> See <http://seekingalpha.com/article/1707192-An-Analysis-Of-K12-And-Why-It-Is-My-Largest-Short-Position>

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## CASE STUDY: ACADEMICA

Academica manages four prominent school networks in the Miami area, the Mater Academies, the Somerset Academies, the Doral Academies and the Pinecrest Academies. These four chains have more than 60 South Florida schools with about 20,000 students, the largest company in the state. Academica also manages charter schools in Georgia, Texas, Nevada, Utah and California, making it one of the largest companies in the country.

Academica schools are high achieving. They claim to receive few applications from parents of children with special needs, but some parents have complained to the school district about rejection of applications on the grounds that the schools do not have the necessary resources. In Miami, Academica recruits disproportionate numbers of students with prior high achievement (high) and those in poverty (low); since oversubscription leads to a lottery, this is due to their marketing strategy and consequent applications.

The networks are run by non-profit corporations, but they contract Academica for management services. There is a network of relationships between school staffs and Academica; principals serve as board members on other corporations in the group, and are usually recruited from within the group. The head of one corporation is also a lobbyist who was paid by Academica to lobby for it at the state capitol. In the past, the school district auditors have alleged 'serious conflict of interest' with regard to the schools' governance arrangements.

The CEO of Academica is Fernando Zulueta. With his brother Ignacio he owns two dozen real estate companies which control property worth more than \$115 million. This includes many Academica schools, which paid \$19 million rent in 2010. In nine schools, rent exceeded 20% of revenue, whereas Academica schools whose properties are not owned by Zulueta companies spent an average 11% of revenue on rent.

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It is noteworthy that the schools in the Academica group are charter schools run by not for profit bodies. The private interest is the contracts for management, services, and property leasing. There is doubt, however, about the degree of separation of the contractor and provider interests. As we have seen, this is the model of privatisation used until now in England. Within the US, Florida is seen as having relatively weak charter legislation, with little regulation, but the case study shows that existing regulation is ineffective.

The NEPC report is less helpful in measuring school performance. It simply reports EMO schools, and providers, in terms of the 'adequate yearly progress' (AYP) ratings which are used by states. This is a raw standard set without any contextual factors. Miron et al themselves comment, 'While the AYP ratings provide an indicator of performance that can be applied across states, it is important to note

that this is a relatively crude indicator of whether or not schools are meeting state standards.’<sup>111</sup>

In 2010-11, 52% of US schools reached the AYP. Of the EMO schools for which data were available, 48% reached AYP. The most noticeable feature of these results was the poor performance of virtual schools, of which 27% reached the standard. However, in the absence of social context data these results tell us little.

Of somewhat more use is the CREDO publication ‘Charter School Growth and Replication Volume II’ published in January 2013.<sup>112</sup> Within a detailed study of both EMOs and CMOs, it analysed student outcomes from 410 schools managed by 38 for profit EMOs, using CREDO’s virtual control record methodology. It found growth (value added) in EMOs of 9 days learning in reading and 12 days learning in math compared with public school students. These outcomes are slightly better than those for charters as a whole, but are still relatively small differences.

### **3.4 Charter schools – summary**

To sum up the research evidence on charter schools, it is important to recall that the sector has steadily grown in size and changed in nature over the past 20 years. However, fewer than 5% of US students attend charter schools and fewer than 15% of charter schools are run for profit. There has been a tendency for low-quality providers to come and go, but as states develop accountability systems the average quality has risen. The sector remains extremely varied, both within and between states, according to the varied legal frameworks established by states. In these circumstances, contemporary research is much more valuable than older studies, and this brief review has concentrated on the most recent work.

Much of the available research is of doubtful utility. There are serious methodological problems in comparing the performance of students in different institutions, and some of methods used to define control groups lack validity. Another problem is the small sample sizes in many studies; a review of a single school can only provide an understanding of that school which should not be used as a basis for generalisation. The work of CREDO stands out from this landscape. Its virtual control record method has been extensively and favourably peer reviewed and it uses very large populations.

It is safe to conclude that social segregation in US schools has increased since the introduction of the charter school policy. However, this is in the context of pre-existing high rates of segregation resulting from socially segregated housing. This trend is an almost inevitable result of introducing choice into enrolment in a society with very high inequalities. A new phenomenon in state education,

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<sup>111</sup> Miron et al 2011 op cit p21

<sup>112</sup> Woodworth J.L. and Raymond M.E. 2013 *Charter School Growth and Replication Volume II* Stanford, CA, CREDO at Stanford University accessed at <http://credo.stanford.edu/pdfs/CGAR%20Growth%20Volume%20II.pdf> 15 October 2013



however, apart from social segregation may be social isolation produced by the growth of virtual schools.

The varied provision is connected to varied outcomes in terms of student performance. As in 2009, the 2013 evidence is of a mixture, with the most common outcome being that charter schools perform at the same level as comparator public schools. About a quarter do better at reading and just over a quarter at math, but the differences are small. Schools run for profit have very similar outcomes to other charter schools. There is good evidence, however, that charter schools produce greater value added for poor black and Hispanic English learners than their public school neighbours, with differences of a term's learning per year in some cases.

Apart from effects on students, charter schools also raise issues of governance, accountability and probity, with the for profit sector of particular concern. Where the legal framework is weak, as in Florida, dissatisfied parents have little effective redress, providers are subject to insufficient scrutiny, and networks of edubusinessmen make profit from school real estate contracts. In Michigan, high quality schools lose out to aggressive marketing, including gifts for students on recruitment, from expanding but ineffective chains. Meanwhile, in more regulated Massachusetts such practices do not occur.

The schools' edubusiness does contain examples of concentration of ownership; in 2011, Pearson acquired Connections Education (see above) for over \$400 million. Other larger companies remain independent, but their growth has stalled and they seek expansion in the virtual school market or abroad. At the same time, there remains a very large number of small providers, many responsible for a single school. Quality control is an issue for schools managed by providers large and small.

As we have seen, the standard method of dealing with poor performance is to cancel the charter contract and close the school, although in some states monitoring and support programmes are provided. In general, school systems in the US are not familiar with school improvement methods as widely practised in England. Closure of failing schools is a key aspect of the marketised approach to school supply: where there is choice and competition, the good schools will thrive and the poor will decline and close. This theory is not working in Michigan, but nowhere in the literature is there discussion of the effects on communities and students of the closure of their school.

If some charter schools and some large providers are successful, while others are not, it may be time for researchers to switch their attention towards investigating the characteristics of the more successful schools – and since the same applies to public schools, perhaps the structural debate should be replaced by a school quality debate. On the other hand, there is extensive anecdotal evidence of negative practices in the for profit sector which may be a concern for public policy independent of student performance issues.

Even more clearly, a rational policy debate in the United States would focus on the impact of the very substantial inequalities within society on education achievement. Since it is well established that a high degree of inequality is associated with a large range of achievement, it is time for policymakers to ask themselves how to create the conditions for the half of the nation's students who are in poverty that will increase their propensity and ability to achieve.

### 3.5 Free schools in Sweden

Free schools developed in Sweden at the same time as charter schools in the US. Their origins lie in the 1992 introduction of a voucher system which was designed to enable any school which had been approved by the National Agency for Education to access state funding, together with giving parents the right to choose a school. This built on earlier liberalisation which decentralised administration of schools to the 290 municipalities. Until 1992, fewer than 1% of students attended private schools, of which there were about 60.

By 2009-10, there were 709 private schools compared with about 4,700 municipal elementary and high schools. According to Wiborg<sup>113</sup> they tend to be over-represented in more affluent areas and 27% are found in the three large cities, Stockholm, Malmo and Goteburg. Policymakers had expected parent groups and special interest groups, such as supporters of the Montessori method, to take advantage of the introduction of vouchers, but the number of such schools established was low. By the turn of the century, for profit organisations dominated the market, but they opened generalist schools which resembled the municipal schools in terms of curriculum and structure, and the subsequent expansion of free schools was delivered almost entirely by for profit organisations.

#### 3.5.1 Social composition of free schools

The US is at one end of the spectrum of economic and social inequality, with Sweden at the other end. Nevertheless, the social segregation of students in the areas of Stockholm, Malmo and Goteburg is a social policy issue for Sweden. Given that municipal schools' intakes are based on catchment areas, it is unsurprising that research finds school segregation closely linked to housing segregation.<sup>114</sup>

A study for the National Agency for Education investigated the impact of education reform on social segregation. It found that free schools increased segregation over and above the impact of housing. Gustafson calculated that the school segregation coefficient rose 30% more than the housing segregation coefficient between 1990 and 2004, and this relationship was also found by Daun

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<sup>113</sup> Wiborg S. 2010 *Swedish Free Schools: Do they work?* London, Centre for Learning and Life Chances in Knowledge Economies and Societies accessed at: <http://www.llakes.org/wp-content/uploads/2010/09/Wiborg-online.pdf>

<sup>114</sup> e.g. Bunar N. 2009 *Choosing for quality or inequality: current perspectives on the implementation of school choice policy in Sweden* Journal of Educational Policy 25, 1, pp. 1-18

(2003), Arnman et al (2004), Böhlmark and Lindahl (2007), and Bunar (2008).<sup>115</sup> Only a study by Almgren and Lindbom (2007) reached contrary findings, that the increase in school segregation was mostly due to greater housing segregation, but this work used a doubtful methodology involving fictitious schools. When Östh, Andersson & Malmberg (2010) replicated this study with a modified methodology they reached the same conclusion as other work.<sup>116</sup>

It may be concluded that in general the advent of free schools has increased social segregation in Swedish schools. However, it is likely that local circumstances of housing, schools and economy have differential effects, with the large urban areas particularly affected.

### 3.5.2 Performance of free schools

The literature on the relative performance of free schools and municipal schools is much smaller than that relating to charter schools, and it is possible to see a trend. Researchers have struggled to overcome the substantial methodological difficulties in such comparisons, and early studies were hampered by the very small size of the free school sector.

Early studies used a sample of about 30 municipalities with good pupil performance data, but using short time-series relating to the early development period of the free school sector. Ahlin (2003) found quite large effects in maths, but not in Swedish or English;<sup>117</sup> Björklund et al (2005), in contrast, using the same sample, found small effects in Swedish and English but not maths.<sup>118</sup> Sandström and Bergström (2005) found large positive effects in free schools, and this finding

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<sup>115</sup> Böhlmark A. and Lindahl M. 2007 *The Impact of School Choice on Pupil Achievement, Segregation and Costs: Swedish Evidence* IZA Discussion Paper No. 2786.

Bunar N. 2008 *The Free Schools 'Riddle': Between traditional social democratic, neo-liberal and multicultural tenets* Scandinavian Journal of educational Research 52, 4, pp. 423-438.

Daun H. 2003 *Market forces and decentralization in Sweden: Impetus for school development or threat to comprehensiveness and equity?* in Plank D.N. & Sykes G. (ed.) *Choosing Choice: school choice in international perspective* New York Teachers College Press.

<sup>116</sup> Almgren E & Lindbom A 2007 *Valfrihetens effekter på skolornas elevsammansättning* [the effects of school choice on student intake] in Lindbom A. (ed.) *Friskolorna och framtiden* [Free schools and the future] Stockholm Institutet för Framtidsstudier

Östh J. Andersson, E. & Malmberg B. 2010 *School Choice and Increasing Performance Difference: A Counterfactual Approach* Stockholm Department of Sociology, Demography Unit

<sup>117</sup> Ahlin Å. 2003 *Does School Competition Matter? Effects of a Large-scale School Choice Reform on Student Performance* Department of Economics, Uppsala University Working Paper No. 2

<sup>118</sup> Björklund A., Clark M., Edin P-A., Fredriksson P. and Krueger A. 2005 *The Market Comes to Education in Sweden: An Evaluation of Sweden's Surprising School Reforms* Russell Sage Foundation

has been widely reported by proponents of reform, but it suffered from the same problems as other early studies.<sup>119</sup>

The work of Böhlmark and Lindahl (2007, 2008, 2012) is far more authoritative.<sup>120</sup> They assembled comprehensive performance data on all Swedish students leaving lower secondary school between 1988 and 2009, tracking performance of individuals through their schooling, and checking for possible bias arising from using non-standardised performance measures. They also adopt a good range of controls for variables relating to students' backgrounds.

Their most recent findings have the advantage of the longest time-series of outcomes. They conclude: 'A 10 percentage point increase in the share of independent-school students in compulsory school is associated with 1.7 percentile rank higher achievement at the end of compulsory school. Interestingly, the effects also remain positive and significant after compulsory school. A 10 percentage point increase in the share of independent-school students increase the fraction with an academic track in high school by 2 percentage point, the mean high-school grades with 2 percentile rank, the fraction attending university by almost 2 percentage points and the average years of schooling by almost 4 weeks. These are not enormous effects but not trivial either.'<sup>121</sup>

It is important to note that improvements in student performance in areas with free schools are found in both the free schools and the (presumably competing) municipal schools. The positive effect for students with low-educated parents or an immigrant background is insignificant. Böhlmark and Lindahl's most recent study differs from the earlier ones in identifying a continuing effect in later education of performance gains at ninth grade (age 15-16).

Given the methodological challenges of this kind of research, it is unwise to base conclusions on one set of studies. Böhlmark and Lindahl were careful enough to describe the connection between the existence of free schools in an area and subsequent achievement as an association, thus avoiding the trap of a presumption of a causal connection. Earlier research was unsatisfactory and contradictory. It may be that the most important finding of research into student performance in free schools is that any effects, positive or negative, are small.

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<sup>119</sup> Sandström, F.M. and Bergström F. 2005 *School Vouchers in Practice: Competition Will Not Hurt You* Journal of Public Economics 89: 351-80

<sup>120</sup> Böhlmark A. and Lindahl M. 2007 *The Impact of School Choice on Pupil Achievement, Segregation and Costs: Swedish Evidence* IZA Discussion Paper No. 2786.

Böhlmark A. and Lindahl M. 2008 *Does School Privatization Improve Educational Achievement? Evidence from Sweden's Voucher Reform* IZA Discussion Paper No. 3691

Böhlmark A. and Lindahl M. 2012 *Independent schools and long-run educational outcomes – evidence from Sweden's large scale voucher reform* Uppsala Institute for Evaluation of Labour Market and Education Policy Working Paper 2012:19

<sup>121</sup> Böhlmark A. and Lindahl M. 2012 op cit p21

### 3.5.5 Free school providers

The market for free school providers has developed in a similar way to the charter school market in the US. In both cases the market remains unstable, with market entrants, mergers and acquisitions, and market departures. By 2007 total turnover in the sector was estimated at 100 million euros, with profits of 48 million euros, company profits being between 8% and 50%. Twenty years after their introduction in Sweden, there are a few dominant organisations (see Figure 6), but even these are not as firmly established as the numbers of schools might suggest; in 2013 the second largest provider, JB Education, suddenly left the market.

Figure 6. Number of schools and students of the four dominant independent actors in 2010 and early 2011<sup>122</sup>

Actor	No. of upper secondary schools	No. of students
AcadeMedia AB	Over 70	13,000
John Bauer Organization AB	29	12,500
Baggium Utbildnings AB	50	6,000
Kunskapsskolan i Sverige AB	9	2,500

JB, formerly known as John Bauer, was formed in the 1990s and by 2006 made a profit of SEK120 million, of which a third was retained by the owner. In October 2008 he sold 90% of the company to the Danish investment company Axcel. ‘The Axcel Company was a venture capital company and had no experience in education. Involved in the business of selling and buying businesses, they showed particular interest in home styling and dog food.’<sup>123</sup> Axcel claims that all the profits made by JB Education since the takeover were ploughed back into the business.

In early 2013 JB closed five schools, and admitted a 50% drop in student numbers over the previous two years. Within months, projections of school rolls for the next academic year showed a decline which made JB Education unprofitable, according to Axcel. All of its operations (except for two schools in Jönköping and Åkersberga which were closed) were sold to other providers, including AcadeMedia and Practical Sweden (see below). AcadeMedia also took over JB’s adult education provision. JB filed for bankruptcy in June 2013. Four of the schools were sold to a new company, Free Educational Agencies of Sweden AB, established by Anders Hultin. Hultin had been CEO of JB, and previously set up another free school company before moving to London in 2007, where he was CEO of GEMS Education before becoming Managing Director of Pearson. Hultin was a prominent lobbyist for marketisation in the early days of the UK coalition government.

<sup>122</sup> Arreman I.E. and Holm A-S. 2011 *School as “Edu-business”*: Four “serious players” in the Swedish upper secondary school market Education Inquiry Vol. 2, No. 4, December, pp.637–657

<sup>123</sup> Wiborg S. 2010 op cit p12

AcadeMedia ran 24 schools in 2008, when it merged with another large operator, Anew. It has also expanded by opening new schools and buying municipal schools. It has diversified into adult learning, and operates under a number of brands. This expansionist approach may be explained by the fact that it was owned by the venture capital company Bure Equity AB. In 2009 it recorded a profit of SEK170 million from a turnover of SEK2.103 billion.

In 2010 AcadeMedia was sold after a publicly fought bidding war to EQT V (80%), an international company registered in Guernsey, and Providence Equity Partners (18%), based in the US. EQT's business is to 'invest in companies in Northern and Eastern Europe, Asia and the U.S., in which EQT can act as a catalyst to transform and grow operations.'<sup>124</sup> EQT is owned by Investor, Scandinavia's largest investment company with assets in September 2013 of SEK200.9 billion (nearly £20 billion), up 18% during this year.

Many issues in free school provision are illustrated by the group previously known as Baggium Utbildnings AB. Baggium was originally a provider of foster and refugee homes. It entered the schools market in 1999. As well as opening new schools and buying others, its two private owners spotted an opportunity from a new policy for apprenticeship training. By 2008, company profits were SEK10 million (£1 million), a figure repeated in 2009.

In what turned out to be a timely move, 70% of Baggium was sold in 2010 to FSN, a Norwegian venture capital business. For in 2011, Swedish television revealed that the company had received SEK194 million from the government for an apprenticeship programme but had not delivered the workplace training element. Later that year, various government agencies heavily criticised a number of Baggium schools around the country. Baggium reacted by rebranding itself, now using the name Practical Sweden AB, but in October 2013 another report from the Schools Inspectorate criticised every one of its 38 remaining schools and ordered the immediate closure of Practical Tumba School. In many cases, Practical Sweden had not complied with 2011 legislation which tightened the requirements on free schools in areas such as the provision of facilities (libraries, gyms, health services) and the employment of qualified teachers. However, it was reported in late 2013 that the main political parties had agreed to legislate before the 2014 election for tighter rules in matters such as staffing. While the inspectorate noted the economic health of Practical Sweden AB, it also noted the very poor performance of students.

These repeated concerns did not prevent the Schools Inspectorate from approving the company to take over a number of JB schools when that company collapsed.

Large edubusinesses such as these by no means provide for the majority of students in Sweden. Arreman and Holm reported that in 2008 just 20% of upper secondary pupils attended independent schools, and only half of those were in schools

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<sup>124</sup> Investor website accessed 17 October 2013: <http://www.investorab.com/our-investments/financial-investments/financial-investments/eqt/>

belonging to the ten largest providers.<sup>125</sup> Like charter schools in the US, many free school providers have just one school; in 2007, there were 300 companies in the market. In 2009 the National Agency for Education accepted that there was variable quality within free schools, the National Audit Office having previously drawn attention to the paucity of appropriately qualified teachers and criticised the NAE for weak assessment and licensing. In 2010, the NAE acknowledged that the growth of free schools had not only caused great instability but also higher costs for the upper secondary school sector, because new schools added capacity but the municipal schools retained their previous capacity.

Arreman and Holm also reported that, like some charter schools, some free schools attempted to recruit students irrespective of quality by use of inducements such as gifts of laptops, free driving licences, or foreign travel.

Another issue raised by government agencies and others is the question of whether some free schools inflate student grades as assessed by teachers. The evidence on this is inconclusive.

### **3.5.4 Free schools – summary**

There are many similarities between free schools and charter schools. The evidence, while inconclusive, suggests that in both systems any effects on student performance are small. In both there is a large range of quality, with weak controls and accountability. The government plans to tighten legal requirements on free schools while there is evidence that previous legislation has been ignored.

However, there is a significant difference which has had a significant effect. In the US, until recently venture capital has largely restricted its interest in edubusiness to higher education. As noted above, in Sweden large providers of schools have been taken over by private equity, including by the US company Providence. Whereas in some states of the US school providers may be forced out of business by the cancellation of contracts for quality reasons, in Sweden schools have been closed by providers for lack of profitability. In the case of JB Education, this business decision was taken hastily and without consultation. In two towns, municipal schools were left to pick up the pieces and offer school places to students.

As discussed earlier, the closure of a school is not an unproblematic event as assumed by the proponents of a market model. Whatever the impact on future cohorts, the difficulties and disruption to the cohort within the closing school should not be ignored. All the students displaced by the abrupt closure of six secondary schools and an elementary school by JB Education have been found places elsewhere, but their transfers are unlikely to cause no difficulties.

Another issue raised by the application of a market model in Swedish schools is that of efficiency and value for money. Free schools are funded on the state student voucher system, but there is protection for municipal schools which are

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<sup>125</sup> Arreman I.E. and Holm A-S. 2011 *Privatisation of public education? The emergence of independent upper secondary schools in Sweden* Journal of Education Policy 26, 2 p225-243

undersubscribed. As the government has reported, this leads to additional costs. There are no clear benefits derived from these costs.

### 3.6 A global business

This section of the report has focused on two countries with highly marketised education systems. Together, they illustrate some trends in global edubusiness.

- After some twenty years, the US and Swedish markets are unstable. Operators continue to enter and leave the market. There are many small enterprises.
- In many jurisdictions there is infrequent monitoring and accountability, and inadequate quality assurance. There is a low propensity for the classic market mechanism of supply and demand to force up quality or squeeze out poor quality; Market exit is generally due to state regulatory action. There is no evidence for the private sector providing a substantially higher quality product than state education.
- The profitability of edubusiness is problematic in the longer term. The very large higher education companies in the US and the relatively smaller school companies in Sweden are seeing reductions in enrolment, turnover and profit. While demographics play a part in this trend, so does the pressure on public spending which holds down the levels of government grant on which all edubusiness depends except where higher education is funded by student fees and student loan arrangements are privatised. In the early period of a market, some firms manage high profit levels, but profit from the ‘core activity’ of providing learning tends to reduce. Successful school companies might expect a return of around five per cent.
- A low level of profit may be satisfactory to small enterprises which have a public service ethos. Larger organisations are prone to takeover by individuals or companies with a greater stress on the profit motive. In some cases, this leads to corruption, fraud, or (as in Florida schools) the treatment of school management as a real estate opportunity. However, more usually such companies, especially private equity which has invested in some sectors, soon seek to diversify in two dimensions:
  - More profitable education products. Chief of these is on-line learning. Virtual colleges, and now schools, is a fast-growing sector of the market. Another approach is not to try to run schools and colleges directly, but to provide services, such as materials, particularly on-line, and management and school improvement services.
  - Geographical expansion. As we have seen, the developing English market has its share of entrants from both the US and Sweden, but many analysts doubt whether there are large opportunities in North America and Europe for both demographic and fiscal reasons. On the other hand, a 2012 book explored in detail interlocking relationships and players seeking to exploit what they believed to be potentially fruitful markets around the world, particularly the hugely populated China and India.<sup>126</sup> In the BIS report mentioned earlier, the

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<sup>126</sup> Ball S.J. 2012 *Global Education Inc. New Policy Networks and the Neoliberal Imaginary* Abingdon Routledge



Westminster government identified China, India, Brazil, Saudi Arabia, Colombia, Turkey, Mexico, Indonesia and the Gulf as targets for British edubusiness.<sup>127</sup> In the early 21st century, China's policy of welcoming British universities to set up subsidiaries proved very attractive, but then China reviewed its approach and rowed back from privatising higher education. Today, the smart money appears to be on India, with a number of companies mentioned above opening schools there. Kunskapsskolan has opened a school in Gurgaon in the National Capital Region.

- The continuing interest of private equity firms in edubusiness suggests that the developments outlined above appear attractive. However, the purpose of such organisations is little connected with the products and services of the companies they manage; they aim instead to extract maximum value from their companies before selling.

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<sup>127</sup> BIS 2012 op cit p10

## 4. Conclusion

Most of the information in this report is already in the public domain. The purpose of the report is to bring together the global and domestic pictures, to analyse the relevant academic research, and to make balanced judgements about the trends in England's education system. It is clear that global edubusiness, dominated by US companies and both American and European private equity, is making strenuous efforts to find profit opportunities in England.

US higher education companies are suffering a downturn in student numbers, profits and share price largely as a result of the exposure by the Senate and others of their malpractice in student recruitment and course provision. Companies operating in Sweden are finding profit margins squeezed, partly as a result of new requirements on the standards of school buildings. The education market in both countries is characterised by instability, with small providers entering and leaving the market.

Meanwhile, for many years English companies have exploited the growing universality of the English language and the high international status of England's elite education institutions to provide language and other education in selected countries, including in the developing world, and generally for profit. At the same time, prospects for profit from state funded education in Europe and North America appear constrained by long-term pressure to hold down public expenditure. This has led many companies to look towards emerging economies, where a growing middle class has a higher propensity to spend personal income on privately provided education. The English government is supporting the development of what amounts to an export market with high potential and is targeting countries in the far east, the middle east and South America. The announcement by the world's largest education company, Pearson, of such a strategy is a strong indicator of the trend.

Nonetheless, the apparently benign climate for edubusiness created by the coalition government and its predecessor has encouraged entrants to the English market. Given the very poor track record in the US of the private partners, British universities must be able to monitor recruitment techniques and course quality in both virtual and 'bricks-and-mortar' settings, as well as maintaining stringency in validation. When the requirements of the bottom line override the needs of learners, quality suffers. The attraction of British education providers to global edubusiness is reputational; universities must ensure they use long spoons when supping with businesses with reputation problems.

It was remarked earlier that marketisation need not inevitably lead to privatisation, but it was also shown that policy continuity since the implementation of the Education Reform Act, and particularly with respect to the academies programmes, has indeed both marketised England's schools and led to some privatisation. Both American and Swedish companies, as well as British private equity, have achieved footholds in the form of small academy chains, but are expansionist in intent. The global evidence is that profit margins in privatised school systems are not large in comparison with returns venture capitalists might

expect in other sectors. The only way to make serious money is through economy of scale, including international expansion. Where regulation on standards of provision is tightly enforced, it becomes even less likely that school management will lay a golden egg. The alternative, the virtual school, is obviously cheap, and equally obviously both impracticable and an impoverished notion of the purpose of education, but has a foothold in HE and is about to be tried in a school in England.

England's schools have long been amongst the most autonomous in the world, but as discussed earlier a market in schools also requires product differentiation, aware consumers, and levers on schools to compete. Government policy has been directed at each of these, but other policy has created opposing pressures. The two main regulatory mechanisms, Ofsted and league tables, are strong forces for conformity. Hence schools tend to differ in badging but not in substance – or, rather, tend to differ on account of the social backgrounds of their intake. There is no evidence of a substantial change of parental attitudes or behaviour around school choice, always a more popular sport in London and other conurbations than the rest of the country.

It is clear that marketisation has encouraged negative developments which up to this point might be seen to matter for two reasons. First, the current position could be seen to be of concern in its own right. Moving England's schools system from one where institutions have a meaningful formal relationship with each local community through the governing body, and one where changes to the legal rules governing what happens in each school is subject to public debate and is then binding across the system, to the more fragmented, less reliably democratic structure of academies could be seen to be a problem in itself.

Moving from a system whereby the guiding philosophy has traditionally been thought of as one of public service towards a structure of competing academies and their chains, large elements of whose philosophy seem to be borrowed from the commercial world of competing companies, could also be seen to be of concern. Schools are in the grip of two opposing forces, competition and collaboration; they know that the constant drive for improved pupil performance can best be met by cream-skimming, enrolling the most capable pupils, a practice not open to all schools, but otherwise by co-operation with other schools in learning from each other better teaching techniques, or at least better test-passing techniques.

This is the real damage: schools have become individual economic entities. Schooling starts to become a commodity. Worse, as described above, curriculum and pedagogy become commodities. The appearance of trade marks on the curriculum sections of school websites is anathema to professionals whose work depends on sharing good practice. There are two competing trends in the circulation of curriculum and lesson plans. One is epitomised by the TES Connect forum. In January 2014 there were over 700,000 shareware ideas about how to teach lessons, for all ages and subjects. This is collaborative professional development in modern form. The other trend is epitomised by EdisonLearning's 'Flexed Learning Model™'. Note the trade mark. It treats teaching methods as a commodity, and indeed hundreds of schools in England have bought it. If there is

no bottom-up curriculum innovation teachers become de-skilled and curriculum development falters.

Thus England's schools are replicating the nature of privatisation found elsewhere; they are rarely run directly for profit. The profits go to companies which enter into long-term management contracts, or provide more specific services such as school improvement or staff development, as well as curriculum and pedagogy packages. The economics of privatisation depends on companies converting into commodities intellectual property (skill and knowledge of professionals) which until now has been held in common, and charging schools for this property. Privately managed state schools are, for the moment at least, funded at the same level as all other schools, but pay for services, sometimes in the form of a management fee to a chain including a component for profit, thus depriving pupils of resources which are provided by the taxpayer for their education.

The second reason for concern is that developments so far show how power to take major decisions over the direction of both individual schools and of the system as a whole may rest in the hands of a few individuals. As discussed earlier, the Secretary of State's 2,000 powers illustrate a substantial centralisation of power from schools and local and diocesan authorities to Whitehall. Free schools were supposed to be locally developed by parents, teachers and community groups, but are now more likely to be handed to academy chains. Might the danger be that England's system could be steered by the interests of a small number of individuals, including those with commercial interests? In other words, has there been a privatisation of decision-making behind the scenes, with the potential to take the system in directions which the public might not like but might be relatively powerless to stop?

Academy supporters could counter that improving results of some of the schools justify any of the changes above: the system has become more effective at achieving results for pupils, which is its *raison d'être*, so any reduction in local democracy is a price worth paying. But the research evidence does not show that marketisation in England has led to improved pupil performance. It is time that politicians who claim otherwise were challenged. Increases in headline results rates on average in schools are due to the other levers on school behaviour, Ofsted and league tables.

Worse, the clear evidence from the US and Sweden is that marketisation is associated with increasingly socially polarised intakes to schools. It is too early to observe the same effect in England, but it is inevitable if present policies continue. Since social selection is tantamount to academic selection, increased segregation will result in lower system performance.

It is time also to challenge a basic premise of supporters of marketisation and privatisation. An education market only makes sense if education is considered an individual good. Market theory places the parent as the purchaser of the good on behalf of their child. Further, most theory assumes that the good can be measured by end of school exam results narrowly defined. Incidentally, it is only on this basis that the notion of virtual schooling could arise.

This is an impoverished view of education on two levels. Firstly, since the Education Reform Act English children have had a right to a universal, broad, and

balanced curriculum, which must be far wider than the narrow range of subjects making up league tables. The current pressure on schools to focus on this narrow curriculum, which is directly related to the requirement for ‘market information’, amounts to a denial of this statutory right.

Secondly and more generally, education is about far more than the formal curriculum. In the sociological jargon, it is the key site for secondary socialisation. In other words, it is where children learn to be social and learn social skills. It is where children experience cultures other than their own. Where children can learn the satisfactions of achievements through group endeavour, can practise their creativity, individually and collectively, where they can reflect on ethical and spiritual issues together.

In such social enterprises, children learn about their community. Their school can support, and be supported by, their community. A school must be accountable to and responsive to its community. A school is a vital community resource.

None of this computes with supporters of marketisation or the money people who wish to commodify schooling. Unless the trends towards marketisation and privatisation are reversed, England’s schools, and the communities they serve, will be impoverished.