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## Capturing the Castle: an exploration of changes in the democratic accountability of schools

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**ABSTRACT** The history of the forced conversion to sponsored academy status of Castle Primary School in south Somerset is a tale of broken promises, lies and a blatant breach of statutory procedures. Yet the Department for Education, the local Member of Parliament (and schools minister) and the local authority stood by – sometimes participated – while a small academy trust rode roughshod over the wishes of governors, staff and parents. This article is an extract from a yet to be published study of the whole process, reflecting on the way that the law, and good practice, in the accountability of schools has shifted over recent years. It highlights many of the dangers that will be amplified by the proposals set out in the White Paper, *Educational Excellence Everywhere*.

### **Introduction: a forced conversion to academy status**

Secondary schools, with their comparatively significant administrative structures and their often ‘professional’ governors, have fallen over themselves since 2010 to grab the extra money and the kudos available with academy status. But the rate of primary conversions has been pitifully slow – still much below 20%, despite the Government’s current desperate attempts at persuasion and, sometimes, application of force, following an Ofsted judgement of the need for ‘special measures’.

In July 2014, following a rewritten Ofsted report that belatedly graded it as inadequate, Castle Primary School in Stoke sub Hamdon, south Somerset, was told that it was county policy to convert it into a sponsored academy, whether governors, parents and staff liked it or not. Recognising that none of these groups *did* want it, on the day of the report’s publication (delayed for two months to give the Department for Education [DfE] the outcome it wanted, so

that it appeared the day before the end of the summer term), a local authority adviser turned up to tell everyone that resistance would be useless. In a remarkable subversion of the statutory processes yet to come, he told parents that, in Somerset, 'Special measures means conversion', and that they should not waste their time 'expending time and energy on opposing the process'.

The DfE broker told the governors that they would be welcome to consult potential sponsors but, as soon as they did, they were told that the DfE and the local authority had actually already made their choice – a trust about which the governors had already expressed 'grave reservations'. Brushing their objections aside, the broker and a local authority officer both urged governors to join the sponsor-elect in making a start on choosing a new head teacher in what would be 'a fair process'. Less than a month later, in the last week before the Christmas break, the chair of governors was summoned to meet the sponsor-elect, the Redstart Trust, based 15 miles away in Chard, and instructed to inform the governors that a new head had been selected – the deputy head of the sponsor school – and to tell the interim head teacher to return to her own school in the new year.

Meanwhile, there was no sign of the public consultation still required by law. Indeed, despite being told in November 2014 that 'the conversion process would start with a consultation with parents', the governors themselves, staff and parents have all stated without equivocation, 'There was no public consultation'. The new head teacher was installed two months before the legal conversion took place and, within nine months, this recently designated 'inadequate' school was declaring itself, in advertisements in a local magazine and on its website, to be providing 'an outstanding education for all'.

The work in progress, of which the following article is one section, looks in some detail at the process of this school's conversion, and the lessons it holds for the world of English education at large. I am not suggesting that this story is in any way exceptional. On the contrary, the predominant reaction of the authorities involved to my approaches for interviews seems to have been astonishment that anyone would think this worth writing about. The two officers of the local authority involved, the 'executive principal' and the chair of the trust, preferred not to engage with the author, other than by providing brief outlines of their aims, and a promise of referral to the local authority's legal services in the event of further communications. The former chair of governors was 'asked to maintain confidentiality' about the process – a process that is supposed to be open and transparent. Fortunately, other parents, staff, governors, local politicians and members of the local community have been generous with their time and their views. I have respected the wishes that most of them expressed to remain anonymous.

The Education and Adoption Bill will remove more of the existing rights of governors and parents to resist forced academisation of 'failing' and 'coasting' schools. Parents in future will have the right to be told what is happening to their school, but no right to express their views. This, to date, is a culmination

of the process of undermining the democratic accountability of schools that can be traced back to the 1986 Education (No. 2) Act.

### **Democratic Accountability and our Schools**

Rarely articulated – even more rarely debated – and now brought into sharp focus by its accelerating disappearance, formal public involvement in our schools is an issue that has been around since the beginning of the state funding of education. It runs parallel to, and often merges with, the history of school governance. Conservatives, capitalist marketeers, and neo-liberals have seen it as the exercise of consumer rights over a paid-for commodity; socialists might see it as the exercise of state control over a nationalised provision for the public good; radicals, perhaps, see it as the engagement of communities in one of their own support services, reflecting the ultimate ownership of the provision and the right to determine its shape and purpose. In the customary British constitution-less muddle, the history of public participation in educational governance displays an almost complete absence of rationale, the predominance of compromise and the grasping of any convenient (or sometimes inconvenient) zeitgeist.

In the absence of coherent philosophies of public engagement, the three major political parties of the nineteenth and twentieth centuries toyed with various cautious models as suited their political convenience, until a consensus around a perceived national need for global competitiveness formed in the early 1990s. Since then, public involvement has been whittled away, as the views of politicians on that shape and purpose have drifted further away from those of parents and teachers.

We have now reached a stage where the political consensus on the need for the ever-improving ‘performance’ of young people from two to twenty-two is embarrassingly distant from the priorities of the general public and most education professionals. The politicians’ answer to this is to, as far as possible, remove lay people from educational governance and to replace them with utilitarian ‘skilled’ (and if necessary, paid) practitioners, who will accept, and unquestioningly pursue, the current political definition of ‘quality’ schools. In January 2016, the first academy chain to openly embrace this position was E-ACT. Previously known mainly for losing control of 10 of its schools for poor management, and for a ‘culture of extravagant expenses’ for its trustees, directors and staff, E-ACT decided that the ‘challenge’ part of the job description for its local governors should be passed back up to the national board, and that local governors would now be ‘academy ambassadorial advisory bodies’. Removing the planning, monitoring and evaluating roles from governors means that they can no longer really be called governors. As ambassadorial advisers, they become officially ‘supporters’ clubs’.

In 1999, I suggested that a governing board which displayed democratic accountability could show that it was ‘managing itself fairly and equitably, and encouraging stakeholders to hold it accountable for its actions and the

performance of the school'. [1] Accountability is a word much used but more rarely defined. In 2014, as I wrote in *Improving School Governance* [2]:

the then chair of the parliamentary select committee on education told a conference of governors and academics that he was 'less interested in democratic accountability than in quality'. This apparently throwaway comment, however, betrays a commitment to centralised thinking and planning that undermines the whole accountability process of school governance. Quality in schools, as we see, is effectively defined outside the democratic process. There was no public commitment in 2010 by either of the coalition parties to a policy about the widespread academisation of the schooling system. No-one – neither lay, professional nor academic – was invited to express views about this and, indeed, those opposed to it were characterised as 'the Blob' and as 'enemies of promise'.

Governance of schools *appears* to hold both democratic and professional accountability, by the process of election to the board by stakeholders, and by accountability for the performance of the school, upwards to the Secretary of State, and downwards to the headteacher. But much of this accountability is spurious. Academy chains and stand-alone academies have largely internally appointed and potentially self-perpetuating trustees and boards of governors, and Ofsted, the DfE and, for maintained schools, local authorities have the powers to remove governors, to remove schools from trustees, and to remove headteachers from schools. How sustainable is this model?

As Wilkins (2014) [3] suggests, perhaps: 'The definition of good governance should be expanded to take account of the different mechanisms by which schools aim to enhance local accountability through greater stakeholder engagement and the creation of student-, teacher- and parent-led feedback systems, including councils, forums and Friends' Associations' (though we might want to expand 'teacher-led' to 'staff-led').

In this article, we will look at some ideas about democratic accountability in general, and see how these might apply to school governance in England. At the end, we will suggest some specific behaviours that we might expect to see in a governing board that seeks to make itself democratically accountable.

The concept of a public service responding to democratic accountability – that is, being answerable to all or some members of the public intended to be recipients of that service – was addressed in 1942 by the politician most associated with the founding of the National Health Service, Aneurin Bevan: 'Representative government itself is government of the experts by the amateurs, and always has been'. [4]

## A Brief History of the Accountability of Schools

Governance has been a major arena through which state-funded schools have been accountable to their communities. Between 1870 and 1902, local school boards were directly elected (by a limited electorate) and responsible for the appointment of governors for schools, except where the Church took this responsibility. But from 1902, when local councils became the local education authority, they became ultimately responsible for school performance. They reserved the right to appoint all school governors, except in church schools, and as time went on, usually did so according to the ratio of representation of political parties. And so this continued to be the case until 1980, when the new Conservative Government became exercised about the rights of parents. As Joan Sallis, a member of the Taylor Committee on the government of schools (1976) later wrote, the 1980 Act 'was a delayed and diluted response to the Taylor recommendations'.<sup>[5]</sup> But the Act made statutory for the first time some elements of the accountability of schools to the public that the more enlightened local authorities had been applying for some years. It reduced the amount of grouping of schools under one governing body; it required two parent governors and one or two teacher governors (and later, non-teaching staff) to be elected by secret ballot; it allowed head teachers, if they wished, to be governors. In the attached regulations, governors were required to elect a chair annually, and any governor could be a chair, except employees of the school. Governors could no longer serve on more than five boards, governors could request a special meeting, and agenda and minutes had to be available to parents, staff and pupils. 'Finally, the regulations made it clear that governors should only be constrained from taking part in any discussion by direct pecuniary interest'.<sup>[6]</sup>

Sallis sums up this act and its regulations by underlining its significance, for all its shortcomings, in shifting the relationship between schools and their public: 'The Act and the Regulations were clearly intended to bring in a more open and participatory style of school government, and there is no doubt that there was an increase in awareness of the ways in which things were done'.<sup>[7]</sup>

Around this time, an in-depth study of the operation of governing bodies was undertaken at Brunel University.<sup>[8]</sup> Kogan et al identified four main views of governing body function – the accountability model, the supportive model, the advisory model and the mediating model. The report suggested that the governing bodies studied moved uneasily between these four models – perhaps because, before the 1986 and 1988 Acts, there was little definition of their role, and, without local management of schools, little meaningful for them to do. Keith Joseph's 1984 Green Paper for the Conservative Government <sup>[9]</sup> contained the most radical proposals yet, suggesting that parents should have an overwhelming majority on governing bodies. Hardly anyone liked this – it projected a view of the governors as, as Sallis <sup>[10]</sup> suggested, 'a sort of consumer council'. Even active parent groups rejected the idea, as they accepted the view proposed by the Taylor Report, of governing boards as stakeholder partnerships, with parents, staff, local authority members and the local

community working together in relative harmony. Joseph's model seemed to encapsulate the worst elements of what could happen in the governance of public sector organisations. It assumed an adversarial relationship between consumers and providers, while offering the consumer only an advisory role with no real or effective power.

In the event, the Taylor stakeholder model was more or less the one selected for enactment in the 1986 Education (No. 2) Act, strengthened considerably as it was by the 1988 Act establishing, following pilots in local authorities such as Hertfordshire and Cambridgeshire, the local management of schools, and giving the new governing bodies significant powers.

But were these stakeholders meant to be 'representative'? It seemed that much of the discomfort of professionals and politicians with apparently handing over real power to the stakeholder partnerships centred on the fact that parent and staff governors were to be elected by their constituencies. Politicians, professional associations and many head teachers fell over themselves to deny that these governors might be there to represent the bodies that elected them although, of course, the very process of election suggests – indeed, determines – that the elected person will represent the views of their electors. If not, why go through the process? Those working with governors spent many wearisome hours explaining the difference between representatives and delegates – governors necessarily, whether elected or appointed from a constituency, being the former while not being the latter. It does not seem to be a difficult concept to grasp – after all, the model offered by members of parliament (MPs) is pretty easy to assimilate. What it assumes is that the successful candidate will communicate with the electoral body after election, sharing with them the topics being discussed and, in some circumstances, taking their views to the governing body, expressing them, and feeding back the results. It does not imply that the elected governor should support those views, let alone vote for them. The key is this – that the governor always acts and votes in what *they* see as the best interests of the school and its children, while ensuring that their governor colleagues are aware of the feelings, and the strength of those feelings, of people who are going to be affected. So it's not complicated, and the fear that seemed to be engendered by the mere use of the word 'representative' seemed quite disproportionate.

When you are invited to vote for someone – a politician, national or local, for example, or a school parent or staff governor, a police commissioner, a trade union official – in preference to someone else, then, unless you are particularly perverse (or being tactical, perhaps), you are going to choose someone who you think is going to vote for things and say things in ways nearest to the ways you would vote or speak. In other words, you choose them as the candidate more likely to represent your views than any of the other candidates. When this happens – even for those people who did not vote for them (that's democracy) – this person becomes a representative. It therefore becomes that elected person's responsibility to ensure that they know what the people who could have voted in the election are likely to think about key issues, take responsibility for

communicating those things and reflecting them in discussions, and for feeding back information – not, of course in every fine detail, but in key strategic decisions, and in general rather than in particular. This is a major (but not the only) way of ensuring that governors know what a parent or a staff body might make of their decisions, even if they disagree with them. This is what happens in a democracy. It's what we expect of our MPs, and the voting process goes some way towards ensuring that more people in the voting body are likely to be happy with the way the successful candidate behaves than not. The representative is not a delegate, and should not attempt to vote as the majority of their electors would want to, but should reflect the range of views so that, when the governing board makes a decision, it does so in the best knowledge of its impact on that body.

The whole process of voting is designed to ensure this relationship between a body and its 'stakeholders'. Elected governors are becoming rare beasts. They provide a key assurance between the people who are responsible for an organisation and the people who use it or work for it, that the voices of the latter will be heard by the former. Otherwise, we are left purely with 'advisory' or 'ambassadorial' bodies – courtesy bodies who can either be ignored or who can end up in an adversarial relationship because they have no absolute right to be heard at the main table where sometimes confidential matters are discussed and often important decisions are made about the strategic direction and priorities of the organisation. Their very exclusion from this arena becomes a source of suspicion and possible antagonism, separating those with power from those without.

Voting also makes more likely another key characteristic of an accountable body – that it embraces dissenting views. Trusts that largely, or perhaps entirely, comprise appointees may be tempted to avoid awkward or opposing members. But they offer the very essence of debate, that different views are reflected from different perspectives. Democracy requires strong oppositions as well as representative governments, and schools benefit from a similar approach.

So voting is important for most school governor positions. And there is a clear link between the act of voting and the expectation of representation. Why is this important? Its importance pre-dates the current debate and goes back to the earliest days of stakeholder governance in schools. Wary as they were of parents and staff having a say in the oversight of schools, some head teachers, and many local authority officers, were determined to emasculate non-professionals. So the best way to do this was to deny them any right to speak for their constituencies. In fact, of course, the power of speaking for the body of parents, or for the body of staff, was often the factor that gave lay governors their legitimacy, comparatively inexperienced as they might be, compared to local authority politicians, in both the subtleties of educational management and the various obscure rituals of meetings and organisational conduct. Subverting the voice of parents and staff became common practice for many professionals, especially when they colluded with local politicians. This has become less

common as more senior school leaders have come to recognise that most – not all – parents are likely to be allies, not adversaries, where politicians are most likely to be the common enemy. Indeed, the leading head teacher and school staff associations and unions now happily join together with governors and parent representative groups to attack the anti-democratic intentions of the Government: ‘We believe the [2016 Education and Adoption] Bill focuses too much on school types, and will silence the voices of parents, governors and local authorities in respect of both school standards and the right to a voice over the future of their local school’.[11] To deny the representativeness of parent and staff governors is to undermine the capacity of governors to embody the democratic accountability of the governing board.

### **Accountability in Schools**

So how were schools accountable in the 1990s, and what is the current situation? In the 1990s:

- They were subject to regular and systematic inspection.
- Inspection outcomes were published.
- Text and examination results were published and league tables of schools’ performance were created.
- Parents could complain according a formalised procedure, and complaints could be passed on to the local authority on appeal.
- Parents of excluded children could appeal to their local authority.
- Admissions in all but grant-maintained and voluntary-aided schools were controlled by the local authority according to DfE regulations.
- Local authorities could hold governing bodies and head teachers of all types of state-funded schools to account for poor performance.
- The DfE established laws and statutory guidance for the ways schools, their governing bodies and individual governors should conduct themselves.
- Governors were elected or appointed from the parents, staff, local community and local authority to hold the school to account for its conduct.
- Governing bodies were required to report to parents annually and to hold a public meeting at which they could be held answerable for the school’s conduct.
- The local authority audited the finances of all local authority schools.

How did these accountabilities change as the privatisation of schools got under way through city technology college and grant-maintained status, then sponsored academy, academy and free school status?

Certainly, and despite the DfE’s line of greater autonomy for schools, alongside freedom from the local authority, academies and free schools found themselves subject to a mighty corpus of regulations imposed by the department and the Education Funding Agency (EFA), amidst a general confusion always likely to be inevitable with the creation of more than three thousand independent state-funded schools.



- Not all academies are subject to DfE regulations on admissions – but some are.
- Academies have individual funding agreements with the DfE/EFA and it is difficult to track the individual responsibilities of academy and free schools.
- There is frequent uncertainty about which DfE regulations are applicable to all state-funded schools, which only to maintained schools, and which to some academies and free schools but not to others (note the proliferation of websites explaining which regulations might apply to which schools).
- With every school that is a member of a multi-academy trust (MAT) subject to a scheme of delegation, the responsibilities and powers of the MAT directors (legally the responsible authority) and any local governing board will be governed by internal documents not always accessible to the public.

How accountable are schools in 2016?

- Only those schools established as underperforming are subject to regular inspections – good and outstanding schools may only be inspected when Ofsted receives a complaint.
- While parents of children in maintained schools can still apply to their local authority with any query or complaint against the school, academy parents, if dissatisfied with the governing board's handling of the complaint and an independent panel review, have recourse only to the secretary of state via the EFA.
- In the case of excluded pupils, academy parents can appeal to an independent review panel.
- Academy admissions are required to conform to DfE regulations, but appeals against decisions are conducted by the school itself. The Office of the Schools Adjudicator is established to ensure that schools abide by the DfE Code, but only councils and local parents have access to it, so oversight is limited. As the adjudicator notes in her 2015 report, 'the admission arrangements for many schools that are their own admission authority are unnecessarily complex and lack transparency, especially those with numerous subcategories within individual oversubscription criteria. Such arrangements are difficult to understand and limit parents' ability to assess the chance of their child being offered a place'.<sup>[12]</sup>
- Local authorities still have a responsibility to promote high standards in education throughout their area, but have no powers or funding to intervene in academies; the DfE can require MATs to transfer schools where performance is less than good, and stand-alone academies can be required to join a MAT.
- Governing boards/boards of directors/trustees of academies are responsible to the secretary of state, and practice varies widely in terms of conduct, conflicts of interest, payment of expenses and so on. There is little effective oversight of non-maintained school governing boards, other than through Ofsted inspections.

- Academy boards need have no more than two elected parent governors, and all other appointments are made by the board itself; some MATs have the power to select and appoint all members (A handbook published in 2014 by the Institute of Chartered Secretaries and Administrators, and endorsed by the then chair of the National Governors' Association, noted uncritically that 'Generally, the first port of call for academies looking for governors is the connections of those already on the board'.[13])
- There are currently no requirements for governing boards in any state-funded school to report to parents or to hold meetings for parents.
- Finances in academies are overseen by the Education Funding Agency, which issues a warning notice when concerns come to their notice.

This summary of changes over the last 10 years or so to the accountability of schools, both professional and democratic, seems to suggest a hardening of professional accountability and a loosening of democratic accountability. So what are the elements of democratic accountability that we might look to in a state-funded school serving the community in which we live, whatever its legal status?

### **Elements of Democratic Accountability**

The following elements are necessary in an organisation and in a national structure which values its accountability to the public it serves. These elements not only go towards ensuring that the public values, sees the value of, and is therefore likely to offer its support to, the service provided, but that the service is more likely to be effective if it contains these elements, because it will be more efficient, having a wider set of views to be taken into account, and more responsive, in that it will be more likely to provide the service that is needed and wanted.

#### *Representativeness*

In *Improving School Governance* [14] I suggested that the model of stakeholder governance introduced in 1986 was intended to ensure that the various elements concerned in a school – parents, staff, local authority and the community served by the school – would have representation in a school's leadership. This, as we have explored already, implies a duty on the school to be aware of the feelings and views of the people who have elected or appointed them. It also implies that the governing board will make some effort to be 'representative' of the community served by the school in terms of gender, race, culture, beliefs and so on. While no one would seek to replicate precisely the make-up of the community, we would probably agree that a girls' school in which the majority of governors and senior staff were male would not be a good thing. Similarly, a coeducational school serving a predominantly south Asian community, such as the academy on the board of which I was asked to

serve by the DfE, should at the very least acknowledge that, and not have an exclusively white male governing board (as it did). If there is no other reason, it is difficult for a public body to have the confidence of the people it serves if it does not to some extent reflect the key characteristics of those people. It becomes a 'provision for' rather than a 'provision with'. Then, if it does not enlist the loyalty of the community, it is unlikely to convince the members of that community that it is always seeking to work in their best interests. These, I think, are the two meanings of the word 'representation', and are two strong reasons why we should seek representativeness in the leadership of our community's organisations.

For similar reasons, there is some recognition – now acknowledged by the DfE – that school governance should have some geographical coherence. Certainly, some of the more widespread academy chains such as AET and E-ACT have found themselves criticised by Ofsted for a failure to improve failing schools sufficiently quickly. There appears to be a recognition that working effectively with schools separated by huge distances is logistically problematic, and the absence of local leadership *and* governance seems to contribute to that.

Certainly, the issue of the creeping undermining of the concept of the local management of schools – at the heart of the 1988 Act – has not been openly addressed by the DfE. Is it that locality is no longer valued in school governance? Is it that the centralisation of education is now a key policy of government – centralisation by stealth, because it has never been declared as a good thing, even though it is at the heart of the privatisation of schools and the removal of local authority oversight?

There are a number of elements underlying the concept of 'representativeness' that are rarely reflected in the move towards skills-based, as opposed to stakeholder, governance.

### *Transparency*

The carefully wrought process of crafting, publishing, debating and enacting government legislation of the twentieth century appears to have gone by the board over recent years. The transparency that this provided in terms of identifying a government's priorities was helpful. We could understand what a government sought to do and, often, throughout the process, its motives became clear. Rationale and evidence in support of legislative change could be identified, too. But the use of emergency legislative processes, introduced to facilitate law changes in the face of increasing terrorist risk, for the 2010 Academies Act by Michael Gove, suggested that careful and rational debate was not to be embraced by the Coalition Government.

At the time of writing, legislation is rarely preceded by even a white, let alone a green paper, leaving educationists and political commentators to guess at what might be planned by government ministers, or even extrapolated from chance remarks. For some months, the best guess had been that the Conservative Government would enact legislation to require all remaining

maintained schools to become academies by the end of their term of office in 2020. But the finer detail of the DfE's preferences in the terms of present conversions is not clear. At one time, in 2013-14, one growing MAT reported that, when visiting the DfE, on one side of the corridor they would be called in to discuss why they were expanding so slowly while, on the other side, officials would warn them that they would soon be advised that they had reached their optimum size. For a long period, good and outstanding schools were encouraged to convert singly. Then rumours went around that outstanding schools would be required to adopt other schools if they wanted to retain that grading. A little later, and it became clear that stand-alone academies would no longer be approved by the DfE, and some of the bigger MATs had schools taken away from them as they were failing to improve sufficiently quickly. Meanwhile, some Church of England schools found another layer of obfuscation in their diocese, where practice varied across the country about the formation of one large or several small MATs, and about the possibility of joining in MATs with non-Church schools. Much energy was expended, and wasted, by head teachers and governors in trying to second-guess what the DfE was up to, and this opacity turned out to be catching.

Public bodies spending taxpayers' money, whether they are government departments or the governing board of a 130-pupil village school, have become less subject to scrutiny about their practices. While academy boards are required by law to make their agenda and minutes available to anyone with an interest, just as maintained school governors have been for years, there may be some evidence of increasing unwillingness to open their discussions to public scrutiny. Again, perhaps, government plans to limit the Freedom of Information legislation may be setting a trend. Certainly, publications such as *Schools Week* find all sorts of obstacles put in their way when asking for documents about, for example, the tenders for free schools. This writer had to resort to the Information Commissioner's complaints procedure to get any sort of acknowledgement of a freedom of information request regarding an academy broker's earnings out of the DfE, and an answer was only reluctantly forthcoming several weeks after the supposed statutory deadline. When a government's own departments are so secretive, about policy and about information, it is unlikely that other organisations are going to feel it incumbent on them to be transparent. This attitude appears to have 'trickled down' to universities. *Private Eye* reported in February 2016 that the University of Birmingham wrote to its staff, about planned job cuts in its modern languages department, that 'No-one's interests are served by open discussion', and 'staff have been told not to discuss the matter without written permission from the change management group'.<sup>[15]</sup>

The other common tactic which appears to have trickled down from government practice to some governing boards and trusts is touched on in the section on language – the use of a bland statement of broad policy to answer specific questions about past and current practice. This is done in Parliament in

responses to opposition questions, and has been used by the Redstart Trust, the local authority and the DfE in the course of this exploration.

The word 'transparency' is used twenty times in the Education Select Committee's report on the regional schools commissioners.[16] The DfE's own governance handbook is clear about the responsibilities that governors have in this regard:

Governors should be mindful that in exercising all their functions, they must act with integrity, objectivity and honesty and in the best interests of the school; and be open about the decisions they make and the actions they take and be prepared to explain their decisions and actions to interested parties. This is required in maintained schools by legislation.[17]

Similarly, governors should be aware of and accept the seven principles of public life, as set out by Lord Nolan and applying to anyone, locally and nationally, who is elected or appointed as a public office-holder. They are 'selflessness, integrity, objectivity, accountability, openness, honesty and leadership'.[18]

Transparency in school leadership can be hard work, but, perhaps more than any other element, it can develop parental engagement and improve parental relationships to the benefit, most of all, of the children. Transparent schools provide regular newsletters, put meetings' agenda and minutes prominently on their websites and notice boards, offer invitations for views, make their accounts understandable and invite challenge, provide regular and comprehensive governor profiles, refer frequently to their academic and moral purpose, and demonstrate how operational decisions match their vision and their ethos. They provide a coherent and consistent organisation.

It is particularly notable how the leadership of Redstart Trust, the Castle School and the local authority failed to meet their obligations here, and fell back on 'confidentiality', although, as is clear, there are no rights to which they could possibly apply this principle. Currently, some of this can be tackled with use of the Freedom of Information Act, 2000, but this is currently under review by the Government.

### *Answerability*

While governing boards are required to hold their head teachers to account for the performance of the school – the second in the list of the three core functions that the DfE requires of the governing board – there is substantially less opportunity for the public to hold the governors to account. Trusts may be geographically as well as structurally distant from schools and their communities, while a local governing board may be purely advisory, and certainly has no statutory powers. Annual parents' reports and meetings are long gone in most schools; elections for governors rare. Complaints can no longer be directed at local councillors, and it is possible for the head/chief executive of a

small trust like Redstart, meeting the governors of its first member school, to admit that she had no idea of the school's ethos, and therefore could not guarantee to preserve it. There is no longer any mechanism of formal answerability to parents or to the local community in any state-funded school.

#### *Access to Decision-makers*

The distancing of school management and leadership from the building where the children are actually taught undermines the concept of local management of schools. This attack on the concept introduced in 1986-88 has never been articulated, but it is inevitable that parents will find it more difficult to access the people who really make the decisions about schools. If by chance a parent does get to meet with the decision-makers in their child's school, the five questions that Tony Benn formulated, and shared in his final parliamentary appearance, might be useful:

In the course of my life I have developed five little democratic questions. If one meets a powerful person – Adolf Hitler, Joe Stalin or Bill Gates – ask them five questions: 'What power have you got? Where did you get it from? In whose interests do you exercise it? To whom are you accountable? And how can we get rid of you?' If you cannot get rid of the people who govern you, you do not live in a democratic system.[19]

#### *Participation in Decision-making*

Again, there has been a significant reduction in the elected membership of governing boards, and boards of academy trustees may be required only to have two elected parents. All other members are appointed by the board itself, bringing about the danger that membership of such boards can be self-perpetuating. One notorious example is that of a free school where the chair of governors unilaterally sacked all current members, and appointed her husband, her father, her best friend and her best friend's husband to the board.

Free schools – widely advertised to be the places where parents might run their own schools – are now dominated by existing academy trusts. In early 2016, the DfE seemed to favour groups with experience of education. In a Tweet, the department announced: 'Free schools: we've revised the application process for applicant groups who have a strong educational track record'.[20] Of the latest 22 free schools announced by the secretary of state in February 2016, only one will be run by a parents' group, while familiar names like Harris and Dixons feature among the sponsors of others to be opened.

The growing absence of parents and the local community in decision making, as opposed to such advisory or celebratory roles, is a significant threat to the democracy in schools that had been developing throughout the 1990s. The point about democratic participation is that it provides the possibility of dissent within an organisation's leadership. This is not only democratic, but it is

also likely to make the organisation more efficient, by ensuring that it considers a range of viewpoints and possible actions and decisions. Statutory guidance makes it clear that governing boards can remove any appointed governor, though not an elected governor, so the increase in the proportion of appointed governors gives further concern about the overarching powers that boards have to stifle dissent.[21].

### *Code of Conduct*

The DfE, as noted above, believes that governors should subscribe to the seven Nolan principles of public life – selflessness, integrity, objectivity, accountability, openness, honesty and leadership – and that all governing boards should publish a code of conduct ensuring such behaviour, from individual governors and the board as a whole. This code should be published to parents and the public, and ratified annually to ensure governors understand and meet their obligations.

### *Dealing with Complaints*

We have seen above how the complaints process in academies is largely internalised, and how difficult recourse is if the parent is still unhappy. Parents still approach their local authority about schools which are outside their jurisdiction, and find themselves being referred to the secretary of state. Parents could have had recourse to the review procedure, as the decisions of local authorities in the exercise of their duties can be subject to it. The BBC has described judicial review as ‘Arguably ... the most important and effective way in our democracy of holding the government and other public authorities to account’.[22] Nevertheless, the procedure has been under threat from the Government, as is the human rights legislation to which judicial review is linked. Similarly, the extent of public access to freedom of information is under consideration – a commission set up by the Government to review the Act in 2015:

issued a consultation paper which suggested it is considering sweeping restrictions to the legislation, including:

1. imposing charges for requests
2. making it easier to refuse requests on cost grounds
3. making it more difficult to obtain public authorities’ internal discussions, or excluding some from access altogether
4. strengthening ministers’ powers to veto disclosures
5. changing the way the Act is enforced.[23]

So many of the structures designed to protect the public from arbitrary or illegal acts by public authorities are currently under threat.

*Clarity of Vision, Ethos and Strategic Direction*

This is the first core function of governing boards in all state-funded schools.[24] We should be able to find these prominently on a school's website. While vision and ethos are often easily found, a statement of strategic direction is usually more difficult to locate. The problem may be that governors of schools, unlike charity trustees and non-executive directors of companies, have very little freedom in identifying strategic objectives. It is the DfE and Ofsted, usually with little or no consultation and often at short notice, who decide what success is, what quality looks like in state-funded schools, and what measurements will be used to define good and outstanding schools. Governors have little, if any, elbow room in determining a school's priorities. In addition, the uncertainty of future government policy and funding makes strategic planning unpredictable and, in some areas, impossible. This uncertainty is significantly greater than it was in the, in retrospect, comparatively stable 1990s and early 2000s.

*What Hitler Would Have Done*

As Hitler wrote in *Mein Kampf*, 'The best way to take control over a people and control them utterly is to take a little of their freedom at a time, to erode rights by a thousand tiny and almost imperceptible reductions. In this way, the people will not see those rights and freedoms being removed until past the point at which these changes cannot be reversed'.

**The Castle Captured; the Future of English Schooling Foreseen**

Castle School has been captured by the academy movement, against the wishes of its governors, its staff and the parents of its children. The school had been consistently 'good', and stuttered only when experiencing a change in leadership – a period during which it had every right to expect the support of its local authority. It became an academy because the local authority wanted to wash its hands of demanding schools, so that it could reduce its school support staff to a bare minimum, but also because the local authority believes in the privatisation agenda in education, an agenda which squeezes out local engagement in, and the democratic accountability of, village schools.

This took place in the constituency of the then Schools Minister, David Laws – an elected representative on an education manifesto in which academisation played no part – a frequent visitor, as it happens, to the sponsor school. Parents who lobbied Mr Laws were unable to get any practical help from him. Indeed, one parent reported that, even in late July, he seemed to know who the eventual sponsor, and even who the eventual head of school, would be. David Laws now holds a senior post with Ark academy chain (the chair of whose trustees, coincidentally, donated £15,000 to Mr Laws' failed general election campaign). Ark does not believe in giving its local 'governing'



boards any powers, appointing the chairs of local governing boards and having a 'central team member' present at every meeting. ARK Schools looks 'to US networks for inspiration, including the Knowledge is Power Programme (KIPP) and Uncommon Schools'. [25]

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