

DfES Five Year Strategy:
Consultation on Proposals for Foundation Schools

Draft response from East Sussex County Council

East Sussex County Council (ESCC) is committed to school improvement and raising standards in all schools, and can demonstrate a good and improving record of achievement, which is now above the national average on almost all the key indicators. ESCC is also committed to promoting partnership and effective collaboration between schools, which we believe contribute to school improvement and are in the best interests of all learners and their communities. These commitments are reflected in the priorities in the East Sussex Education Development Plan.

ESCC also supports the concept of diversity and choice, particularly where this contributes to the overarching commitment to school improvement and raising standards for all, and strengthens partnership between schools through complementary and supportive provision. We welcomed the requirement that specialist schools share their expertise and facilities with other schools, primary and secondary, thus strengthening rather than undermining local partnership. 21 of our 27 secondary schools have specialist status, and the remaining schools are working towards this status. We are actively discussing with headteachers a strategic approach to the development of second specialisms, with the aim of ensuring that this development contributes still further to effective collaboration between schools.

Although there are as yet no foundation schools in East Sussex, ESCC is not opposed to the concept in principle. However, we are concerned that the current emphasis on the 'freedoms' of foundation schools may lead to unnecessary tensions in the effective collaboration that already exists, and the fragmentation of secondary provision. We believe that the proposed streamlined arrangements are poorly thought through, and may enable schools to acquire foundation status without adequate consideration, and without sufficient regard to the wider needs of communities. Rather than promote 'smart accountability and effective collaboration', foundation status may disperse accountability and undermine collaboration, especially if it is seen by other schools as an attempt to secure additional advantages and, for example, to manipulate admissions.

No evidence is advanced for the claimed advantages of foundation status, either in the Five Year Strategy or in this consultation paper, nor for the assertion that the current procedures for acquiring foundation status 'may act as a disincentive to change'. No explanation is given as to why the current procedures, introduced only recently and presumably considered then to provide a proper balance between the wishes of individual schools and the wider strategic needs and interests of other schools and the area, are no longer appropriate.

The Five Year Strategy is fundamentally about standards and opportunity. It is strange then that this aspect of the strategy seems to be reversing the previous conviction that 'standards not structures' are what matters most. In order to ensure that changes to foundation status are properly considered in a way which takes into account natural justice, the responsibilities as well as the opportunities for individual schools, and the impact that change may make on partnership between schools, we would urge that the following features are built into any new procedures. The result would be a streamlined version of current procedures, and less burdensome on governing bodies. This would ensure fairness and transparency, and preserve the checks and balances which currently exist. They would also ensure that final decisions are independently made, rather than by the governing body making the proposal, which is wholly inappropriate.

- i. **Decision making** must be independent from the school making the proposal, if it is to be clearly demonstrated that all interests have been taken into account. The most appropriate body would be the School Organisation Committee, as now.
- ii. There must be some requirement for **‘informal consultation’** before a proposal is made, involving parents, staff, headteachers and governing bodies of other local schools, the LEA, the local LSC and, where aided schools may be affected, the Dioceses. This is broadly the list of required consultees in the proposed amendment to regulation 31, and there seems no reason why such consultation should only be required when the proposal includes an intention to establish a foundation, and not when there is simply a change to foundation status. No case is made in the consultation paper for the abandonment of the consultation requirement, and on the grounds of openness and transparency, this should be re-instated. No other public body would be allowed to undertake a change of this nature, involving as it does the transfer of public assets, without wide consultation.
- iii. The basis for the consultation should be a **brief consultation paper**, in which the governing body sets out the reasons for its proposal, how it believes foundation status will improve standards, its proposals for governance and admissions, and how it proposes to continue any partnership arrangements with other schools. The paper should explain any proposals to establish a formal foundation, the number of governors the foundation would appoint and the ways (if any) in which the foundation would influence the curriculum and practice of the school. The governing body must be required to meet and consider any proposals before resolving to publish a proposal.
- iv. The statutory notice should be made **widely available** to all who may have an interest in the proposal – the proposed regulations do not require the governing body to provide the notice to other governing bodies, nor to the LEA and other bodies such as the LSC. It should be accompanied by the informal consultation paper, and a note of the governors’ consideration of any comments or objections, as well as the prescribed information proposed in the draft regulations.
- v. There should be **adequate time** for consultees to consider and formulate their responses to informal and formal consultation, taking into account holiday periods. There is no obvious reason why the current six weeks should be reduced to four, especially when the many other pressures on the time of governors in particular are taken into account.

ESCC has concerns about three other aspects of the proposals, namely the transfer of assets and liabilities, admissions and the role and influence of foundation and sponsor governors.

No evidence is given to justify the transfer of substantial public assets from democratically elected local authorities to school governing bodies. Currently, community and foundation schools are treated alike in LEAs’ Asset Management Plans, secure projects within LEAs’ capital programmes through the same process of priority determination, and receive formula capital on the basis of the same formula. Ownership of the assets does not therefore appear to place the school in any better position, but arguably places the security of the assets in a more vulnerable position. We would expect that liabilities would normally transfer as well as assets.

There is much evidence nationally that LEAs and foundation schools can and do work well together in developing and implementing capital programmes, and this is likely to continue. This will become even more crucial with the advent of BSF programmes, and the need for

strategic planning and decision making in relation to them. Any over emphasis on the language of 'freedom' for foundation schools may undermine the vital need for collaboration in the formulation of BSF programmes.

On admissions, it must be clear that foundation schools' procedures and the application of their criteria fully respect the Code of Practice. The Secretary of State's most recent announcements on 18 November demonstrate the importance of fair admissions procedures, and the concern that exists that an unwanted outcome of admissions law is unreasonable pressure on some schools to admit disproportionate numbers of challenging pupils, while 'popular' schools can claim they are full. In spite of co-operative arrangements which may be agreed between schools – and we have mixed experience of this in East Sussex – the creation of increased numbers of admissions authorities increases the opportunities for mistrust and confusion on admissions matters to arise.

On the question of foundation and sponsor governors, ESCC would wish to be reassured that the Government is able to put proper safeguards in place to ensure that such governors are not able to influence the curriculum of the school beyond broadly acceptable norms. Concern has been expressed nationally about, for example, the influence of foundations on religious education and PSHE in some Academies. This concern would be greater in respect of schools which are the only practicable choice for many people within an area, such as many rural schools.

C15Dec2004AppendixBTheGovernment'sFiveYearStrategyforEducation.doc