
School Admissions: fairness versus diverse types of schools, choice and own admission authorities

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ABSTRACT This article examines the minefield that now surrounds admissions starting with a comparison of the relatively easy system of the 1950s and early 1960s and the complexity of multiple admission authorities of today. Taking evidence from a range of agencies, including government official bodies, and admission issues, the article aims to show that a major factor in non-compliance with good and fair admissions practice is the rise of 'own admission authorities'. Their increase comes directly from structural changes to the provision of schools. The article concludes that to deal with the problem, an incoming Labour government cannot ignore those changes. The article supports the proposal of Comprehensive Future for a root and branch review of admissions.

Sometime in the spring of 1957 I sat a test with a wide range of questions such as, 'cat is to kitten as hare is to ... ?' and 'which is the greater 35lbs or 2st 9lbs?'. My competence in this test, the 11+ exam, determined which school I would go to at the age of 11 years and 2 months. The only proviso was a choice between Luton Grammar or Dunstable Grammar, and as we lived off the Dunstable Road, and my brother was already a pupil, I had no choice, and my parents sent me to Dunstable, albeit a five mile journey. The other children in my cul-de-sac failed the 11+ and went to the nearest secondary modern, without question, an easy walk away. I rarely, if ever, played with them again. I also lost contact with my best friend who went to Luton Grammar and eventually moved much nearer it. When it had come to where I should attend an infant school or junior school, it was easy, I went to the one at the top of the road, the nearest, which was the norm for virtually all children aged five and seven years old.

This simple tale is to illustrate that I was no exception. At aged five years old and seven years old you attended your local, nearest school. It was the norm, it was expected, and it was accepted. At 11 years old if you didn't pass the 11+ you went to the nearest secondary modern. It was the norm, it was expected, and it was accepted. In some areas you might be lucky and have a technical school, but there were far fewer of them than anticipated in the Butler Act of 1944. In addition, of course, were the voluntary controlled schools which even then had their own admission criteria, usually faith based. Now, we have a school system that operates within a very different set of expectations. The political narrative, which appears to have been generally accepted, is that choice and diversity drive up standards and parents should have the choice to send their children to the best schools. This still has currency despite the overwhelming evidence that what drives up standards is good teaching and good leadership. Thus there is competition for the 'best' schools and the expectation that others will improve to compete. In many areas we now have a hierarchy of schools often based on hearsay rather than the real quality of what goes on in the schools.

It did occur to the Blair government, which was a great promoter of the concept of choice in education, that there needed to be some form of regulation to allow for some form of fairness in the system. While politicians still talk of choice, giving everyone their choice is a practical impossibility, and those involved in admissions are clear that you can state a preference, but the outcome depends on the preferences expressed by everyone else. The School Admissions Code came into being under Section 84 of the School Standards and Framework Act 1988. This is the same Act which abolished grant-maintained schools, but introduced foundation status. The vast majority of schools at that time were still local authority community schools. However, the Act did recognise that a range of types of schools could determine their own admission criteria. Although the Code did stop the situation where parents had to apply directly to own admission authority schools, but rather fill in a common application form, sent to the local authority. The Act also introduced the Office of the Schools Adjudicator to supervise and monitor the Code and deal with any objections, admission forums in each local authority, later to become statutory, and a requirement for an annual report on admissions from each local authority. Under the coalition government, admission forums are no longer statutorily required, but they can still exist as each local authority determines. Admission forums were the only local, wide-based membership body to monitor admissions as more and more schools became their own admission authority. Many ceased to exist when the statutory requirement ended and, despite efforts by Comprehensive Future to find out, it is not known how many still operate. (The writer is pleased to note that the Southampton admission forum, of which he is chair, still operates.)

The direction of the Blair government on 'choice' became clear when the Blairs sent their eldest son, Euan, across London to the London Oratory School in Fulham, when they lived at the time within walking distance of Islington

Green School and Highbury Grove School in Islington. Later on the Blair government, under Ruth Kelly as Secretary of State, produced a White Paper subtitled 'More Choice for Parents and Pupils' (2005). The following 2006 Act consolidated the development of foundation schools which would be their own admission authorities. Thus the move to taking schools out of local authority admission criteria and for more and more 'own admission authorities' quickened pace.

Subsequent regulations and acts, initially under Labour, with sponsored academies, but built upon under the Conservative led coalition with Michael Gove's Academies 2010 Education Act have seen the introduction and expansion of 'independent' state-funded academies, including primary schools, and free schools. Crucially all of these are outside the local authority and set their own admission criteria. They must all, however, operate according to the statutory Schools Admissions Code (2012). The intention, or implication, is that with an admission code, access to schools would be fair and the process understood. Glitches would be dealt with by the Office of the Schools Adjudicator. The complexity, however, is causing all sorts of problems. Evidence from a few issues well illustrates the breadth of ways admissions is a minefield for parents and children.

A look at the already mentioned London Oratory School is a good place to start. It is a state-funded Catholic secondary academy school. Since 2004, it has been subject to objections on its admission criteria. The last report by the Office of the Schools Adjudicator was published on July 15, 2014 and Bryan Slater, the adjudicator concerned, said that over 2 years, the Academy had broken 105 aspects of the Admissions Code. Among the breaches he found the school had a notably lower proportion of pupils from non-white or deprived backgrounds compared, not only with its local community in Fulham, West London, but with many other Catholic state schools in the capital. The adjudicator found the evidence led him to believe the admission arrangements 'have the effect of acting to produce at the very least a degree of social selection' (Office of the Schools Adjudicator, 2014). Peter Walker of *The Guardian* on July 15, 2014 called it 'cherry picking' a pupil population that is disproportionately privileged and white. The report was made following objections raised by the British Humanist Society. This is the school chosen by Nick Clegg for his child.

Of the many objections upheld by an adjudicator this is possibly the most spectacular. However there are other aspects of the Admissions Code that might constitute a barrier to a parent choosing a school and which are more difficult to raise in an objection. Over-subscription must comply with equalities legislation which is difficult for many parents to access and would only be tested by an objection to the adjudicator. Parents would have to think a year ahead to raise an objection and, in reality, discover only when it is too late, that their child has been disadvantaged. Another area which is covered in the Admissions Code, but has little or no additional guidance attached, is the costs of school uniform. The Code in Section 1.8 states, 'Admission authorities *must* ensure that their arrangements will not disadvantage unfairly, either directly, or

indirectly, a child from a particular social or racial group or a child with a disability or special educational need, and that other policies around school uniform or school trips do not discourage parents from applying for a place for their child' (p. 9, original emphasis). Nowhere does it give guidance as to what would contravene this in terms of cost of uniform. Is £100 okay, but £200 too much?

On April 16, 2014, the Children's Commissioner published a study, 'It Might be Best if You Looked Elsewhere' (Office of the Children's Commissioner, 2014), and in it indicated that the cost of uniform is putting off low income families from choosing some schools. The impact of a school's uniform policy might be inadvertent, but, Maggie Atkinson, the Commissioner, stated, 'It is the effect of what schools say and do that matters to both parents and the law'. Schools still persist with expensive uniforms and little, if anything, is done about it. Lisa Bachelor, in the finance section of *The Observer* on August 17, 2014, quoted uniform costs over £500 in some schools and reported that Toby Young's West London Free School required parents to purchase expensive blazers, jumpers, ties and bags from an approved supplier. The Citizen's Advice Bureau (CAB) estimates that 19% of parents pay more than £150 for new uniforms. A lorry driver friend of the writer recently informed him that he had paid out £250 for uniform for his older son to start a state-funded foundation secondary school in Southampton. Complaints about uniform costs, if not satisfied by contacting the school, have to be directed to the Secretary of State at the Department of Education (DfE). At the time of writing it has been difficult to find out which department would deal with such a complaint and what action they would take if it is deemed a school has uniform that is too costly and is putting off parents from choosing that school. Although it is in the Admissions Code, this aspect is not dealt with by the Schools Adjudicator. Anecdotal evidence, as well as Lisa Bachelor's article, suggests this is a real problem for many parents. A DfE website page will direct you to your local council if the DfE thinks it still is able to make a uniform grant. With austerity cuts many have cut the grant as it is not a statutory requirement.

As the Children's Commissioner's report title, 'It Might be Best if You Looked Elsewhere', suggests there are ways schools can manipulate admissions or send out messages, to facilitate taking fewer children they do not want or more children that they do. One such way is selection, whether by 11+ or by an aptitude test. This is dealt with later. The Children's Commissioner is concerned about the evidence that she found of schools discouraging parents of children who were designated with Special Educational Needs (SEN) from applying. The report does not distinguish between local authority schools and academies, and it does quote examples from some academies in London. One such academy not only has high uniform costs of about £300, plus more if the pupil represents the school in sports, but, as recorded in the DfE data dashboard, has no children with SEN at School Action Plus or with a statement. In the report an academy in a London borough is stated as having 'disproportionately low numbers of "difficult" pupils compared with the local

authority average, and, conversely, equally disproportionate numbers of children who do well in Key Stage 2 SATS' (Office of the Children's Commissioner, 2014, p. 31). The report goes on to state that this school was among others which had unusually good intakes that 'had their admission arrangements changed as a result of judgements by the Office of the Schools Adjudicator' (p. 32). Many of the parents who were interviewed for the report gave evidence of staff suggesting the school did not have the facilities to deal with their child or the school down the road would do better. All of this is contrary to the intention of the Admissions Code, but it is not clear whether any of the schools' admission procedures were the subject of objections.

There is a problem. The system is there for objections to be made and it is now open for anyone to object about a school's admission criteria or procedure whether directly affected or not, however very few objections are raised in any one year. The Office of the Schools Adjudicator (2013) records that in 2012-13, there were 7562 schools (2846 academies, 935 free schools, and 3781 faith schools) where the governing body are their own admission authority. There were 152 local authorities who act as admission authorities for the remainder (12,239 community and voluntary controlled schools). Only 162 admission objections were raised in 2012-13, the period of her last report, and that is only 6 more than the previous year. During the year of the 145 cases finalised, 46 were fully upheld and 51 partially upheld. Many issues are resolved locally and in the consultation period, but anecdotal evidence would suggest, not that the low number of objections means generally all is well, but rather, that very many contraventions of the Admissions Code go unreported. Some of this may be because, outside of admission criteria which are dealt with by a schools adjudicator, other objections have to go to the Secretary of State. Some possible objections are blocked by regulation. Comprehensive Future raised concern in their Newsletter of December 2011 final document, which came into effect in February 2012, contained aspects on which there had been no consultation. Michael Gove introduced, without warning, extra paragraphs, so that no objections can be made to 'an agreed variation' made between the Secretary of State and an academy in their funding agreement and where he had decided that there was a 'demonstrable need'. Thus academies can be protected from objection on key admission issues by the Secretary of State!

Interestingly the 2012-13 report of the Schools Adjudicator has something to say about new own admission authorities, nearly all of which are academies or free schools. Her report in Main Finding 4 states: 'New schools and those that became their own admission authority do not always fully understand their responsibilities for having lawful admission arrangements that comply with admissions law and the Code' (2013, p. 8). The Chief Adjudicator further states in her concluding comments: 'Schools that are their own admission authority have a responsibility to provide all the necessary information on their websites: it is more than time that they understood it is not an optional extra. They have a duty to parents to comply with the Code rather than add to the anxiety that many parents feel when considering making their

preferences for a school place for their child' (para. 154). In her report from local authorities she comments that one of the three issues which appear more than any other is, 'concern about the process of what happens when a free school opens'.

Results of a survey published by Comprehensive Future in June 2014 exposed the increasing complexity for parents navigating the admissions process (Comprehensive Future, 2014). Member volunteers surveyed admission criteria and information for all state-funded secondary schools in every local authority area for the September 2014 intake. Comprehensive Future found great variation in the number of schools in a local authority that were free of any sort of test, whether for faith, aptitude, 11+ or banding. A total of 21 local authorities, most in London, had 60% or more of their schools demanding some sort of qualifying requirement for admission. By contrast in Yorkshire and Humberside, over 80% of schools had no entry test. More alarmingly it was often difficult to find the admission criteria on own admission authority school websites as required by the Code and in some authorities there was considerable difference between schools. Faith tests were often found to be very complicated and other research showed that faith schools, like the London Oratory, on average, take fewer children from deprived backgrounds than there are in the community they serve. While the report recognised that some academies adopt the admission criteria of their local authority as in Hounslow, on the whole own admission authorities vary their admission criteria and this is likely to increase.

The complexities of aptitude testing emerged from the report, also where banding was applied to determine fair admissions, all adding to problems for many parents. As a result of the survey, the report concludes that it is now difficult in some areas to say parents have a choice of schools. A parent from Hertfordshire is quoted on the unfair system. She says, 'I really don't understand why my son needs to sit this exam when my nephews, in neighbouring towns, do not need to worry about this and can enjoy being a child'.

The survey adds more evidence to the call for politicians to recognise that the reality of 'fair' admission to a school is now in a mess. Comprehensive Future is calling for all political parties to commit to a wide ranging review of school admissions, while recognising that this is more likely to be achieved by a Labour government.

Meanwhile the coalition government is currently consulting on some limited changes to the Admissions Code. They propose to extend the right to prioritise children eligible for the pupil premium to all state-funded schools. In addition, they propose to bring forward the date for admission authorities to consult locally on their arrangements and reduce the consultation period from eight to six weeks. Reducing periods for consultation and making it more difficult to respond is typical of the current government. This is further illustrated by when they chose to consult. The proposal was published on July 22, 2014, as schools finished for the summer break, and responses had to be in by September 29, soon after schools have started the autumn term.

The major hindrance to fair access to education and a more egalitarian education system is selection at 11+. By any definition this is a system whereby schools choose children or select those they prefer and reject those that they do not want. It may be as a result of an ability test, but selection does not give choice for parents and children. It does result in large numbers of children seeing themselves as failures at the age of 11 years old.

Phil Beadle wrote a damning critique of the 11+ in *The Guardian* on September 29, 2009, before the last election, entitled 'The Real National Challenge? It's Still Selection'. In it he pointed out that although Ed Balls MP, the then Secretary of State for Education, was no fan of the 11+, he accepted that 'selection is a local decision for parents and local authorities'. Phil Beadle concluded, 'It is a shame that there is no political will to make this the national decision it should be'. Sadly this is still the situation for the national policy of the Labour Party. Both Kevin Brennan MP, shadow Schools Minister, and Tristram Hunt MP, shadow Secretary of State, in meetings with members of the 'Picking up the Pieces' campaign group, have made it clear that they do not intend to take action to alter the structural system of schools. This is despite the overwhelming evidence that selection has a detrimental effect for disadvantaged children. The evidence is also clear that grammar schools did not, and do not, improve social mobility. A useful summary of the evidence is available in a document published by Comprehensive Future called 'Selection Myths' (Comprehensive Future, 2009) and which is still accessible on their website.

Phil Beadle pointed out that in 2009 the three counties with most schools attaining below 30% five A*-Cs were Kent, Lincolnshire and Birmingham. All three are authorities with 11+ selection, completely in Kent and Lincolnshire, and partially in Birmingham. All the schools failing to meet the target were secondary moderns, (frequently misnamed as comprehensives). These authorities continue to be among the poorest performing in the country. In 2009, Comprehensive Future also published a pamphlet, launched at a fringe meeting at the Labour Party conference, called 'Ending Rejection at 11+' (Comprehensive Education, 2009). Using Kent, Birmingham, Skipton and Ripon, it demonstrates that selection can be ended without closing any grammar school.

If you ask most Labour Party members and MPs if they think selection is a fair system of allocating places at secondary schools, they will say no, and yet the party nationally has failed to address the issue. As Phil Beadle says they lack the political will to do anything about it. Maybe they think it affects only 163 schools out of 3281 state-funded secondary schools and is therefore not a big national issue. For every grammar school, however, there are a number of 'top sliced' secondary modern schools. Taking just the three counties of Kent, Lincolnshire and Buckinghamshire, there are 61 grammar schools, but 127 other secondary schools. In addition there are many children from neighbouring counties who try and often succeed to get into a grammar school, creating a much wider knock on effect on other schools and authorities. Labour politicians fail to recognise just how far selection has an impact on schools and children.

Professor Danny Dorling, Halford Mackinder Professor of Human Geography at Oxford University, an expert on social inequalities, in his inaugural lecture, 'Geography, Inequalities and Oxford', reported that social mobility is lowest where local 'choice' in education superficially appears to be highest. He gives, as an example, Trafford in Greater Manchester, which has the highest level of educational segregation owing to secondary modern and grammar schools being retained there, as well as private school provision being high (Dorling, 2014).

The complexity of the current schools' admissions system and the problems for parents and children is clear, but can there be any admission system that is truly fair? There is common agreement on the left that removing all forms of selection that enables a school to choose all or some of its pupils, particularly the 11+, would be a start. This would remove the negative effects of rejection that many children experience at the age of 11 years old. Peter Mortimer (2013) has made a brave attempt to address the issue of fairness in his book, *Education under Siege*. For a start he proposes bringing *all* schools back under a 'middle tier' by which he means the local authority saying it is 'The obvious way out of the patchwork of this patchwork of confused freedoms and controls' (p. 213). The Labour Party, following the Blunkett Report, is also pushing the concept of a middle tier, which may or may not be co-terminus with a local authority, and which would be overseen by a Director of School Standards. The emphasis of this role, however, is school improvement rather than school structures and fair admissions. Campaigners for fair admissions are clear, whether within a local authority or a new middle tier, *all* schools in a locality should have the same admissions criteria, and *no school should be its own admission authority*. The only reason why a school would want to be its own admission authority is for it to control, in one way or another, the type of child that they wish to admit. This was pointed out to the coalition government by the Labour MP Julie Hilling in the Public Bill Committee scrutinising the Education Bill in 2010 (Harris, 2011). Comprehensive Future wants local authorities managing the administration of admission decisions of all schools, so that, even where a school sets its own criteria, the decision whether a child meets the criteria is taken by the local authority and not the school. In the current situation this would at least make the process more transparent.

Peter Mortimore attacks the marketisation of schools and looks at the way that fair admissions could work, based on the notion that the fairest system of schooling would have balanced schools, 'in which there is an intake of pupils from different family backgrounds: advantaged and disadvantaged: those who find learning easy and those who do not' (2013, p. 214). In looking at how a system of allocating pupils would achieve this he examines 'bussing, banding and random allocation'. He rejects bussing. Banding he has doubts about as it still depends on assessing ability, and at transfer to secondary school that is likely to be by a test. The Comprehensive Future survey found wide discrepancies in the way banding is currently used, such as sometimes using data to determine the size of each band that would give a favourable intake to a

school. Peter comes down in favour of random allocation as the fairest way to allocate students and achieve a balanced school. That too has its problems and when used for an area of Brighton and Hove created a lot of antagonism from parents. Many supporters of comprehensive schools campaign for a good school in every area and so the marketing of schools would be unnecessary as children would attend their local good school. Peter Mortimer also looks at an idea in support of making every school a good school. Quoting Alberta in Canada and South Korea, which have high performing schools, he points out they have a system of directing heads and teachers to schools so that no school has an advantage over another and also to keep a freshness in the profession. His proposal is to do something similar in England and Wales, which in some ways was what happened when teachers were all employed by the local authority and some retained centrally to be deployed where needed.

What the evidence shows is that a market system, with multiple different admission authorities, disadvantages large numbers of children. Some of the schools require tests, some faith adherence, some use banding, some want 10% to have sporting excellence, some give a high priority for children of staff, others can't admit local children because they give a priority for siblings no matter if the families now live way out of the catchment area, and one could go on. Schools don't always adhere to the Admissions Code and the Code does not always deal with the subtle ways schools can get around it, such as the 'you will be better off down the road' syndrome, or costs of uniform. There is little resource locally to monitor admissions, especially as many admission forums closed when they were no longer required by statute. Systems with selection and high levels of choice tend to work against social mobility, have high numbers of underperforming schools, and have high levels of segregation.

Tristram Hunt is known to have read Peter Mortimore's book. Whether he agrees with it or not, there are some factors that an incoming Labour government could address if it had the will. First structures do matter, particularly if state-funded independent schools and faith schools are also their own admission authority. All schools could be brought to operate the same admission criteria within a local authority. Ending selection, whether for aptitude or the 11+, will lead to much fairer admissions and stop the adverse effect on disadvantaged pupils. Greater cooperation between schools rather than a system of competing for pupils would raise the level of all schools. This would best be done within local authority areas with specialist central support staff who know the schools and localities well. A Director of School Standards might be the answer, but they must include responsibility for admissions. Resources must be given to local authorities or admission forums to monitor and deal with any anomalies locally. Whether the freedom to move staff to help schools that need it, along the lines that Peter Mortimore suggests, is possible or not, what are needed are sufficient resources to ensure every school is a good school and the local school is the school of choice. This would remove the hierarchy of schools, and hopefully would stop the wealthier families moving into areas of the 'best' schools as the local school would be as good as the school up the

road. Sadly what none of this would do is remove the prejudices that parents rarely admit to, of choosing a school with more children like theirs, or is not on an estate, irrespective of whether their local school is high performing. Sadly, based on the sort of information coming out of the Labour party at the moment, much of the above is unlikely, but the least they could do is take up the proposal of Comprehensive Future and have an urgent review of all aspects of admission and the impact it has on the outcomes for all children.

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