

THE LADY SHOULD HAVE BEEN FOR TURNING

In spite of the furore attending Nicky Morgan's recent "U-turn", it is clear that the government is still committed to bringing about an all-academy school system by 2022. It just intends to use more covert methods than the abandoned "enforcement plan", which had enraged many of its own supporters and might have resulted in defeat in the Commons.

This edition of CASENotes is largely concerned with academies and so, at the outset it is worth looking at the overall picture that has developed since the year 2000, when Labour brought in *The Learning and Skills Act*.

Since their beginning as "City Academies", academies have undergone a number of changes. Conceived as a way of building upon the programme of City Technology Colleges – abandoned by the Major government after only 15 were ever opened – academies soon became the preferred model for the Labour government; the term "city" was removed in 2002 and it was made clear to any LA wishing to open a new school that the government would prefer this to be an academy.

In 2010 the Coalition government sought to expand the academies programme by allowing "good" LA schools to "convert" to academy status (with generous financial inducements) and by trying to force less successful schools to convert.

The arguments put forward by ministers to justify the academies programme have been specious. Some academies have done well, others badly but there is **no evidence** that academy status *per se* produces improvement.

Moreover recent claims made for academies appear to contradict the original claims about the advantages

of "freedom from LA control". As the original "sponsors" of academies have developed into chains (multi-academy trusts or MATs), **heads find themselves with less, rather than more autonomy**, as the chain seeks to create a "brand" identity.

Despite this, ministers assert that being part of such a chain enables schools to "work together" and "share expertise" – **exactly what was afforded to schools within an LA, except that, within a given MAT, schools may be as much as 100 miles apart** and any "sharing" is done by dictat.

The latest, frequently repeated, claim is that "failing schools" forced to become academies have "improved" faster than those which have remained within the LA, as measured by exam results and OFSTED reports. [Henry Stewart of the Local Schools Network](#) has authoritatively shown that **the opposite is the case and the fastest rate of "improvement" among schools as a whole has been within the primary sector, where there are very few academies.**

As well as producing no evidence that academy status *per se* leads to lasting improvement, **ministers have wilfully ignored the many drawbacks of the system.**

In particular they have ignored the potential to create chaos within the admissions system and **they have ignored the potential for financial irregularity.**

In 2005 the Education Select Committee recommended that no more than 50 academies should be opened, so that proper evaluation could take place before deciding whether or not to expand the programme.

With fragmentation and chaos looming, it is a pity that ministerial vanity has prevailed over common sense.

CASE believes in a fully comprehensive, locally accountable and democratic education system.

A VERY ENGLISH MESS

Nice try, Nicky. Despite official efforts to bury the bad news under Friday's election coverage, Morgan's [climb-down over the forced academisation of schools](#) has been widely publicised, and celebrated across the political spectrum.

In the end, the education secretary dared not defy a handful of powerful Tory backbenchers, or shire leaders – according to one, the government had simply 'gone bonkers' – implacably opposed to having their local power over education destroyed.

But there was another climbdown, just as significant in its way, last Friday: [Toby Young, stepped down](#) as chief executive of the West London Free School, which he set up in 2011, admitting he now regrets his "arrogance" over education, and in particular his criticism of teachers, heads and local authorities. "I hadn't grasped how difficult it is to do better," he said.

Young, it appears, has finally caught up with some of the more complex social and political reasons why so many local schools can't keep pace with the rich, socially selective independent sector that he so admires.

Let's not forget the huge role Young, the most public and provocative face of the coalition's free schools plan, played in undermining public and parental confidence in state education, particularly nonselective schools: all that "we can do better" hysteria whipped up in the early Michael Gove period led some commentators seriously to suggest that critics of free schools were "[actively evil](#)".

It all feels like another age now. Both Morgan and Young's retreats signify one more important staging post in the fast diminishing credibility of the school reforms unleashed by the Tories after 2010. If Gove brought an intellectual energy and spurious coherence to a fundamentally flawed project, Morgan brings the rabbit caught-in-headlights nervousness of someone placed in charge of a convoy of rickety vehicles that now threatens to veer out of control.

Huge change has been forced through at all levels, on scant evidence and even less meaningful consultation. There is no proof that academisation is the way to improve school performance, and few would still argue that free schools remain a vehicle for meaningful parental involvement – Young himself, an exceptionally well-networked figure in Tory circles, was always an outlier. Most new free schools are set up by existing chains or groups.

The mantra of choice and competition, kickstarted by the Tories in the late 1980s, rings utterly hollow under a government characterised by a crass, heavy-handed centralism on everything from school structures to the

curriculum. But things are not centralised (or merely efficient) enough to avert the crisis in school places, teacher recruitment and workload, or to sort out an increasingly rogue school admissions system.

We are left with a supremely English mess. The government is still committed, in theory, to an all-academy system by 2022, and has pledged to force immediate conversion on schools that don't meet rigidly prescribed benchmarks. Given that it is largely schools in poorer areas, serving poorer children, that fail to make the often unrealistic grade, look out for a return of partisan and now vengeful rhetoric about "underperforming" Labour local authorities.

English education will continue to be split, run along parallel lines: those still working under the often loose aegis of the local authority (still 74% of all schools); and academies, most of these now in chains or herded into multi-academy trusts, all under the supervision of mysterious and undemocratic regional school commissioners.

Meanwhile, Morgan's disastrous decision [to agree an annexe to a Kent grammar](#) (Gove had turned the proposal down) has, as predicted, let loose a flood of applications for expansion of grammars into previously nonselective areas, causing an outcry within many communities wanting improvement in their local schools – rather than a new, hugely divisive tier of provision. Morgan's retreat on academies will not, on the face of it, halt other proposed reforms.

All this poses a challenge to Labour. There is widespread hunger for an alternative vision within a well resourced, well supported system, with light touch democratic accountability. But most school leaders and teachers are depleted, demoralised by too much change and too many changes of official mind.

With four years still to go, Labour would be wise to start widespread consultation on everything from reform of the curriculum, genuinely fair admissions and high quality teacher training. After all, if politicians had heeded educational professionals more and listened less to provocative, self-promoting figures such as Toby Young, we might not have got into such a mess.

Melissa Benn

APOLOGY

The last edition of CASENotes contained a couple of typing errors, including the inadvertent misspelling of the name of the previous editor of The Guardian, to whom we gave an additional "h".

He was, of course, Alan Rusbridger. We apologise for this error.

ACADEMIES AND FINANCE

The government likes to assert that oversight of academy financing is more robust than that of Local Authority schools but the National Audit Office does not seem to agree. For the third year running, the NAO has issued an 'adverse opinion' on the Department for Education's accounts:

'The Department's policy of autonomy for academies brings with it significant risks if the financial capability of the Department and academies are not strengthened...This will become even more significant in the context of the planned expansion of the academy sector'.

The NAO's criticisms centred on the DfE's inability to submit its accounts on time. This delay was 'largely due to the scale and complexity of consolidating 2,824 academy trusts' with different accounting year-ends, the NAO said. Academy trusts' accounts end on 31 August; DfE accounts end on 31 March. The DfE circumvented this by using trusts' accounts to 31 August 2014 and commissioning a 'comparison study' to prove there was no difference between financial data in accounts ending 31 August 2014 and information which would have been included if accounts had run to 31 March 2015 but the NAO wasn't convinced, saying that the DfE accounts did not comply with International Financial Reporting Standards and that the accounts 'do not present a true and fair view.'

The NAO also complained of poor record keeping, poor financial management, uncontrolled capital spending and inability to value land and buildings used by academy trusts. No wonder "Newsnight's" Chris Cooke has queried whether or not the DfE is fit for purpose!

Yet this failing organisation is planning to quadruple the number of academies, a policy which the NAO says has "significant risks".

A CASE IN POINT: SPIRAL ACADEMIES

In March, *The Guardian* printed an enthusiastic letter in support of academies. The author was Amanda Godfrey, Executive Head of Spiral Academies Trust, a small Hertfordshire MAT with five primary schools. Ms Godfrey is also a director of Herts for Learning, "a one-stop shop for school improvement services". A regular customer of Herts for Learning is Spiral Academies Trust. So Ms Godfrey, as Executive Head of one concern, regularly purchases services from another of which she is a director.

CASENotes in no way wishes to imply that Ms Godfrey has broken any law or has acted in other than an entirely open and legitimate way but the dangers of this kind of arrangement are surely obvious.

ANOTHER CASE IN POINT: PERRY BEECHES

Recently *The Guardian* reported that "An academy chain responsible for five secondary schools is to be stripped of all its schools, according to sources close to the Department for Education". It has now emerged that, of the five schools, the two which have not yet opened will now be cancelled.

The Perry Beeches academy trust is to have the remaining three academies in Birmingham handed over to a new academy trust following a critical financial investigation.

A [report by the Education Funding Agency](#) had shown financial shortcomings at Perry Beeches Academy Trust, including third-party payments made to the chief executive, Liam Nolan, on top of his £120,000 salary as executive headteacher. The EFA's call for urgent action triggered [an official notice from the DfE](#), which detailed "serious concerns about financial management, control and governance" at the trust.

The investigation uncovered irregularities including nearly £1.3m in payments without contracts to a third-party supplier, Nexus. That company also subcontracted to a company named Liam Nolan Ltd, paying Nolan a second salary for his role as chief executive and accounting officer of the trust.

The report concluded that "the academy paid Nexus £72,000 including VAT in 2013-14 and £88,800 plus VAT in 2014-15 for the CEO role", in contravention of academies' financial rules and Treasury guidelines.

A [separate report by the EFA](#) found that eligibility for more than £2.5m worth of free school meal (FSM) funding could not be checked because the relevant records to 2015 were deleted by the trust. "The trust has breached the academies financial handbook by failing to retain any form of FSM eligibility evidence for a period of six years," the EFA concluded.

After the EFA reports were published, Nolan announced that he was stepping down as the trust's chief executive and would take a pay cut as executive head. He has now been forced to stand down completely and has been on sick leave since Easter.

This sad story, which is being replicated all over the country, illustrates all too well the kind of financial problems into which academy trusts can fall. Nolan was an excellent head teacher who had achieved a great deal in improving the former Perry Beeches School but who, perhaps, should have left it at that. Asked about the financial irregularities he responded lamely that he was a schoolteacher, not an accountant, but he still allowed himself to become embroiled in a financial mess from which he himself profited. However, it took a "whistle-blower" for this minor scandal to become public, casting doubt on the DfE's claim that it has procedures in place for robust oversight.

ACADEMY TRUST EXPANSION - A RISK TOO FAR?

The Government's plan to force all schools to become academies, still essentially in place despite the much publicised recent "climb down", poses a huge risk.

There are many examples of schools which were rated as "outstanding" before converting to academy status but which have subsequently been re-rated as "inadequate". Cramlington Learning Village, Collington Community College and Gilbert Inglefield Academy are just three examples from 2015.

However, the risk is illustrated far more forcibly when considering the very rapid expansion of some of the academy trusts and their inability to cope with that expansion.

This is a risk which has already been demonstrated by trusts such as **Academies Enterprise Trust, Academies Transformation Trust, Barnfield Academy Trust, School Partnership Trust, E-Act** and **Park View Academy Trust**, all of which have been heavily criticised by OFSTED and some of which have had schools removed from their management. E-Act, for example, had 10 schools taken away from its management after years of problems.

The rapid expansion of some newer academy trust indicates that the Government has not heeded these warnings.

One example of this can be seen with the **Enquire Learning Trust**. It was incorporated as recently as May 2012 with a single converted primary school and now operates across seven local authorities, with responsibility for schools which are as much as 100 miles apart.

During the last four years, the number of schools under ELT's management has expanded from one to twenty.

Four of these schools were taken over in 2013 and of those two were subsequently rated as 'good' and two as 'outstanding'. Before these schools became academies, they had received very similar OFSTED gradings: two "good", one "outstanding" and one whose grading does not seem to be available. This hardly seems to justify ELT's subsequent rapid expansion, when the trust took over ten primary schools in 2014 and a further six in 2015. None of these schools have, apparently, been graded by Ofsted since becoming academies.

This pattern is being repeated elsewhere: trusts with no established record of success are being allowed to take over schools before they have the experience to do so.

How many more E-Acts are there in the making?

COMMENT

The victory in court of a parent who refused to pay a fine for taking his daughter to Disneyland during term time has given rise to much polarised debate.

The victory was entirely technical, being dependent upon the failure of the law properly to define "regular" school attendance. The parent argued that, since his daughter had achieved 93% school attendance, she could not be said to have failed to attend "regularly" and the court agreed.

The government will now ensure that the law is changed so that this kind of thing does not happen again but this is surely the wrong approach, not least in forcing head teachers into a policing rôle that they do not seek and which may compromise their relationships with parents.

The only certainty in this debate is that each case needs to be judged on its individual merits and that head teachers should be allowed to exercise discretion within the operation of an agreed code of practice.

Unfortunately, years of marketising the education system has made such a code much more difficult to design and implement than once would have been the case.

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