



House of Commons
Education Committee

The Revised Schools Admissions and Appeals Code

Oral Evidence

Wednesday 12 October 2011

Dr Lee Elliot Major, Director of Research and Policy, The Sutton Trust, Annie Hudson, Strategic Director, Children, Young People and Skills, Bristol City Council, Lesley Black, Education Adviser and Trainer, Advisory Centre for Education, Rob McDonough, Headteacher, West Bridgford School and Professor Anne West, Director, Education Research Group, London School of Economics

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Oral evidence

Taken before the Education Committee

on Wednesday 12 October 2011

Members present:

Mr Graham Stuart (Chair)

Neil Carmichael
Bill Esterson
Pat Glass
Damian Hinds

Charlotte Leslie
Ian Mearns
Tessa Munt
Craig Whittaker

Examination of Witnesses

Witnesses: **Dr Lee Elliot Major**, Director of Research and Policy, the Sutton Trust, **Annie Hudson**, Strategic Director, Children, Young People and Skills, Bristol City Council, and lead on admissions for the Association of Directors of Children's Services, **Lesley Black**, Education Adviser and Trainer, Advisory Centre for Education, **Rob McDonough**, head teacher, West Bridgford School, Nottingham, member of Foundation, Aided Schools and Academies National Association and member of Department for Education Sufficiency and Fair Access Task and Finish Group, and **Professor Anne West**, Director, Education Research Group, London School of Economics, gave evidence.

Q1 Chair: Good morning and thank you all very much for joining this session of the Education Committee today, in which we are looking at the revised Schools Admissions and Appeals Code. When we scheduled this one-off session, we did not plan to produce a report; we plan to publish the transcript of the evidence you give us today to inform debate and understanding of what is happening. Originally, the Government said they were going to produce this new Code in July; then they said it would be 30 September, and I can bring you hot news that they are now saying, very specifically, early-ish in November. So that is the situation. It will really start to have an impact next year rather than this year.

We do not yet know which of the representations you and others have made to the Government about their proposed Code, though we accept that despite that hopefully we can have a useful session talking about what the Code should look like. As it stands, and as you understand the Government's intentions, will the new Code make social segregation and selection more likely than it was before? Would anyone like to pick up on that? Who shall I pick on? Dr Major.

Dr Major: I knew you would pick on me. It is hard to say, as you say, because we have not seen the final Code, but I think we would say that our fear would be that if the Code is not robust and clear enough, even in its slimmed-down form, then it could possibly lead to a more socially segregated system. You all know our research over the years, which has shown that the system is fairly socially segregated already. I think that would be our fear.

Q2 Chair: Is anybody particularly optimistic that by having a simpler code that is easier for people to navigate—and the Government saying explicitly that the current Code is too complicated and thus a challenge, with the more able and articulate better able to understand the rules and thus benefit—there is going to be an improvement?

Annie Hudson: Undoubtedly the fact that it is much shorter, simpler and therefore more accessible to parents, ultimately—and that is what we need to be thinking about here—is a great positive. The education system is going through a very significant transformational change with many more providers in the market, and there are many benefits to accrue from that, but what we do not know is whether there are some aspects of the new Code that may potentially have unintended consequences in terms of increasing social segregation. I imagine we may well get into the specifics of that.

Lesley Black: At the Advisory Centre for Education, we advise parents directly by telephone. With the old Code, we were sitting there thumbing through it, trying to find our places. Even for well-educated people, it was very difficult to find your way around. We very much welcome the fact that the new Code is clear, well set out and easy to read. We appreciate that. However, we believe that the increased freedoms that admission authorities will have—we may talk about this later—will lead to a much more confusing system on the ground for parents. Although it is clear, it is only clear as far as the rules go. I think the complexity of the system on the ground is going to make it very difficult for the average parent to navigate the system as it is.

Professor West: I agree with many of the others. I think the Code is clearer and it should be much more accessible. I think the issue is more to do with the changing system and what is going to happen, in terms of more schools that are responsible for their own admissions, and possible concerns that could arise as a result of that, as opposed to the Code. There are a few changes that may or may not be helpful for social mobility, but in essence it is a lot clearer. I think that that will be helpful for parents and for those who have to use the Code.

Q3 Chair: Rob, you are a head. Does our accountability system, particularly for secondary

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schools, put so much pressure on heads to get children who are going to help them fulfil criteria that are blind to prior attainment and background that any admissions code would struggle to carry the burden put on it of ensuring that schools don't game the system to try to filter children who will make them better able to meet the Government's targets?

Rob McDonough: With regard to the first question asked, I would also welcome the slimmed-down code. Reading the version that we have, I really do not see how either I or our governors as the admissions authority could create any kind of oversubscription criteria that would in any way be advantageous for us through additional selection in any format whatsoever. The Code is very, very clear on the kinds of things we are simply not permitted to put into the oversubscription criteria. I do not share any of the concerns with regard to admissions authorities—with the increase in those—creating oversubscription criteria that in any way increase selection.

Do not forget, of course, there is still the co-ordinated system in place, particularly for secondaries, so parents still have a single application route through them, but we would also welcome the fact that in-year applications can come direct to schools. As a school, instead of turning the parents away and the parents waiting three weeks to get an answer as to whether or not there is a place, we can tell them there and then and we can deal with it immediately, so that also speeds up the process.

Q4 Chair: And on the second, bigger question?

Rob McDonough: Could you remind me of that one, please?

Chair: Is the accountability mechanism for schools—the floor target for five GCSEs moving up from 30% to 50%—putting pressure on schools effectively to find ways to game the system, including on admissions? The single most important criterion as to whether you meet the target is not necessarily the quality of teaching in a school; it is who comes to the school in the first place.

Rob McDonough: Schools, of course, are judged by more sophisticated means than just their headline figures. We are having an Ofsted inspection this year that will look closely at the value added that we provide to the children. They will look at the prior attainment on entry. Just trying to attract more able children at the front door does not necessarily mean we will be applauded as being a successful school. We could equally be criticised for coasting if the school is not adding true value. On the ground with my peers and my colleagues, I am not seeing means by which they are trying to do this, and I do not think the Code permits that. My school is a school that is there for its local community, and we are there to serve the local parents. I come across very few schools that actually view it in other ways. Obviously, faith schools have a slightly different approach, but most schools that I deal with and work with see that they are there for the local community. We take whoever is in our local community, because they are our children.

Q5 Bill Esterson: Rob, your school is its own admission authority, so presumably you have a

separate process to other schools or to the local authority. Does that not give rise to the potential for multiple admissions? Do you not think there is an issue there around the impact on parents?

Rob McDonough: There isn't actually a separate process. The process of admissions is co-ordinated by the local authority at the normal round of entry into a secondary school. If a child is aged 11, the parent has a singular common application form on which they fill out their three preferences. They go through the same processes as all other community maintained schools. What this Code is proposing is a slight difference to in-year applications, where a parent, for example, moves into the local community when the child is in Year 9. At the moment that is co-ordinated through the local authority, but it is too big a mechanism at this moment in time to be able to give a rapid response to parents. This Code is proposing that parents can apply directly to the schools themselves, and they will get a much quicker response that way.

Q6 Bill Esterson: Lesley and Anne, when you answered you gave a slightly different interpretation, I think, of what is happening across the country. Can you just share with us your concerns about the impact on parents of potential multiple admissions authorities?

Lesley Black: Regarding the multiple admissions authorities, what we find at the moment is that parents are very confused. We talked to a lot of parents, particularly in March when they do not get the secondary school they want, and we asked them 'Do you know why your child was not admitted to that school?' A large number of them were not able to tell us that. We have to look online, find out what the oversubscription criteria to the school were, and then often the parent realises, 'Oh, that's why'.

The system is already complex. The majority of parents understand things such as sibling priority and distance very well and they know how that works, but some schools use particular catchment areas; they may have an inner and an outer catchment; they may use random allocation within a catchment area, or random allocation without any aspect of distance; they may have aptitude testing; they may be selective. It is very, very confusing.

More schools are becoming their own admission authorities. I do not know what happens in the local authorities, but what worries us is that if there is no way of harmonising the criteria throughout a local authority, you may perhaps have parents who are not able to get into the school that is on their doorstep because of the way that the oversubscription criteria are planned.

Q7 Bill Esterson: Sure. Anne, you raised a concern as well.

Professor West: Yes. In relation to the criteria, it is certainly the case that schools have a huge range of different criteria that are used. It can be terribly difficult for parents to navigate. Lesley has given a few examples of what can happen, but you have school A having one set of admissions criteria, school B another, and school C another. It does require quite

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a lot of effort for that to be well understood. Even if one understands the criteria, there are times when even I have struggled to understand exactly what type of parent and pupil would get access to a school. It applies to voluntary aided schools and some academies, but having said that, some academies have very, very straightforward criteria. It depends enormously; there is huge variation. One thing that I think is a very interesting development in the draft Code is giving some examples of what sorts of criteria might be used, and I think that is really quite helpful. If that could be spread widely and schools could be encouraged to go in that sort of direction, it would certainly make it easier for parents, I think.

Q8 Bill Esterson: So we have got a picture of potential confusion across the country. So what should be the purpose of the Admissions Code? I am not trying to lead you too much here, but should it be to ensure fair practice, to achieve balanced intakes within and across schools, or to facilitate parental choice, and are any of those mutually exclusive?

Dr Major: Clearly, from the Sutton Trust's perspective, we are particularly interested in the non-privileged children and how they are affected by all these reforms, so I think it would be to have fair admissions. I am not necessarily of the view that those things are in conflict with parental choice. In regard to the previous question, I was thinking there is a potential role for the local authorities to be champions of parents and children. I think they could do a lot more in terms of helping empower and inform parents as well.

Q9 Bill Esterson: How do you ensure that that is consistently applied across the country, though? There is a huge variation among local authorities.

Dr Major: That is a good question. You would have to think about that. Would we be able to assess local authorities in that role and make them accountable for that in some way? I think they could do a lot more in terms of publishing information on the different selection criteria. I think that is something that could really be done more of.

Annie Hudson: We are picking up perhaps the issue about the local authority role. There are some ways in which the local authority role is clearly diminished. Within the Education Bill, there is the idea of no longer having admissions forums, which I do not think is in itself a problem, because I think they have probably had variable impact and utility. There is clearly a much stronger role for the local authority to provide high quality information, and that is going to be tougher in the new context, and it is something that we have to do well to address those issues.

Q10 Bill Esterson: The big concern about academies and free schools is the local authority being taken out of the admissions process altogether.

Annie Hudson: That is right, but we will continue to have a role in providing high-quality information to parents about quality of schools and things like the admissions criteria, and to challenge schools if we have concern that they are not following the Code. Depending on local decisions and the resources

available, I think that means that local authorities will have to up the ante in terms of aggregating the intelligence we might have about how the Code is operating at a local level, what the impacts are on different groups, and using our strategic role to influence. At the moment, I think there is quite a lot of permissiveness about how the local authority might do that. I suppose one question from an ADCS point of view is whether there needs to be more clarity nationally about what local authorities should be doing—I do not want use the word “police” or “monitor”—to have that big picture overview.

Lesley Black: This is a difficult one for us because we hear of a lot of different local authorities throughout the country. I think there is a need for a way somehow of policing the system. In his most recent report, the schools adjudicator said that was not his role. I do not know how it would be done, but I think there is a role for local authorities to ensure there is some kind of consistency across the local area. Again, that is what worries us with own-admission-authority schools.

Most local authorities provide a lot of information, but it is not always terribly accessible to parents. That is what worries us about the demise of something like the Choice Advice Service, which was set up in order to help disadvantaged parents.

Q11 Craig Whittaker: I come from Calder Valley, which is within Calderdale. From our 13 high schools, only five are community schools. For a very long time we have had a very large number that have been their own admissions authority. I agree that the local authority has a huge role to play in making sure that message gets across, but so do primary schools, because that is also the key. Just for clarity in my mind, because I have not picked this up in the draft at all, although we have this potentially large amount of individual admissions, is there any proposal to take away the local authority as being the gatekeeper? If that is the case, I could agree with everything you say, but if it is not the case, then is it not a bit of a red herring?

Lesley Black: I think that depends on what you mean by gatekeeper. There is no proposal to remove the local authority's role in co-ordination.

Q12 Craig Whittaker: So they co-ordinate, they sift, they deal with all the physical numbers?

Lesley Black: They will, but I think the other thing that may be worrying is that schools will have far more ability to increase their numbers without consultation. I think this may cause difficulty in planning. Whereas the local authority previously may have been responsible for looking at the number of school places in their area, if schools that are their own admission authority can increase their published admission number—and the default will be that they will be allowed to do that—that could lead to an imbalance of places.

Professor West: Following on from what Lesley was saying, local authorities have a requirement to ensure that there is a sufficiency of places. I think there is a bit of an issue with admissions forums going because there is no way in which all the schools get together

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to actually discuss what they are going to be doing and ensure that there is not one group of children, for example, who are no longer going to have access to a school because another school—say, an academy—has just changed its catchment area. There is a problem there.

Admission forums were not necessarily terribly successful, but at least there was something there that was trying to make sure that there was not a huge problem with some children not having access to a school, never mind a good school. We could have a situation, purely hypothetically, where children have to travel miles to get into a school that has spaces because of changes that have taken place in admissions criteria of autonomous schools.

Q13 Craig Whittaker: So although the admissions forums were highly inefficient—

Professor West: Some were. I think some were absolutely fine.

Q14 Craig Whittaker: Well, the majority is probably better terminology. What you are saying is something is better than nothing.

Professor West: Yes.

Q15 Neil Carmichael: It is this train of thought that I wanted to ask about. It seems to me that admissions really cannot be controlled without reference to school numbers and expansion, which is basically what Lesley Black was talking about. This comes down to how we define the role of the local authority, and how we equip it to make a judgment about trends in admissions, and also effectively reflect that in its strategic planning for school expansion or reduction in school numbers. If you accept that parent choice is a key driver for school improvement, if you accept that for a fair system you have really got to get the children to the school that is best for them, then clearly we have to match up admissions to strategic planning for schools. Where does the local authority fit in there, and how should we define its role to make sure that parent choice and fairness, or both, are saluted?

Annie Hudson: I chair a task and finish group on sufficiency and fair access, which is reporting into the ministerial advisory group. In fact, Rob is also a member; coincidentally we are both here today. That is looking at exactly that, because a much more diversified system where you could potentially have every school as an academy—particularly with secondary schools in some areas—is pretty much there. How do you manage that tension or equation? Certainly we are exploring—I think there is quite a lot of consensus about this—the idea that you do need to have some kind of local forum, potentially, to do just what you have said. It is very difficult just to leave it to what happens in a very ad hoc way. You need to have an analysis and assessment of exactly what places are needed where parents are choosing and wanting their children to go to. That links up with school standards issues as well. I think there is some exploration going on about exactly that, and what kind of a local forum you might need, and who the stakeholders would need to be. Clearly, that should

not just be the local authority; you would need to have various different stakeholders. That work is currently in progress.

Q16 Neil Carmichael: When would that be available for this Committee to look at?

Annie Hudson: We are due to report to the ministerial advisory group on the outcome of this piece of work in early November, and the notes of the ministerial advisory group's meetings are always published.

Rob McDonough: I will just comment on a couple of those questions. On the original one from Bill about the purpose of the Code, I think the direction of travel, at the moment, is to permit schools, as they become their own admissions authorities, to actually know their local communities and their needs, and to respond to them. We used to have the local authority being the single admissions authority for vast areas, which I think was impossible. The Code needs to ensure that this happens—that there is fairness in areas. We cannot have a situation where children living in an area do not have access to a local school, and I do not know of a colleague who would find that acceptable.

The point was made earlier about a parent not being able to get access to a school that was on the doorstep. Do not forget, we have always had that situation with faith schools, which have been around for many years with their own admissions authorities. We have had grant-maintained schools and foundation schools, so we have always lived and operated in a world where many schools have been their own admissions authorities.

Q17 Bill Esterson: Are you suggesting that that is the way things should be, and we just have to put up with it? I am trying not to put too many words in your mouth here, but are you saying: “That is okay, if you live next door to the school and you cannot get in; that is just tough really”?

Rob McDonough: I am saying that if you are concerned about that being the world in the future, actually it has been with us for a long, long time. It has been present for many years.

Q18 Bill Esterson: Does that make it right, though?

Rob McDonough: You are getting to the very heart, for instance, of a faith school having a criterion whereby you get in based on references from the vicar, not with regard to where you live. Is that right? There are much bigger issues there, of course. In my own catchment area, there are actually four secondary schools, and two of them are faith schools. They are not necessarily serving the parents and the children in my locality, because they serve a wider area for parents of the faith. The point I am trying to make is that the world that some colleagues here may be worried about has been with us for a long time.

Q19 Chair: With all these autonomous schools with their own authorities drawing their own boundaries, and the loss of central co-ordination that we could have, the question is: could we have children losing out? There is just not the provision. Are you saying that that is to misunderstand, and you are pretty sure

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that the new environment, the new ecology of education, will meet need, and the hypothetical worry is in fact not a real one in the real world?

Rob McDonough: I am saying that in a very short space of time on the ground, since the introduction of the Academies Bill—and now in my own area, a plethora of schools have become their own admissions authorities and become academies—the relationship with the local authority has changed. It has become very much a partnership. In my own particular area there is an issue with school places, and the schools are working proactively with the local authority. This is a future role of the local authority: not only to look at fairness across an area through the Code, and I think the Code delivers that, but to also make sure there are sufficient school places in there. However, they do so now by working in partnership with the providers, who are the schools, academies, free schools and admission authorities, to come up with solutions. Nobody in the profession wants to have a situation where there is a child not getting into a school.

Q20 Bill Esterson: I take your point about it having been around for a long time with faith schools and other schools as well, but do you not think there is a danger that schools will start saying, “We don’t really want too many kids from that estate” or “that street,” or whatever it may be? I am not saying that all schools would behave like this, but you might get schools who do take that view and would rather bring people in from further outside. I think this is something, Lee, that perhaps your research has touched on.

Dr Major: I think what Rob says is right, but the problem of course is that all the evidence suggests that those schools that are autonomous or have autonomous admissions are those that are most socially selective when compared to their localities. When we have done research—research by Professor Alan Smithers and others—when we looked at those schools, not only were, for example, the proportion of free-school-meals children lower than the national rates, but they were actually much lower than the localities in which the schools were sited. So I think that would be a concern. We can get into some of that and why that happens. Partly, that is driven by some children not applying in the first place, so you have to take that into consideration as well. Children have to put themselves forward. There is a lot of research by Professor West and others that suggested that there is a lot of self-selection going on before you even get to the admissions bit.

Q21 Bill Esterson: Russell Hobby from the NAHT has argued that in many cases in the draft Code “simplicity gives way to loophole and freedom to chaos.” Do you agree, or is complexity inevitable if you want to ensure fairness?

Lesley Black: I would like to add something. I have heard from Rob about very good practice, but unfortunately what we hear about at ACE is the not-so-good practice. Not all schools, unfortunately, are as good as the best. We are worried that some of the loopholes that you mention have been opened up in the revised Code. Just to highlight a few, we talked

about catchment areas; the new Code says they must be “reasonable and clearly defined”. Who is defining what is reasonable? There is no mention any more of catchment areas being drawn up to avoid disadvantage or of the fact that they should not exclude particular housing estates.

We are also worried about some of the definitions, such as that of siblings. There is the option to define sibling as a sibling of a former pupil. It is no longer prohibited to give priority to relatives of former pupils, so there is a huge loophole to try and possibly—if it were a school that was its own admission authority and unscrupulous—perpetuate a particular type of intake.

Rob McDonough: I do not accept that. The Code requires fairness, and it requires fairness across an area. If you have a collection of secondary schools that deem that a particular estate is not actually going to have any direct offers within their oversubscription criteria, this Code is more robust in the checks and balances because it permits any person to take it to adjudication questioning. At the moment, it is admissions authorities and the local authority. I think the residents of that estate may have a claim to go to adjudication, and I cannot see anything like that—schools in the area deciding they are not going to offer places to children in a particular area—surviving the scrutiny of an adjudication ruling. I just cannot see it being permissible within this Code. This Code will pick that up.

Lesley Black: In a sense, that leads on to the role of the schools adjudicator. We very much welcome the decision that anybody would be able to take an objection to the adjudicator. However, if the Education Bill goes through, the adjudicator will not have the power directly to change the admission arrangements of that particular school. It will be left to the admissions authority for the school to do that themselves.

Q22 Chair: Is that a technical quibble?

Lesley Black: I think that is probably a technical quibble.

Q23 Chair: Either the school is just going to ignore it, or it is going to act on it. Whether it is brought down from on high directly, or whether they are just forced to do it themselves—

Lesley Black: I take Rob’s point, but I think what we have not got in the Code, and what ACE would like to have restored, is a lot of the good practice guidance that was in there, or perhaps to have a separate document that gives a little more flesh to what is meant by “reasonable”.

Q24 Tessa Munt: I listen to this and think, “This doesn’t really apply in my area,” because I come from a rural area where parents have no choice. When you then put into the mix the ability for head teachers to exclude or choose or whatever, it makes complete pie in the sky of everything that I have just heard over the last half hour, forgive me. I am really concerned about the fact that parents in rural areas do not have a choice because they do not have transport. I have got six secondary schools, or upper schools, in my patch, and

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five of them are academies. The one that is not is on the very far west, and if you do not get into one of the nearest schools then what the hell are you going to do? You cannot be paying for travel that involves 25 miles. Children in my village go 12 or 14 miles to get to the school, and that is it. I wondered how you feel this applies to the rural parts of England. It is great in the city or a suburban area because you have a choice. You can at least consider going to a second, third or fourth choice.

Q25 Chair: Can you pick up on that—the rural implications of the proposed changes? Is there any improvement or deterioration as far as rural dwellers are concerned?

Rob McDonough: I can draw on my previous experience. I used to be the head teacher of a school in Lincolnshire, which is a very big county with lots of very rural schools. It also had selective education.

Q26 Tessa Munt: Lots of very rural schools?

Rob McDonough: Yes. I think of some of the schools in Lincolnshire and they are the only secondary school for many, many miles around. Also, to compound the issue, it was selective as well, so some of those very isolated schools were also grammar schools, and if your child did not pass that assessment, you were not getting into that grammar school.

I would still say that in this particular Code, working in partnership with the local authority, I think there are checks and balances in there, because it requires fairness within your own individual criteria, and those criteria have to be looked at within the local circumstances. There cannot be a situation—and I do not think this Code would permit it particularly with reference to adjudication—where families do not get places.

The circumstances may be not due to the individual oversubscription criteria of the school, but purely the number of places. It could well be that they are all oversubscribed purely because of the demographics. That becomes a slightly different issue of those admissions authorities, the governing bodies, free schools and academies again working in partnership with the local authority—I think this is where the local authority does have an important role to play in looking at the demographics and the children coming through—to make sure at all times that there are sufficient school places there. Again, on the ground, I am seeing that working.

Q27 Tessa Munt: But creating sufficient school places is going to take seven years while people get Elliott buildings and God knows what. I wonder how you are going to get around the practicalities of creating school places where you do not physically have space. The autonomy of an academy is completely in conflict, to me, with the ability of parents to send children to their local school and to get a good education. Can I ask for your view, Anne?

Professor West: The problem is that academies are not necessarily working in close co-operation with local authorities. If one could be sure that the academy or academy chain was working closely with the local authority, there would be much less of a problem

because you would have a co-operative working relationship between the local authority and the provider, given that there are unlikely to be very many community schools set up. It is all dependent on this good working relationship, which obviously exists in some local authorities, but not in others. It does require some collective working. I cannot see any way round some notion of collective working.

Q28 Tessa Munt: It is quite difficult when the headlines are, “The unshackling of schools from local authority control”, in terms of the good point of being an academy, and the local authority has had most of its assets stripped, in terms of finances, by having money taken out and put into schools.

Professor West: I think you are right, but local authorities do have powers of direction now in relation to making sure that children have places at maintained schools. There are ways of ensuring, or trying to ensure, that all children do have access to a school that is not that far away, but it is very difficult to see how, because it would require a new school being set up, for example—as you say, that takes time—or transport to another one.

Q29 Tessa Munt: And that takes money, and there isn't any.

Professor West: Yes, that is a huge problem. I do not have an answer to it at all, but I do see that there is a big problem.

Q30 Tessa Munt: My experience is that in rural areas, if you hit any barrier to being able to send your child to the local school, you then need £40,000 or £50,000 in order to take the local authority to court. I worry deeply about the voiceless—the people who do not read the Code and do not even know they have rights.

Dr Major: It is a separate issue perhaps for another day, but the Sutton Trust published the yellow bus scheme report some years ago, which I will send to you. That was more about trying to provide school transport, a bit like the American yellow buses. We developed a model that we thought was cost effective, but that is more about allowing parents in those circumstances to maybe be able to reach those other schools. I know it is a separate point, but I will send that to you.

Q31 Tessa Munt: Can I just open it up a little bit? I do not want to spend too long. So selecting in and out groups of pupils—is that not going to be natural as a result of the way we measure performance? I accept your point about “It's all fine because we will look at other things”, but believe me, parents look at results, and I do not really run with the idea that loads of people spend absolutely ages waffling through an Ofsted report to find the nicer points of what they do. It is good school/bad school, and good results/not so good results. They will make judgments very much on that, if they are interested.

Dr Major: They are not completely confirmed yet, but as part of the new accountability measures there will be data on those children with a free school meals background as well, the results of all the children in

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school, so there will be more information available. I think we would welcome that; that will address some of those concerns. I think it is a real tension in the policy because we all clearly want schools to raise their results, but we all know from the research that the biggest driver of that is intake, as was said by the Chairman at the beginning of this session. I think there will always be an incentive to cherry-pick, in ways. We just hope that the accountability system can evolve to look at it in a more sophisticated way so that does not happen.

Tessa Munt: We will wait and see. I am not sure I can take this any further.

Chair: Well if you are done, we will move on.

Q32 Pat Glass: You should never start with an apology, but I am going to have to give one because I have got to leave early. The Chairman has indulged me and is going to let me ask all my questions at once, so I apologise for jumping around. Can I just come back particularly to you, Lesley, and then maybe some of the others would want to pitch in, around this issue of definitions? I have relevant but not recent experience of managing admissions, and for me this was one of the big issues. How do you define “parent”? How do you define “home address”? I think “reasonable” in this sense is one that has been defined in law previously, but how do you define “sibling”, “distance”—all of these things? What about arguments over how you measure three miles, what a reasonable distance is—all that kind of thing? Do you think that there should be a national definition that sits alongside the Code and defines that? One authority defines it differently to another and parents and schools drive a coach and horses through it.

Lesley Black: In short, the answer to that is yes, and I think it would be enormously helpful if there were. There is a definition in education law of what a parent is, but it may need a different definition for school admissions. We certainly believe that it would make it much clearer if there were a national definition of things such as “sibling” and “distance”, and this would also introduce some kind of consistency throughout the country.

Rob McDonough: It is an interesting question inasmuch as I do not really mind either way. Of course there are some definitions already out there in the Code; looked-after children are already defined. This new proposal does say, for instance, it is up to the school to define what they mean by “parents”. It is an interesting question inasmuch as my governing body, which would be the ones creating the oversubscription criteria in the case of my academy, are 20-strong and 15 are parents. What is wrong with them creating a definition that they are happy with that they feel is appropriate for their local community?

Q33 Pat Glass: The authority I worked in many years ago had a definition of “parent” as anyone who lived with and cared for a child. Some schools may say, “No, it has to be two people who are married.” I am sure your school is fine, but do you not see that there would be a dilemma in this?

Damian Hinds: What school said that?

Rob McDonough: I think it is localism versus national guidelines of “This is how it will be for all schools”. What world do we want? I would suggest localism with schools responding to local communities and local issues, dealing with the local problems, is the right way forward. Therefore, I am quite comfortable with the proposal in the Code. But it depends where you sit on that argument.

Q34 Pat Glass: Would anybody else like to comment?

Annie Hudson: I think there has to be some real clarity about what those terms do mean, and certainly that was part of our submission. If you had potentially 140 admission authorities in one local authority area, it would be a real minefield for parents to understand what the different definitions of “parent” might be within that locality. So whether it is at a local area level or at a national level, you have to have some real clear explicit consistent definitions for some of those terms.

Professor West: I would go along with that as well, but I would go for something that is national given that parents can make choices in different local authorities. It is not just different schools; it is different local authorities as well. I think there is a strong case to be made for some consistency. It should not be too difficult to do.

Q35 Pat Glass: So generally some agreement about definitions, such as “distance”, “parent” and “sibling”?

Professor West: Yes. You could have alternatives for “distance”, but particularly for “parent” and “sibling”.

Q36 Pat Glass: Thank you. The draft Code tells us that there are freedoms to allow schools to prioritise the children of teachers. The Chair and I both sat through 10 weeks of the Education Bill together—

Chair: What a joy it was.

Pat Glass—and this was one of the areas that I think caused a lot of concern. I can see why the Government are doing this, but my experience of admissions is that parents will generally accept things that they see as fair. I would have some concerns about whether parents would see this as fair: “I live very close to the school and I cannot get my child in because a teacher at the school gets their three children in.” The argument is whether a parent who works in a school is any more disadvantaged than somebody who is a parent and works at IBM or Tesco or wherever when it comes to dropping children off at separate schools. Do you see that there may be some issues with this, and would parents see this as fair? Do you want to start, Lee, because I know the Sutton Trust have got some issues on this?

Dr Major: Yes, we believe that it will be a retrograde step for social mobility more generally, if I can say it in that grand way. The biggest factor within schools that affects performance is the quality of the teachers in those schools, so we and others have been trying to think how to incentivise the best teachers to go to the most challenging schools, and there are all sorts of ways you can do that. Perhaps inadvertently, it is a bit like the tail wagging the dog here. I can see where

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this has come from, but the unintended consequence will be that it will be a huge disincentive for teachers to go to the most challenging schools, and it will be an incentive for them to go to the high performing schools where they can get their children in. So for that reason we believe it would be a retrograde step.

Annie Hudson: We took a similar view. Concerning the issue about equity and fairness, it could be quite hard for parents to understand the legitimacy of that, in the same way that if you are a doctor you do not get preferential treatment through the NHS. So I think for those two reasons we have similar reservations.

Professor West: I agree as well. It might be worth noting that we carried out some research in 2001 where we found that this was a criterion that was used, but it tends to be used by schools that were responsible for their own admissions, voluntary aided and foundation schools. As Lee has said earlier, these do tend to be the ones that do segregate more than others—particularly the voluntary aided, less so the foundation. It did shift because of the legislative changes, changes to the guide and so on. I cannot see what the real advantage is going to be. If there is a real shortage in a particular area one might say there was a case, but it is hard to see why it should be a general possibility. I just do not see the argument for it.

Q37 Pat Glass: I can see the teachers would be happier.

Rob McDonough: You know where I am going to go with this one, don't you? Don't forget as well that I am an elected member of an organisation called FASNA, which represents aided academies and foundation schools that are their own admissions authority. They welcomed this, largely because, again, it is just an option that admission authorities could consider, and there would be all sorts of local reasons where it may be very important for schools. I can cite some of my colleagues who are the head teachers of rural schools in particular where the recruitment of the very best teachers can sometimes be very difficult because of the geography, and because those schools are so isolated. Therefore, if you can prioritise the children in those circumstances, actually, as a head teacher, it is very helpful in terms of recruitment and retention. We were pleased to see it go in, and it should be a decision for the individual admissions authorities to consider for their individual circumstances. Again, it is localism for me.

Dr Major: One of the other issues is how you address poorly performing teachers in the school system. Again, there is a big discussion about how much of that is about professional development and how much about—

Q38 Chair: Sorry, how you address what?

Dr Major: Poorly performing teachers within school. I think if you have this in place, then I can see it would be very difficult. If a teacher's children are in that school, it will make that sort of decision even more complicated. So I think it is just another point.

Q39 Chair: So you want to bar teachers from having their children at their school?

Dr Major: Well no, it is just that if we have this—

Chair: Because if you do not bar them from that, then you have got children at the school, and if you think that makes it more difficult then it is more difficult, so I do not see it materially changes the situation.

Rob McDonough: With great respect, if I have an underperforming teacher, then I have an underperforming teacher and I will deal with this accordingly.

Q40 Pat Glass: Lesley, I imagine you would have a view on parents.

Lesley Black: Yes, certainly we do. A lot of calls we take are from parents who cannot understand that their child care arrangements are not a factor in determining whether the child should have a place at a particular school. They tell us that they want a particular school because it is near where they work, on their route to work or near a relative who looks after their child. Why should teachers be any different? All parents have issues with work, getting to work, and making sure that that fits with where their children are at school. Many parents are quite angry at the lack of joined-up policy about education and employment. They say, "The Government want us to go back to work, but actually we can't. We're doing our best and we can't get our child into this particular school." I think there would be an immense amount of bad feeling. They would see that as grossly unfair.

Q41 Pat Glass: Can I move you quickly on to the schools adjudicator? We have touched on this a little bit this morning. My experience is out of date now, and I hope things have improved, but when I managed admissions, and particularly when schools were managing in-year admissions, I would have not daily, but certainly regular, situations where staff would tell me, "This parent's gone to the school. They've moved into the area. They have a difficult background. The child has been around a few primary schools and the primary school head teacher has said there are no places," and there clearly were places. It was then my job to do battle with the head teacher. The schools adjudicator has said it is not his role to police the system. The local authority is largely emasculated in this system. Whether the Code is thick or thin, simple or complex, where schools simply do not adhere to it, whose job is it to police the system?

Rob McDonough: First of all, I am astonished that anybody in my profession would actually have their professional integrity undermined in the way of deliberately lying about their situation when they have got school places.

Q42 Pat Glass: You should get out a bit more, I think.

Rob McDonough: I would say, with great respect, I work with a lot of colleagues and I do not meet many people like that. I think we have more integrity than that. At this moment in time, of course, even as an academy, the local authority and the YPLA have access to my numbers, and if that child is found to have no school place, and they seek help and advice from the local authority, who are rightly the champion

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of children, if I have written to a parent saying, “I have no spare places, but by the way you have the right of appeal”, I would be exposed because they have the data on my school. I say again, I cannot see how I can be in a position of lying, because I can easily be found out. Other institutions have access to that data. My funding masters have it, and the local authority has it.

Q43 Pat Glass: If we can come back to the question about who should police the system, is it about self-policing?

Rob McDonough: In my view, with this Admissions Code, the local authority—in terms of working in partnership with the schools and their other providers, and also to some extent being the champion of parents, which is what I think the Code is saying—is where I see that going. I can see that working.

Q44 Chair: So Annie, would you be able to do it?

Annie Hudson: There clearly are things within the Code and generally about the local authorities being required to report on how admissions arrangements are working, so there is something in there. I think the question is to what extent the levers are going to be in place in order to exert effective challenge when there may be some evidence that things are not working and some groups are being disadvantaged. I think that is where there are still quite a lot of questions. In terms of the way the system is set up, ultimately the Secretary of State has got a responsibility and, at a local level, the local authority has. However, the levers are not yet clear.

Professor West: I think it could be clearer in the Code exactly what the local authority responsibilities are. There seems to be a general view that issues should be resolved at school level rather than at local authority level, and one should not have to invoke the Secretary of State. It seems a terribly convoluted process. You have got school adjudicators who are there when you cannot get agreement at a local level. I just think there is not the clarity that one might like to see within the Code about exactly how local authorities are meant to deal with these situations that arise when you have not got a local authority that works as the one that Rob works in.

Q45 Pat Glass: Lee, who do you think should police the system?

Dr Major: I agree that, as we said earlier regarding local authorities, it needs to be made clear what the roles are. Living in London as I do, I think some local authorities are better at these things than others. At the back of mind I am thinking, “Who polices the police?” If the local authorities are given some role there, I am trying to think through that as well. But I would hope that we would come up with some clearer—

Q46 Pat Glass: So would that be a general recommendation to the Committee—that we need to clarify what the local authority’s role is, particularly in acting as an advocate on behalf of parents?

Chair: Rob certainly wants to smash that consensus.

Rob McDonough: Yes. May I give a word of caution? Having sat on the schools admissions forum for four years, the most difficult issue that we had to resolve whereby an admissions authority was in breach of the law and would not amend their practice, requiring us to make a reference to the Secretary of State, was a neighbouring local authority. So please do not believe, as the tone seems to suggest here, that all these head teachers like me, and governing bodies, are going to go out and be corrupt and lie and not give children places.

Q47 Pat Glass: I do not think anybody is suggesting that, Rob. With any system, it falls down when one thing goes wrong.

Rob McDonough: Indeed, but in four years’ working on the schools admissions forum, the one real difficulty we had was the unlawful practice of a neighbouring local authority. So please be mindful here that if they do the policing, who is policing the police here? It is a little bit more than that, I think.

Q48 Chair: Quis custodiet ipsos custodes, Lesley? Who guards the guardians?

Lesley Black: Right. As a classicist, I should be able to answer that.

Bill Esterson: Michael Gove must like you very much.

Lesley Black: Thinking of this really from a parent’s point of view, and to concur with Pat, we have a lot of calls where things are done and are not put in writing, so there is no record. A parent does ring the school, they say there is not a place, and there patently is. There are complaints procedures, but it is convoluted and can take time. If it is the local authority, then parents can go to the LGO, which, in our experience, is generally fairly good at trying to bring local authorities up to scratch. However, its jurisdiction over schools is limited and that is likely to be abolished if the Education Bill goes through, so I do not know whether there would be a role for the LGO in an extended remit, also dealing with school complaints, but I find it difficult to see which body would look at the system as a whole, and not just take on individual complaints. I would probably agree with colleagues that that could be a beefed-up role for the local authority.

Q49 Ian Mearns: I think that is an interesting conundrum, because in answer to a question from me on Monday, the Secretary of State said there is no new money for academies, for instance; it is old money that is currently spent on their behalf by others, namely the local authority, which is going in to fund the academies growth system. We now have a situation where, as with the Secretary of State’s announcement on Monday, we have 24 established free schools, 55 in the pipeline, and about 1,000 academies in the pipeline. So where is the capacity going to be within local authorities to do this policing if all of the money goes to schools? The Secretary of State has said himself that local authorities will have a role vigilantly policing admissions to ensure there is fairness. So will local authorities have enough information, levers or resources now to do the job

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effectively, particularly since Pat has pointed out the adjudicator has previously said it is not their job to police the system? Do the local authorities actually have the resources to do it effectively?

Annie Hudson: That is a kind of “maybe” answer I can give you. I think local authorities—children’s services—generally see this role in relation to admissions in this new landscape as being absolutely crucial to their role of championing and advocating for children, young people and parents. Different local authorities are going to be more stretched in terms of what resource and capacity they can deliver for that, but I think we would be seeking to make sure that that information role is really done to a very high standard. I think that is an increasingly complicated role, particularly in areas where you have many different communities, for many of which English is not a first language and so on. That is a really critical role, as is helping parents to navigate through this quite complicated system. What resource will be available for doing that analysis and oversight of how the local system is working in terms of the places and admissions is very important, and I think local authorities will take it seriously. What they physically can put behind that resource will be up for local decision, but there is no doubt that we see this as being absolutely crucial; certainly the directors of children’s services do.

Q50 Ian Mearns: I think there is a general acceptance, when we have discussions about standards within schools, that up and down the country there have been examples where staff within schools have manipulated the offer to children in order to try and get a better result in the league tables. There is no doubt about that. I have had general acceptance that there have been lots of instances of that occurring. If that sort of manipulation is going on, why do we think that it will not happen in terms of admissions?

Annie Hudson: I think that is the question we have been debating this morning: whether there will be some potential for that to happen, or continue happening, even if, as the schools adjudicators indicated, it tends to happen unintentionally as opposed to by design.

Q51 Chair: How widespread a problem is this? Rob is suggesting that it pretty much insults front-line professionals to suggest that there is a very high incidence of this, but how big a quantum of a problem is there?

Annie Hudson: I would find it difficult to answer that. I do not think it is intentional, if it does happen. I think the schools adjudicator report indicates that. It clearly does happen. The worry about the new Code is that that may exacerbate some of that potential where you have got many different admissions authorities and nobody really tracking what the effects are for different groups within a particular area.

Q52 Ian Mearns: I think everybody would accept that one of the biggest influences on educational outcomes and positions in league tables is the intake of the school in the first place. The vast majority of educationalists would accept that. So I cannot see how

there might not be pressure on certain head teachers in certain cases to try and manipulate the system so that they get better kids.

Rob McDonough: Your original question was to do with the funding of local authorities and whether they have the capacity to be the police officer of this. Clearly I am not best placed to answer that, but I am concerned about the policing of the new Code. My concerns are slightly different, because the new Code is proposing that any singular person can become the police officer, if you like. Any singular person can actually make a referral to the adjudicator. That is not so at this moment in time. Only admissions authorities, schools admissions forums and local authorities can do that. So that can be any kind of pressure group in the country that may have an issue to do with selection or aptitude assessment, or any individual parent with a particular agenda, or maybe they did not get in, so they will just go to the adjudicator on it. My real concern on this is that everybody out there will now become a police officer, and the system, as it stands at this moment, will permit everybody to go to the adjudicator and will grind to a halt. I can well envisage lots of parents out there, particularly the savvy parents, and maybe other types of parents who are possibly less affluent, are going to avail themselves of this new opportunity and see it as another admissions route. So I do not think you should worry about policing. I am worried about it, but for different reasons.

Professor West: If one wanted to find out how much this goes on, I think it would be interesting to actually carry out some research on this, but I do not think the time is necessarily right to fund research in general, given the Government’s financial constraints.

Chair: It would not be a meeting of this Committee, Professor, if a professor giving evidence to us did not suggest we carried out research.

Professor West: In which case, I will suggest it. But one of the things we do not know is who is actually successful in getting their first preference schools. We know what the overall percentage is, but we do not actually know what the matching up is of first preferences with acceptances in terms of the characteristics of those parents and pupils. There are data available that would enable one to test out whether this could be looked at. Then we would have some harder evidence on the extent to which there may be maladministration, which is a concern that has been raised. We just do not know whether there is or is not. Let us assume that there is not, but we could actually do some more work to find this out.

Q53 Bill Esterson: Rob’s last answer fascinates me compared with an earlier answer he gave about parents from estates that might get excluded from going to schools. I didn’t come back to you on that. You seem to be saying just now that more assertive parents will potentially use this ability to challenge, and less assertive parents probably not. How does that sit with the concern we touched on earlier about the ability of parents from certain estates to access their local school?

Rob McDonough: I think that what I was saying is that I deal with a lot of very savvy parents, and in

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terms of the appeal process, they will come along with their QC and their barrister at the independent appeals to argue the prejudicial case. I do hope there is an opportunity to talk about the appeals process. The earlier point was about local schools creating oversubscription criteria that in the end exclude certain aspects of our communities and societies. I just cannot see that surviving any kind of recommendation to the adjudicator. And that, of course, can come from a single person.

Q54 Bill Esterson: The point is that those less assertive parents are not going to be the ones who challenge it.

Rob McDonough: I do not think we could say that every parent in a socially deprived area is not savvy. They are, and they will still see this. I was saying that, perhaps in the kind of areas that I presently work in, a lot of my parents will exercise this right to go to the adjudicator just because they know of it; I can see the numbers increasing. Unfortunately, in terms of those referrals to the adjudicators, because parents do not fully understand the Admissions Code, they will make all sorts of referrals when actually our oversubscription criteria are perfectly legal. I can just see a huge bureaucratic monster coming out of that.

Q55 Bill Esterson: Lesley, is Rob right?

Lesley Black: We would certainly welcome parents' rights to refer cases to the adjudicator. I am not sure that I share his concern about overwhelming, and I am sure that the adjudicator would very quickly throw out any cases where it is clear that the admission criteria are perfectly legal.

Q56 Chair: Lesley, if I may just interrupt you, Ian Craig in his farewell performance before this Committee actually said that the one big message in his report was that 92% of referrals to him, particularly for admission cases, were from parents. He said how brilliant he thought that was and what a shame it was the press did not report it.

Lesley Black: Yes, and we totally agree with that.

Q57 Charlotte Leslie: This is a quick point that touches on something we will come back to later. A lot of the fear and the problem that we seem to be outlining is that the most able, pushy parents are also those parents who have children that schools are probably going to most want because it will help their results, if you are looking at the worst-case scenario. In a situation like that, it is a dynamic that is always going to be the case; whatever system you devise, there will always be that tension. I wonder, very briefly—we will come back to this—what you think of the pupil premium as a kind of nudge effect to change incentives for schools, changing the incentive as regards the kind of child that a school would want. What effect would that have on that difficult dynamic?

Dr Major: One of the responses we had to the consultation was that schools should be able to expand their numbers. One of the things we proposed for that is that schools should be able to prioritise free school meals children in their expanded numbers because they will get the pupil premium. So it is a way of

allowing the pupil premium to become the incentive to get these children in. The pupil premium is trying to do lots of things. One is giving extra resources to children once you have got them in the schools, which we would welcome. I think there is another aim, which is exactly what you have just said: how do you incentivise schools to look for those children as well as perhaps the more middle-class children? If you enable schools to prioritise those free-school-meals children, we would hope that that would enable that to happen.

Annie Hudson: I agree, and I think it is potentially a lever to try to offset exactly what you have described. The point from our perspective was: why not have this for all schools, to encourage all schools to have that incentive? The other thing is how much realistically it will impact on schools' behaviour in terms of incentivising, and we will not know this until it has happened. I guess that is partly to do with how much it is; as it rises, you would expect it to become more of an incentive.

Charlotte Leslie: I wondered if you had any predictions on that.

Chair: There probably have not been many points so far on which we could have had unanimity amongst our witnesses. I am wondering whether this could be one. Do we think all schools should be able to prioritise in that way? Would that be a good thing? Do I have the nods of all witnesses today? Excellent! So that is a clear recommendation. When the Schools Minister reads this transcript, he should take that on board; it can inform him before the publication in November.

Q58 Damian Hinds: I want to ask about the relatively small changes to the rules on admissions over PAN. Lee, what is the weight of academic evidence on the effect of class size versus teacher quality on firstly overall attainment, and secondly social mobility and narrowing the gap between rich and poor?

Dr Major: This is like an exam question.

Damian Hinds: But I happen to know that you know a very pithy answer to it

Dr Major: Yes. We recently published a piece of work that did address some of those issues. The research suggests that teacher quality is the biggest factor of all, and if you reduce class size, you have to go below about 15 or 16 per teacher to see a demonstrable effect. So teacher quality is absolutely paramount. I know the Committee is looking into some of the issues around attracting and retaining good teachers. In terms of social mobility, we have done some calculations about that, and just improving the bottom 10% performing teachers would have huge impact on the PISA rankings for the country. Within schools, teacher quality is the big factor.

Q59 Damian Hinds: Just to be absolutely crystal clear, to nail this, within the relevant range—plus or minus two, three or five either way—what is your evidence, at the Sutton Trust, about the impact of class size on attainment and social mobility and narrowing the gap between rich and poor?

Dr Major: If you want smaller class sizes, you have to go below something like 15. These are averages across the world, so give or take one or two, but the evidence says that what you want is a good teacher doing the things that work, and if you reduce the class from 30 to 25, that is not going to have any impact whatsoever.

Q60 Damian Hinds: Rob, from a schools perspective, what are the advantages and drawbacks of the ability to effectively vary PAN without permission from the local authority?

Rob McDonough: I noticed that this may have raised some concerns, and again, I am rather curious about this, because my school is over its published PAN, as most successful schools would be. This can only be an issue for oversubscribed schools. When you look at the basic infrastructure of the school and relate it to the net capacity calculation, in the vast majority of instances, the schools do not have the infrastructure. We do not have the dining rooms, the corridor spaces or the hall size. In my school, if we increased it, we would go to from an eight-form to a nine-form entry and we would become asymmetrical in our curriculum design. It has enormous impacts, and I think would be detrimental to the quality of what we do. So increasing our PAN without consultation is an interesting concept, but in reality I doubt many successful schools would do that.

Q61 Damian Hinds: But you would accept, presumably, there are some schools who might appreciate that freedom? As I understand it, no one is forced to do this, and obviously the physical capacity is relevant.

Rob McDonough: Again, I would advocate localism. There may well be a school that has a different site to mine and they have the means to do it. If they are oversubscribed, that means that the parents in the local area want to send their children to that school. If they can accommodate the first-choice wishes of parents in the locality, what is wrong with that?

Q62 Damian Hinds: We quite often get this comment that a good school and a popular school are not quite the same thing. I am always fascinated by that. If all the data that are available on quality truly reflect the performance of the school and so on, why would not the popularity of a school indicate that it is a good school? Are we saying that all the parents have just got it wrong? I am not saying that you are saying that.

Rob McDonough: In my experience, we have a plethora of school performance data out there, in terms of the way in which you measure a successful school, in terms of who is doing the measuring—the local authority, the governors or Ofsted. The most important thing I find in terms of school success is the power of the grapevine. It is what the parents out in the local community feel about their local school. It may not be the school that is at the top of the league tables, but if they find that their children are happy, safe and getting a really good education and are proud of that school, that is the most overriding factor of how we define a good school.

Q63 Damian Hinds: Can I ask a question to the panel in general? Charlotte started to touch on this a moment ago. Obviously, schools do have an incentive to get good material in, as it were, in order to get good material out in the league tables, and from that all sorts of good things follow. On the other hand, there is also the pupil premium now, which is a counterbalancing incentive the other way. With in-year admissions you will not have that much leeway anyway; it is largely determined by who comes in and who you get to look at. Given those two counterbalancing pressures, what do you say to people who have asserted that allowing some flexibility on in-year admissions relative to the PAN will increase academic selection?

Professor West: I am happy to make a start on this. I think it could have an effect in some areas, but my own view is it probably is not going to have a great effect. I think there is a bit of an issue about the lack of consultation because that sort of change could have an impact on other schools. I think that is one thing to be borne in mind. PAN numbers do go up and down in any case. If a local authority at present needs more places because of demographic change, it can negotiate that with individual schools, and there is a clear need for it.

Q64 Damian Hinds: People may move in and out without it being a demographic trend. There might just be a sort of Pickfords trend.

Professor West: Well, yes. I am thinking of a specific example that I knew of when I was chair of a school governing body. There were insufficient places, so the PAN number increased at that particular school for that number of years, so this is not something that is necessarily that new. I think what is new is the fact that there is not going to be a period of consultation. It is a notification, as opposed to consultation, period, which would mean that a weaker school is going to decline more quickly. You might say that is a good thing, but it could be a weaker school that is struggling and trying very hard with its particular intake, and it is just getting slightly better and, as a result of PAN changes elsewhere, there could be a negative impact.

Q65 Damian Hinds: Does anyone think there is a statistically significant chance of an increase in academic selection as a result of the changes in these rules with regard to in-year admissions and PAN? Thank you.

Finally, can I just ask about the changes overall? It strikes me that there is always going to be a tension between wanting to maximise opportunities for children and equalise opportunities for children, and getting that balance right is a constant struggle and recalibration. You never quite get the final answer. It strikes me that these changes to the Code come across as a rather small set of changes. I am rather impressed we have managed to squeeze an entire Committee session out of it. In many ways you could say that what it really represents is the consensus settlement between the two sides of the political debate on what, broadly speaking, admissions should look like.

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I would add to that that it seems to me that there is largely a consensus among schools about how you comply with the Code, and in its spirit it is right. When we had the previous schools adjudicator in front of the Committee, we had a very long debate about some of the colourful headlines you get around some admissions criteria of faith schools, for example, but it turns out that a maximum of, I think, 45 faith schools out of 6,753 had been implicated in the year in question. Does anybody disagree with the point that this is a relatively small set of changes to the Code and, broadly speaking, across the political spectrum and the educational establishment there is broad consensus that what has been there is right and what continues to be there is right?

Annie Hudson: In one sense you are right that some of the things are relatively small, although I think the discussion has highlighted they may be relatively minor in the order of things, but they could have quite significant consequences. I think the key point is that this is an Admissions Code that will be operationalised, in the phrase used by the Chair, as part of the new ecology of the school educational system, so I think we all have a responsibility to be very mindful of what the consequences are, and to make sure we have got the right checks and balances in place, because the system is very different. That is not to say that the old system was fabulous, but we are in a different world and we need to acknowledge that and look at what the right checks and balances are.

Q66 Craig Whittaker: You mentioned consultation on PAN numbers if they have to increase them in an emergency situation to release pressure in the system. My understanding is that the consultation or the discussion is between the school affected and the local authority. I am not entirely sure that consultation needs to take place in that case anyway. Is that right, or is my understanding wrong?

Professor West: I am not an expert on the detail of it. I think Rob knows more.

Rob McDonough: From my understanding of the Code, if you are facing an in-year change in your pattern because of a change of circumstances you have to make an application to the schools adjudicator, and just get their approval for an in-year adjustment.

Craig Whittaker: Okay.

Chair: We have already touched on the pupil premium, but Neil may have some more issues to raise.

Q67 Neil Carmichael: We have touched on it, and I think Charlotte asked a fairly good question. One question we should drill down on, though, is: should schools really be prioritising and forced to prioritise attracting children with pupil premiums?

Rob McDonough: You use the word “forced”. If I may give you an example, there are many schools out there that see themselves, like mine, as being the school for its local community irrespective of social deprivation. If you start forcing those schools, you could have a situation whereby we have the very thing we are trying to avoid, which is a local parent living next to a local school who does not get a school place.

So forced? No. The localist approach would be to let schools look at their local circumstances, and let those governing bodies and admissions authorities to consider using the pupil premium in their admissions oversubscription criteria, if they wish; I am sure they would make sure that is not to the detriment of local parents.

Q68 Neil Carmichael: One of the other issues that crops up, certainly in my constituency, is actually identifying parents who are likely to have children qualifying for the pupil premium. At the beginning of any school year there is an absence of information, so how do we counter that? What action can local authorities take to effectively identify pupil premium recipients for the schools, and also encourage parents to make it their business to ensure that they do actually get pupil premium?

Annie Hudson: That is a new challenge and different authorities will be doing it differently. I think as things bed down we are going to have to make sure—this is the royal “we” here—that schools do their absolute best to make sure parents understand the consequences and what the possibilities are. Certainly in my authority, despite lots of campaigns, we know that lots of families choose not to apply for free school meals, so there is a constant campaign around that. That has a significant knock-on effect now on the potential funding of schools, particularly as and when the premium is raised. So I think there are duties on the local authority and on schools to make sure parents know how to make the applications. We raised some technical queries in our submission in ADCS about when you would define the pupil premium eligibility in terms of admission and all that. I think some technical things need to be bottomed out, and there is also communication and publicity.

Dr Major: There is a role for primary schools here as well in informing parents. If we are talking about secondary school admissions here, then primary schools should be aware of those children that are potentially going to get the pupil premium.

Q69 Chair: You say they should know. How will they know?

Dr Major: If they are on free school meals. That is the definition of qualifying for the pupil premium.

Q70 Chair: But with children applying for primary school, will it be clear? When do you determine whether a child is eligible for a free school meal?

Dr Major: It happens in primary schools as well.

Q71 Chair: In terms of primary schools, can they tell? Until they have gone through the assessment, they do not know, and therefore how can they prioritise a child who is eligible if they do not know who is eligible? Or am I missing something?

Annie Hudson: I think that is an issue. There is an awareness raising issue and it is about helping people, particularly people who are new to education in Britain, to understand what it is about. The primary heads have to do the work to encourage people to apply for it. As we said, there were some technical

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issues that hopefully the Code will bottom out about at what point it will apply.

Q72 Chair: Following from Tessa's question earlier, it is often said that children eligible for free school meals in rural areas are less inclined to register, which as you say will have bigger implications. Do you have any evidence for that, Annie?

Annie Hudson: I have no evidence about that, I do not know if other people have, certainly in terms of the rural/urban split. I can give you some anecdotal evidence that sometimes families and children from newer communities do not know about the system and how to access it, so primary schools have a key role here.

Q73 Chair: Given the added significance now of being in that category, and the importance of identifying people who are under-registering and making particular effort to get them to do so, do we have any survey evidence to find out whether ethnic minorities, Travellers, rural dwellers or whoever are more likely to be inside that category or not?

Rob McDonough: We do know, in terms of schools, that it is a frustration that sometimes free school meals is taken as a school performance measurement indicator. In most schools, I hear head teachers complaining that not all the parents who are eligible apply for it because of the social stigma. If I can link it with the pupil premium and then school admissions, it changes the dynamics—you are right there—and the incentive in terms of parents making sure they are registered for that.

Interestingly, I think there is a technical issue at the moment. If I understand the Code correctly, as the admissions authority, we cannot ask the question about their financial status; it would be unlawful for us to do so. We may therefore wish to offer places for pupil premium, but cannot actually ask the parents if they qualify for it at the moment, if I have understood correctly. Another concern I have is that a lot of successful schools face fraudulent applications on a regular basis. You could well have a situation of parents being eligible at one point in the child's time for the pupil premium, but then becoming no longer eligible but failing to inform appropriate authorities such as local authorities and admissions authorities because now there is a potential incentive of gaining a school place. There is a new means by which some parents can use the system to their advantage for school places.

Q74 Neil Carmichael: Can I ask a slightly more general question about admissions? Should we be encouraging secondary schools to form more structured alliances with feeder schools to promote better management of admissions? That would also help to generate a better database of where children are and where they intend to go, and would actually seek to tease out some of the issues we have just been discussing in connection with pupil premium. In other words, there could be learning areas around secondary schools so that we can have a more structured admission pathway.

Rob McDonough: It is happening, and it is happening on the ground very rapidly. Ironically, the driver for that has been the academies programme, not the admissions issue. We are seeing central services from the local authority disappear as most of the secondary sector becomes academies. The primaries are finding that the services that they used to enjoy are not there, and the solution that they are seeking is to come into partnerships as families, together with wholesale academy conversions. In some cases, the primary schools do not actually convert, but come into federations for the purchasing of central services. There is a consequence, of course, for admissions. There is a danger here, inasmuch as sometimes an approach in terms of having a family of schools for admissions can iron out some of the difficulties in terms of school places, but there are conversations about singular admissions authorities within families, which ironically can solve things and make sure that all children have a place, but actually reduce parental preference. There are pros and cons.

Q75 Neil Carmichael: One thing we have not touched on so far—unless we did during the 10 minutes I was out—is special educational needs. I am slightly surprised that you have not mentioned it already. I am just wondering what we can say about the Admissions Code in connection with special education needs, because there is clearly going to be some tension there.

Lesley Black: First of all, for children with statements it does not apply anyway, because they are part of a different system. In regard to admission, schools are bound by the Equality Act, so they are not allowed to discriminate against children with special educational needs when it comes to admissions, but what we do find in calls from parents is there is certainly quite a lot of disparity between admissions authorities when it comes to having a criterion for what is loosely called exceptional need or social or medical need. This is for children who may have some kind of special need or disability that is not such that it warrants a statement, but it may mean that they would be best placed in a particular school. Some schools have that and some do not. Generally, the threshold is also very high. Admission authorities are not allowed to ask about special educational needs unless it is part of a criterion to give preference. But I think some clarity and consistency on that would be very welcome.

Rob McDonough: The Code really makes no changes at all. The issue of special needs, particularly with statementing, is the variations we have in the practice of local authorities throughout the country; some local authorities are very low statementing, taking a view on it, and some are very high statementing. In some cases it has been my experience that you can get a very minimal statement, and the parent has used that as a schools admission lever to get the school of their choice, despite not living in or having any remote right to a particular school. However, the code itself makes no changes.

Q76 Charlotte Leslie: This is a question born out of a specific and perhaps very unusual circumstance that I have come across. The general question is: do you

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think there should be, or is any need for, special allowances for siblings of children with statements of SEN? The case comes out of a constituent of mine who has got a child with severe autism, and their needs are such that the parent cannot get the child to a school, and she cannot go to a nearby school because there is an abusive partner there. She is in a very difficult situation because there is no legal structure to pick up the difficult situation she finds herself in with dropping her second child off and picking her second child up from a school that she is able to get to on time because of the severe needs of the first child with severe autism. Is that a very unusual circumstance? Is there any need for a legislative recognition of siblings of children with SEN?

Chair: I have had precisely the same situation with constituents of mine.

Neil Carmichael: I have a similar one.

Rob McDonough: Take a situation of a local authority that issues a high degree of statements. I regret to say that in some cases, pushy parents will sometimes use a very minimal statement as an admissions lever, although I admit there is a very small incidence of that. Take that parent that has a family of six. Are you therefore saying that once they have secured a place for one, the other five have a right to go? And that would potentially be at the cost of local children and local families. My answer to the question is: I do not think there should be any legislation that enforces that. Don't forget that the parents have the right of appeal, and it would be for an independent appeals panel to look at the individual circumstances that the parent faces to decide whether or not that child should be admitted above and beyond the panel.

Q77 Chair: Could you, as the admissions authority, decide that, in the situation of Charlotte's constituent, you would forget your normal rules because of her particular circumstances?

Rob McDonough: I believe, in terms of our oversubscription criteria, it would not be unlawful under these proposals for a school to decide that they want to prioritise siblings whether there is a statement or not, and wherever they come from, if they are on roll.

Q78 Neil Carmichael: Where do we place the real power in special educational needs? Is it with the parent or the local authority? It is something that does crop up. Let us imagine a situation where a parent wins a tribunal for a certain decision to be made, and the local authority actually challenges that tribunal and appeals against it. What kind of circumstances do we need to ensure that the parent gets the right to make the decision? Or do we say that the local authority knows better?

Annie Hudson: Of course, all this policy area is up for review anyway through the Green Paper, and I imagine you will be having some discussions about that. In a way, that is trying to move towards a situation where things are much more child-centred and about parental choice, and less bureaucratic, and all those things; I think those things are very positive directions of travel. I guess the local authority's role

will change with that system if it is implemented, but at the end of the day, the tribunal system works, for better or worse. It is about making the judgment as to whether, ultimately, the local authority's view or the parents' view should prevail. I think you will have to continue to have some kind of mechanism like that for determining that, and it is not an either/or, but sometimes there is not necessarily consensus and agreement about what is right for a child.

Q79 Chair: Can I move on to the issue of random allocations? The Sutton Trust says that, having taken care of looked-after children and other special categories, random allocation is the fairest way to assign places in our schools. Do you agree, Anne?

Professor West: I think it can be used. The draft Code talks about random allocation as the principal means in use by the local authority in the case of oversubscription. I do not actually know that there are any cases of that, not even in Brighton. I think it has a place, yes. I think the Sutton Trust have also mentioned this in their response: one of the things that random allocation is trying to do, as part of the package of criteria, is ensure that there is a mix within the school; banding is designed to do that as well. I can see that there is a place for it. It is allowed, and it is in use by academies and some other schools as well. I was not really quite sure what the purpose of having that clause in the draft Code was. I think it can serve a purpose, but I think as a primary means of allocation it would be highly problematic, be it at school level or at local authority level. But I do not know of any examples of that.

Q80 Chair: So what would you like to see?

Professor West: It could be used. You have a range of criteria that are used. I personally prefer banding, because I think there is more clarity for parents; they can see what is involved.

Q81 Chair: So you were chair of governors?

Professor West: I was. I am no longer chairman.

Q82 Chair: But if you became one now of a new academy somewhere, you would propose that?

Professor West: No, I would adopt some sort of banding arrangement.

Q83 Chair: Annie, any thoughts?

Annie Hudson: I do not think I have got anything to add.

Q84 Chair: Okay. Rob?

Rob McDonough: I think when Brighton introduced it—correct me if I am wrong—they actually saw quite an increase in the number of applications to the private sector from parents. I do not see any wholesale place for random allocation. If many schools did it who are actually there to serve their local community, and then members of the local community did not get their child on roll because of random allocation, I could see widespread problems.

Lesley Black: It depends exactly how it is done. A number of schools have it within a catchment area. It would depend very much on what the other schools

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in the area are doing. As for where it does not work, one case that we heard of was of a parent who had lived next door to a particular school for a long time before it became popular, when it was a school nobody wanted. The school was on her doorstep, but she did not get a place, and this is a school that uses random allocation with no distance criteria at all. So children from 10 miles away have just as much chance of getting a place as the one who lives next door. In that case it is not appropriate, and I think it would need collaboration between schools to make sure that the criteria fit.

Q85 Chair: There you go, Lee. Defend your position.

Dr Major: If I could clarify what we are saying, random allocation can be used as a tie-breaker when other selection criteria have been used. We are not advocating pure lottery. That is the first thing to say. When we actually surveyed people about this, interestingly there were as many people who thought using ballots or random allocation was as fair as using

distance to the school as a tie-breaker, or faith criteria. People, when you ask them and explain it and put it into context and tell them it is not a pure lottery, actually think it is a fair system, so I would stand by that. I think it is the simplest and fairest system. I think you have to have other criteria in there. You do not want children having to go miles away as a consequence of this. I think you have to think around this; it is not a pure lottery. But I think it is the simplest and fairest approach. Rob is painting a very rosy picture of the world of school divisions, and I am afraid that the evidence suggests that we have a highly socially segregated system, as we have said—perhaps more than most countries in the world. I think random allocation will be one small way of helping to address that.

Chair: Okay, can I thank all of you for coming and giving evidence this morning, and ensuring that this slim topic has nonetheless provided an entirely full and rich session for us? Thank you very much for coming.

Written evidence

Written evidence submitted by Sutton Trust

SUMMARY

1. The Sutton Trust's concern given the reforms to allow greater freedom and autonomy for schools is that there needs to be a clear and robust admissions code to ensure that an already social segregated system is not made even more polarised. We believe the code is an essential part of the series of checks, balances and incentives in the school system needed to ensure that the current reforms benefit all pupils, not just those from privileged homes. Greater social segregation between schools is likely to be bad for overall social mobility levels, and the attainment of the poorest children in our schools.

2. A clear and robust admissions code will play a critical role in ensuring fair and equitable admissions to schools. We believe that ballots should be used as widely as possible as a tiebreaker when schools are oversubscribed after using other selection criteria. We also think that poorer children should be prioritised in schools admissions. We think it would be a retrograde step to allow priority in admissions for the children of teachers—as teachers would naturally want to teach and have their children go to the best performing schools. It would also be beneficial if faith schools employed a binary yes / no criteria in determining whether a pupil meets the faith criterion.

SUTTON TRUST RESEARCH

3. The latest international comparisons of social mobility commissioned by the Trust show that a distinctive characteristic of England is a widening attainment gap from the ages of 11–14, which is likely to be related to social polarisation at the start of secondary schooling. We believe that particular stark attainment gaps in the UK are one of the factors behind low social mobility in the country.

4. A series of statistical analyses by the Trust have found that the intakes of high performing state schools are markedly different to the social mix of the local communities. One study found that the proportion of pupils eligible for free school meals (FSM) at the top 200 secondary state schools was on average 3% compared with 12.3% in the postcode sectors in which the schools were sited, and 14.3% nationally. These differences were found to be particularly stark for schools that are their own admissions authorities.

5. These findings were confirmed by a report investigating the social exclusivity in secondary schools using a more sophisticated postcode analysis of children's income levels, based on IDACI (Income Deprivation Affecting Children Index). The country's top 164 comprehensive schools took only 9.2% of children from income deprived homes although they drew pupils from areas where about 20% were income deprived.

6. A socially segregated school system leads to worse outcomes for bright pupils from less privileged backgrounds. For example, Sutton Trust research found that highly able pupils (the top 10%) in the most deprived state schools on average achieve half a grade less per GCSE than highly able pupils in the most advantaged schools. These differences are due to a number of factors associated with advantaged schools, including a "peer effect" by which pupils benefit from being educated with other pupils with high levels of attainment, and low levels of deprivation.

ADMISSIONS CODE—KEY ISSUES FOR THE SUTTON TRUST

Ballots

7. We believe ballots are the fairest way to allocate places at oversubscribed schools once pupils applying have met other selection criteria (such as proximity to the school).

8. So we disagree with the Code's proposal to ban local authorities from using ballots or "random allocation" to decide which children should go to oversubscribed schools. No reasoning is given for this proposal.

9. Our rationale for that is fairly simple—ballots are fairer than any of the alternatives. If oversubscription is determined simply on proximity, then those who can afford to live a few feet closer to the school gates benefit. If you use religion, then you have admissions authorities making subjective judgements about which pupils are more religious than others. Often, of course, it is the better off parents who are more able to make that case.

10. A public survey of parents commissioned previously by the Trust showed that when properly explained random allocation methods are viewed as at least as fair as the other methods.

11. When given the specific scenario of an over-subscribed faith school, more people (36%) thought that a ballot was the fairer way of deciding which pupils get a place than those who think the decision should rest on judgements showing which families are most committed to the Christian faith (20%).

12. When given the specific scenario of an over-subscribed comprehensive school, almost the same number of people (32%) thought that a ballot was the fairer way of deciding which pupils get a place as those who think it is fairer to decide on how near families live to the school (35%).

Priority for poorer children

13. The Trust has already proposed that children from poor backgrounds should have priority in school admissions. So we support the proposal in the new Code that academies and free schools be allowed to prioritise children on Free School Meals in their admissions. We see no reason however why this should not be extended to all schools.

14. Allowing schools to give preference to children from disadvantaged backgrounds is crucial if pupil premium funding is to operate truly as an incentive for schools to actively recruit children from poorer homes.

15. While the Trust supports good schools expanding, we are concerned that schools would tend to recruit more affluent students. A solution would be to make expansion conditional on giving first preference to all children eligible for free school meals before allowing other children to take up the extra places. This would ensure that successful schools which had the appetite to grow would recruit the pupils who would most benefit.

Prioritising the children of teachers and other school staff

16. The Trust believes it would be wrong to allow schools, as suggested, to give preferential places to children of their own teachers and other staff because this will provide a further disincentive to teachers with children, or planning to have children, to work in the most disadvantaged schools.

17. Our fear is that it will become even harder to attract the best teachers to the most challenging schools—one of the key challenges if we are to narrow attainment gaps between poorer children and their more privileged peers. The biggest single factor within schools impacting on attainment is the quality of teachers in the classrooms.

18. It will also go against the need for a more robust performance management system needed for the teaching profession, creating a strong disincentive for teachers to leave schools on their own accord or because of consistently poor performance.

Other admission criteria

19. The Trust believes that religious schools should consider straightforward “binary” criteria to decide which pupils should be admitted—perhaps signature from a religious leader to demonstrate commitment to a particular faith. An alternative would be simply for faith schools to be open to any family who wants their child to be educated in line with the tenets of that particular religion.

20. The Trust also supports fair banding—whereby schools are required to admit equal proportions of pupils from each band of ability. However, because of the opportunity for “playing the system” and the need to conduct tests, the Trust’s preference is for ballots.

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