

DfES

Foundation Schools

7 January 2005

1. NASUWT welcomes the opportunity to comment on the issues raised in the DfES *Consultation on Foundation Schools*.
2. NASUWT is the largest union representing teachers and headteachers throughout the UK.
3. The consultation document invites comments on:
 - the expansion of the number of foundation schools;
 - increased freedoms for such schools;
 - streamlining the process for acquiring foundation status.

All of these are addressed in this response.

GENERAL COMMENTS

The Government's commitment on teachers' pay and conditions of service.

4. The proposals which are the subject of the consultation were highlighted in the Government's Five Year Strategy for Children and Learners. When this Strategy was published in July 2004 there was much in the document that NASUWT welcomed. However, one significant area of concern for the union was the implication of the proposal for greater independence for

secondary schools through the expansion of foundation status, with regard to national pay and conditions of service of teachers.

5. The NASUWT expressed its concern to the then Secretary of State, Charles Clarke and the then Minister for School Standards, David Miliband. The Union argued that having concluded national agreements on conditions of service and pay with NASUWT and other unions, agreements which were designed to raise standards, it would be inconsistent and illogical for the Government to now create a situation where schools could opt out of such provisions.
6. In response to the NASUWT's concern, the Secretary of State reassured the Union, both in a meeting and subsequently in a letter, that greater independence would not include secondary schools being able to opt out of the application of the School Teachers' Pay and Conditions Document and the School Teachers' Review Body provisions.
7. The following is a direct quote from the Secretary of State's letter to the then Acting General Secretary Chris Keates dated 27 August 2004: *"I am glad to have been able to reassure you and others within NASUWT that greater independence for secondary schools will not include opting out of the School Teachers' Pay and Conditions Document and the School Teachers' Review Body provisions."*
8. NASUWT circulated this information widely to schools and it was very well received by teachers who saw this outcome as one of the significant benefits of the social partnership the Union had developed with the Government. It is, therefore, of concern that this commitment has not been reflected in the consultation document and NASUWT requests that this omission is rectified.

Enhanced autonomy and flexibility

9. The proposals in the consultation document are based on the premise that schools require enhanced autonomy and flexibility to enable them to continue to raise standards. NASUWT believes that this rationale is flawed.

10. Schools already have significant autonomy and the flexibility they need to address local need in all the key areas, including funding, curriculum provision and the pay and conditions of service of the school workforce. Unless autonomy and flexibility operates within a clear national framework the education service could descend rapidly into a free for all market driven system in which it is impossible to ensure that every child, receives their entitlement to a high standard of education. The validity of this argument has been accepted by the Government. The recent joint evidence presented with the National Employers, NASUWT, ATL, SHA, NAHT and PAT to the School Teachers' Review Body recognises that to ensure high standards of teaching and learning and high quality provision for all pupils, schools should operate within a national framework which has sufficient flexibility to enable them to meet local needs.

11. Whilst NASUWT recognises that there are already existing foundation schools with greater autonomy than other schools, there is no evidence either to suggest that the educational standards in those schools are universally and consistently higher than other schools or that in the cases where they do appear to 'out-perform' neighbouring schools of a different status that greater autonomy has been the significant factor.

12. NASUWT also has serious concerns about the implications of increased autonomy in relation to the deployment of school budgets. School budgets represent a significant amount of public money. There are already numerous problems with the existing arrangements which NASUWT has drawn to the attention of the Government, in particular the lack of accountability for spending decisions due to limited external accountability

and the fact that the majority of governing bodies are unable for a variety of reasons to provide the detailed scrutiny required. NASUWT also has concerns about the ability of schools to deploy school funding i.e. public money, into profit making activities and to deploy assets for purposes not necessarily directly linked to a school's core responsibilities.

Collaboration

13. The Government places great emphasis on collaboration between schools to help to raise standards by sharing good practice. NASUWT believes that collaboration between schools should be encouraged. However, the issue which the proposals does not address is the real tension between the laudable aim of collaboration and greater independence within a system which continues to promote competition between schools through the publication of performance league tables.

SPECIFIC COMMENTS

Streamlined process for acquiring foundation status

14. NASUWT supports the principle of streamlining procedures providing it meets the tests that streamlining will ensure that the processes are clear , transparent and do not impose unnecessary bureaucratic burdens. However, the proposals for streamlining the change of a school's status to foundation appear to be more about fast-tracking the change of status than meeting those important tests. NASUWT, therefore, has serious reservations about them.

15. In the streamlined process proposed the only group given any real choice or control over the decision to change to foundation status is the Governing Body. NASUWT has already identified inherent problems with this apparent unqualified reliance on governing bodies and the assumption that they all operate at an effective and appropriate level.

16. In the proposals, democratic accountability, community involvement, and parental choice are diminished significantly by the intention to:

- remove the requirement to consult before publishing proposals;
- reduce the amount of information to be provided;
- reduce from 6 to 4 weeks the time for representations to be made;
- exclude other bodies (i.e. the School Organisation Committee or an adjudicator) from the final decision.

17. The consultation document asserts that the streamlined procedure would not allow for a school which does not have religious character to acquire one or to change from one to another. It states '*The Government believes that the issue of whether a school has a religious character is so important that it should be determined according to the full local decision making process.*' NASUWT wholeheartedly agrees with this but believes that this is equally true of proposals to change the character of a school to foundation status and therefore sees no justifiable rationale for having a less rigorous process.

18. The draft regulations make no provision for the information to be published about the proposed change to contain details of the implications and reasons or rationale for the proposals. There is no requirement to provide information about how it is envisaged the change of status will enhance educational provision. The requirement for the governing body to only publish the statement of its intention in a conspicuous place in the area of the school, in the main entrance and in a local newspaper, when combined with the reduced timescale for response, is likely to disenfranchise the majority of parents from being aware of or being involved in this important process. NASUWT believes that governing bodies must be required to advise every parent in writing of the action they are proposing to take and the reasons for it. If the Government is genuinely committed to parent's playing a full and active role in their children's education and believes that

parents are key partners there needs to be full information and meaningful consultation on such significant developments.

19. The regulations should also specifically state that the recognised trade unions should be notified and consulted. It should not be left to the determination of the governing body whether to consult them.

20. NASUWT considers that the proposals for streamlining the acquisition of foundation status compromise clear democratic principles in the interests of speed. Given the significance of the change for all concerned the process should be more, not less, rigorous.

Freedoms and flexibilities for foundation schools

Governance

22. NASUWT understands and supports the Government's drive to ensure that every child has access to high quality educational provision but does not believe that there is any demonstrable evidence that the proposals to expand rapidly and extensively the number of foundation schools and increase their freedoms and flexibilities will be a crucial factor in achieving that laudable aim.

23. The discharge of the increased flexibilities and freedoms would rest with the governing body. School governors are volunteers who cannot be mandated to undertake training or expected to have the wide variety of experience and expertise necessary. The responsibilities which they are already expected to undertake are onerous. Despite national and local recruitment campaigns, some schools continue to have difficulties finding enough people willing to take on the role or to commit the time necessary to discharge it. Increasing the already daunting responsibilities by the ability to access easily foundation status without any examination of whether the existing governance arrangements are fit for purpose is likely simply to exacerbate the problem and result in the increased powers being discharged without appropriate accountability and scrutiny.

24. NASUWT is concerned about the diminution of democratic accountability inherent in the proposals. The opportunity for large numbers of schools to establish foundations which can appoint the majority of governors and acquire responsibility for the schools assets, including the land held by the LEA for the purposes of the school, reintroduce the major problems inherent in the grant maintained school strategy of the last Conservative Government. The fact that there is no democratic election of the majority of such governors and no existing appropriate or effective way to impose sanctions upon or remove those who act contrary to the interests of the governing body or school does not encourage appropriate “accountability” on any accepted level.

25. In the chart in the consultation document which compares the current and proposed numbers in the categories of governor representation, the only category which appears to be subject to a reduction in the minimum number required is that of staff governors. No rationale is offered for this and NASUWT would oppose such a change. However, in the draft regulations the minimum of two staff governors is maintained. NASUWT would welcome clarification on which is correct.

26. There must be appropriate checks and balances of democratic accountability to maintain high standards of management and delivery in such an important public service.

Transfer of staff contracts

27. Reference is made in the consultation document to there being no plans to amend the current regulations with regard to the transfer of staff contracts. NASUWT has already indicated in the section of this response ‘General Comments’ why there needs to be an amendment to remove the provision for foundation schools to opt-out of the provisions of School Teachers’ Pay and Conditions Document and the School Teachers’ Review Body. The Union has the expectation that the former Secretary of State’s commitment will be honoured,

28. It should also be emphasised that such a change would be not only consistent with the national agreements secured on pay and conditions of service but would also reflect the evidence from many of the statutory consultees which has been presented to and accepted by the School Teachers' Review Body over the last few years, that there is no widespread enthusiasm among heads and governors to opt out of the national provisions. Many schools recognise that pursuing such a course could lead to the problems experienced in the FE sector where local plant bargaining has caused major industrial relations problems, instability in staffing, problems of recruitment and retention and has been an enormous distraction from the focus of core responsibilities.

NASUWT recommends that:

- *the regulations be amended to reflect the commitment given by the Secretary of State that greater independence of secondary schools will not mean opting out of the application of the School Teachers' Pay and Conditions Document and the School Teachers' Review Body provisions;*
- *a rigorous process for change of status is introduced which allows the full involvement of all stakeholders and incorporates the principles of democratic accountability;*
- *the rigorous process should include publication to all parents of the proposals, a reasonable and realistic timescale for response, and the statutory requirement to notify recognised trade unions;*
- *the intention with regard to the number of staff governors is clarified;*
- *subject to the outcome of the consultation the production of guidance to support the statutory provisions is subject to consultation with NASUWT and other school workforce unions.*

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General Secretary

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