

# The Education Act 2011 Equalities Impact Assessment

## Introduction

1. It is unacceptable for educational attainment to be affected by gender, disability, race, social class, sexual orientation or any other factor unrelated to ability. Every child deserves a good education and every child should achieve high standards.
2. We have one of the most stratified and segregated school systems in the world, with a gap between our private schools and the state system wider than in almost any other developed country. In 2006, England came near the bottom of a list of 57 countries for educational equity in an OECD report,<sup>1</sup> and the gap is still vast. It is simply unacceptable that in the most recent year for which we have data, of the 80,000 students in one year eligible for free school meals, just 40 went on to Oxford or Cambridge universities – fewer than some private schools manage to send by themselves.
3. On an ethical level this gap between the rich and the poor is indefensible. But reducing inequality is not only the guiding ethical imperative of our education policy; it is an absolute necessity if we are to compete economically on the global stage. The truth is that many other countries in the world are improving their schools faster than we are. Many other countries have much smaller gaps between the achievements of rich and poor than we do. But most importantly, the very best-performing education systems show us that there need be no contradiction between a rigorous focus on high standards and a determination to narrow gaps between pupils from different backgrounds.
4. Despite vast central government spending over the last thirteen years we are clearly, as a nation, still wasting talent on a scandalous scale. It is a moral failure and an affront to social justice. We must put this right, and it is a determination to do so that drives our vision for reform as set out in *The Importance of Teaching* White Paper, published on 24 November 2010.
5. The changes we want to make are the proven routes to success taken by the highest performing schools here and the best-performing countries internationally. Taken together, these reforms will be a real break with the past, ensuring that every child receives a high-quality education regardless of gender, race, disability, sexual orientation or socio-economic background. We will:
  - a. Continue to improve the quality of teaching and leadership in schools by attracting more of the best graduates and career changers into teaching; improving initial teacher training; developing a national network of Teaching Schools to lead the

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<sup>1</sup> OECD (2007) PISA 2006: Science competencies for tomorrow's world executive summary

training and professional development of teachers and head teachers; reforming governance to make it easier for schools to adopt models of governance which work for them; and sharply reducing the bureaucratic burden on schools.

- b. Increase freedom and autonomy for all schools at the same time as dramatically extending the Academies programme and allowing groups of teachers and parents to set up new Free Schools to meet demand, especially in areas of deprivation.
  - c. Clarify and strengthen teachers' and heads' powers to discipline pupils to reduce disruption and improve behaviour, inside and outside of school; we will trial a new approach to exclusion, in which schools rather than local authorities are responsible for finding alternative provision for excluded pupils.
  - d. Review the curriculum to ensure that it embodies rigour and high standards, and secures coherence in what is taught in schools. We want children to have a high minimum entitlement of knowledge and understanding, particularly in English and mathematics, and we want to ensure that assessment and qualifications are rigorous and internationally comparable.
  - e. Ensure that schools are sharply accountable for the progress and success of all their pupils.
  - f. Consult on developing and introducing a clear, transparent and fairer national funding formula based on the needs of pupils, and target more resources on the most deprived pupils through the Pupil Premium.
  - g. Empower local authorities to have a strong, strategic role in championing the needs of parents and pupils – particularly the most vulnerable – and in school improvement. We should expect them to draw on the strengths of outstanding schools to support others, and to act to draw in new providers of schools so that every parent and pupil can choose a good school that meets their needs.
6. The Education Act 2011 contains the legislative elements of this reform programme, and this Equalities Impact Assessment therefore follows closely the one published alongside the White Paper.<sup>2</sup> Focusing particularly on the impact of the legislative changes in the Act, it sets out how our reforms to the school system together amount to a real change in tackling the vast and entrenched inequality of opportunity in our society. *The Importance of Teaching* White Paper itself<sup>3</sup> sets out more detail on the policy and thinking behind our plans for reform as a whole.

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<sup>2</sup> <http://www.education.gov.uk/b0068570/the-importance-of-teaching>

<sup>3</sup> <http://www.education.gov.uk/b0068570/the-importance-of-teaching>

## The evidence base

7. The evidence and data presented here focus on gender, ethnicity, special educational needs (SEN) and disability, and socio-economic disadvantage.
8. The wide and unacceptable gaps in achievement in our school system – between rich and poor children, between those from minority ethnic backgrounds and between those who have Special Educational Needs and those who do not – were also highlighted earlier this year in the Equality and Human Rights Commission report, *How Fair is Britain?*<sup>4</sup>
9. We recognise that some of the reforms will impact upon the school workforce. Indeed, it is imperative that they do. But far from having a detrimental impact, these reforms will make sure that we support the efforts of teachers and heads because it is teachers and heads – not inspectors, advisers and central government officials – who are most able to extend opportunity to every child. That is why we will be replacing the central government initiatives that have done little to impact on inequality in recent years with the freedoms and support our teachers and school leaders need to make the right choices for every child in their classroom.
10. We are determined to raise the achievement and wellbeing of children with special educational needs and disabled children. We have been listening to parents, charities, teachers and other organisations as part of developing the proposals set out in our Green Paper on special educational needs and disability, published on 9 March this year. With this in mind, *The Importance of Teaching* White Paper, the Education Act and this EQUIA, limit their consideration of children and young people with SEN to their access to the school system.

## The importance of equality – and the challenge we face

11. Billions of pounds have been spent on top-down initiatives in recent years but the gaps in attainment between children from different backgrounds have narrowed only marginally, if at all. Put simply, the system is not working for some of our poorest and most disadvantaged children. Attainment remains pitifully low for too many children with special educational needs and for some of those from particular ethnic backgrounds. There is no good reason for boys to continue to underachieve relative to girls. Tackling such inequality of opportunity is the fundamental driver of our reforms and the source of our urgency in doing so.
12. In our education system, it is still far too often the case that deprivation is destiny. For after prior attainment and special educational needs are taken into account, **poverty** is the best predictor of a child's success, both up to the end of compulsory schooling and on into adult life. Data from UK longitudinal studies shows that the impact of deprivation on cognitive and educational measures is apparent from an early age and is cumulative, so

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<sup>4</sup> Equality and Human Rights Commission (2010), *How Fair is Britain?*

that children from disadvantaged backgrounds tend to fall further behind as they move through the education system. By age 18, the gaps are vast and damaging both for the individual and for the nation as a whole.

13. Using eligibility for free school meals (FSM) as a proxy for disadvantage, we see that at the national level, progress towards narrowing attainment gaps between FSM and non-FSM pupils has been painfully slow over the last ten year, and those gaps that remain are unacceptably large. The sad fact is that deprivation remains strongly associated with poorer performance, on average, at every key stage. Latest national data show, for example, that:

- Approximately two fifths (39.5 per cent) of five-year-old FSM pupils achieved a good level of development, compared with just over half (55.6 per cent) nationally.
- By the end of key stage two, the chance of a pupil who was eligible for FSM achieving Level 4+ in English and mathematics was almost 1.4 times lower than that of a non-FSM pupil.
- A child eligible for FSM was almost half as likely to achieve five or more GCSEs at grade A\* to C, including English and mathematics, than a child from a wealthier background.
- Persistent absentees were nearly three times more likely to be eligible for FSM than pupils who attend school regularly.
- FSM pupils were around three times more likely to receive either a permanent or fixed period exclusion than children who were not eligible.

14. Just as children eligible for FSM are, on average, failing to achieve their full potential, so the same can be said of those children who have been identified as having a **special educational need (SEN)**, the best measure available to identify pupils with a disability. Latest data show that in 2009/10, for example, just 20.4 per cent of all pupils with SEN achieved five or more GCSEs at grades A\* to C, including English and mathematics. This compares to 66.5 per cent of pupils without any SEN who achieved this measure. Where a child has a special educational need and is also eligible for free school meals, the equivalent figure was just 12.0 per cent, making these pupils almost six times less likely to achieve five good GCSEs than pupils who fall into neither category. In addition to poorer academic attainment, pupils with SEN who are also eligible for FSM are almost twice as likely to be permanently excluded as pupils with SEN from wealthier backgrounds.

15. These figures highlight the enormous additional challenge for pupils who are both eligible for free school meals and have special educational needs. Addressing their relative underachievement is made all the more urgent given the significant number of children and young people falling into both categories. For instance in 2010, pupils with SEN were more than twice as likely to be eligible for FSM as those without, at both primary and secondary level. In total, approximately 30 per cent of pupils with SEN are also eligible for FSM.

16. The silver lining is that while this overlap between deprivation and special educational needs clearly reinforces and exaggerates attainment gaps between those who succeed and those who do not, it also presents us with an opportunity. It means that the measures we are proud and determined to implement to provide additional and tailored support to disadvantaged pupils – at the forefront of which is the Pupil Premium – will have a positive impact on a significant minority of poorer pupils with SEN.
17. Currently, just over a quarter of all pupils in maintained primary schools and just over a fifth in secondary schools are from minority ethnic groups. And like children with SEN, or receiving FSM, children from certain **minority ethnic backgrounds** face an uphill struggle to succeed in terms of their educational attainment and longer-term life chances. Attainment gaps between all pupils and pupils from certain minority ethnic backgrounds are narrowing, but those gaps that remain are significant and a matter for ongoing concern. One study, for example, concluded that even when other contributory factors to low educational achievement are factored in, including poverty, gender, parental occupation and education, the achievement of African Caribbean pupils remains substantially below expectations.<sup>5</sup> Of particular concern is that, even after controlling for FSM and SEN, African Caribbean pupils are 2.6 times more likely to be excluded than white pupils. The attainment of Gypsy, Roma and Traveller children remains stubbornly at the wrong end of attainment tables grouped by ethnicity.
18. However, there is no straightforward link between membership of an ethnic minority and underperformance. Indeed, the highest performing group at sixteen are Chinese girls, with those on free school meals outranking every other group except better-off Chinese and Indian girls. In contrast, after Gypsy, Roma and Traveller children, the lowest GCSE performance of any group defined by gender, free school meals status and ethnicity is that of white British boys eligible for FSM.
19. The reasons behind the underperformance of certain ethnic groups are complex, and may include any or all of socio-economic factors, parental education and aspirations, low expectations, poor attendance, prejudice and high levels of exclusions.
20. The **gender** attainment gap is a near-universal feature of all developed educational systems and has been roughly constant over several decades, with girls consistently achieving better results than boys. Gender differences are apparent throughout compulsory education and are reflected in attainment and exclusions data. They persist into higher education and beyond. As an example, since 1995 the gap between boys' and girls' attainment of five or more GCSEs at grades A\* to C has remained more or

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<sup>5</sup> Strand, S (2007) Minority Ethnic Pupils in the longitudinal study of Young People in England (LYSPE)

less stable, albeit with some narrowing at the margins. In 2010, the gap was 7.5 percentage points, up from 7.3 in 2009.

21. Important gender differences also appear in subject choices. Girls are more likely to take arts, languages and humanities subjects and boys to take geography, physical education and information technology. Girls are subsequently more likely to stay on in full-time education (90 per cent of girls compared to 86 per cent of boys). The greatest gender divide concerns exclusions, with boys accounting for 78 per cent of permanent exclusions, and 75 per cent of temporary exclusions.
22. Where FSM eligibility is a factor, we see that both boys and girls achieve less success than their peers, though the problem is most stark for boys receiving FSM. Boys are also more likely than girls to be identified as having SEN: 70 per cent of children with identified SEN are boys. Boys are more likely than girls to attend special schools and are four times more likely than girls to be identified as having a behavioural, emotional and social difficulty.

### **Opportunities and challenges**

23. We have some of the best schools in the world, but too many are struggling, and the endemic inequality across our school system is a national scandal. The very best-performing education systems internationally show us that there is no contradiction between a rigorous focus on high standards and a determination to narrow attainment gaps between pupils from different backgrounds. We are determined to make this a reality in our own system and want every one of our schools to be engines of social mobility. Every one of our policies is driven by this guiding moral purpose.
24. There is no doubt that we have a radical and ambitious agenda for reform. It requires us to take a number of specific steps to mitigate risks and overcome barriers if we are to deliver what we need to achieve. But this agenda is also one which emulates the common features of the highest achieving and most equal school systems in the world, and we will be relentless and unapologetic in our drive to realise its fundamental aim – ensuring that every child achieves everything of which he or she is capable.
25. In the following paragraphs, we reference only those policies likely to have a significant impact on equality of opportunity in our school system. A full picture of education reforms, along with supporting evidence, can be found in *The Importance of Teaching* White Paper itself.

### **Reforming the system – autonomy for schools gives teachers and heads the freedom to raise standards and narrow gaps**

26. Across the world, the case for the benefits of school autonomy has been established beyond doubt. In a school system with good quality teachers and clearly established standards, devolving as much decision-making to school level as possible ensures that decisions are being taken by the

professionals best able to make good choices for the children and young people in their care.

27. In Canada, and specifically in Alberta, schools have been liberated. Head teachers control their own budgets, set their own ethos and shape their own environments. The result is that Alberta now not only has the best performing state schools of any English-speaking region in Canada, with very high levels of satisfaction with the schools among parents, teachers and pupils, it has a narrower attainment gap than we do in England.
28. The same is true in Singapore. Although it is often cited as an exemplar of centralism, dramatic leaps in attainment have been secured by schools where principals are exercising a progressively greater degree of operational autonomy. The Government there has deliberately encouraged greater diversity in the schools system and as the scope for innovation has grown, so Singapore's competitive advantage over other nations has grown too. And today, Singapore manages to achieve higher average attainment scores at the same time as keeping performance gaps narrower than we have in England.
29. The evidence of inequality in our own school system clearly shows that, despite billions of pounds in spending and investment and an inflated rule book of prescriptive regulation, central government's command and control, one-size-fits-all approach of recent years has done little to improve the life chances of some of our most vulnerable children. The fact is that government is simply not best placed to respond effectively to the wide variety of circumstances and challenges faced by schools and their pupils, and nor are inspectors, advisers and central government officials the people best able to extend opportunity to every child. So, instead, we need to make sure that the experienced and dedicated professionals in our schools have the freedoms and support that they need to succeed in delivering equality of opportunity.
30. This is why the Education Act includes a range of measures to cut red tape, and give power back to teachers – to help teachers improve results for all their pupils, and to improve the teaching workforce by making a career in teaching more attractive. We are removing duties, regulations and guidance from schools and colleges in such areas as publishing school profiles and prospectuses, dealing with poor behaviour, and cooperating through Behaviour and Attendance Partnerships.
31. We recognise and applaud the important and valued role schools have always played in supporting the wider health and wellbeing of every child in their care. We have every expectation that this vital role will continue as teachers recognise the need to deal with individual circumstances which can block a child's readiness to learn and their ability to succeed.
32. But the school workforce does not need the Government to give them literally hundreds of pages of guidance to tell them how they should do it. Having, as one example, over 600 pages of guidance on improving

behaviour and tackling bullying is not a sign of diligence or of taking the issue seriously. In fact, it is counter-productive because schools feeling unable to absorb it in full will come to the decision that they will not read it at all. So by cutting away the unnecessary duties, processes, guidance, regulations and requirements, teachers and heads will instead be free to intervene early and focus on doing what is right for their pupils.

33. Responsibility for a pupil's wider well-being involves carefully considered action to address the particular needs and specific challenges faced by each child or young person as an individual. It is not a box-ticking exercise. Cutting back on centralised micro-management is about trusting committed professionals to make informed decisions about what is right for every one of their pupils. It is not about attacking children's rights and safeguards for the vulnerable because, put simply, good schools work for the best interests and wider outcomes of children and young people as part of their core educational mission.
34. Critical safeguarding requirements will continue to be set in primary legislation with a minimum of clear non-statutory guidance on key topics, such as bullying and behaviour. But in the vast majority of cases, we will free all schools from the raft of individual rules and mountain of guidance on specific aspects of children's well-being and start once again to trust professionals – teachers and other children's services professionals who support children and schools. Schools should decide their own priorities, based on their local circumstances, the views of parents and the needs of their pupils.
35. Within the safeguards provided by these assurances, we believe innovation will flourish and quality will rise. New approaches in a number of areas – the curriculum, assessment, discipline and behaviour, pastoral care, gathering data on pupil performance, supporting teachers to improve their practice, tackling entrenched illiteracy and the tragic culture of low expectations which blights so many of our most deprived communities – will drive improvement in the attainment and future success of every child, regardless of their sex, race, economic background or disability.

**Ensuring every pupil has access to high-quality teaching is the single most important thing we can do to narrow attainment gaps**

36. In the 1990s, a series of in-depth studies conducted by American academics revealed a remarkably consistent pattern.<sup>6</sup> They showed that the quality of an individual teacher is the single most important determinant in the school system of a child's educational progress. Those pupils taught by the most effective teachers make three times as much progress as those taught by the least effective.

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<sup>6</sup> Barber, M. and Mourshed, M (2007) *How the World's Best Performing Schools Systems Came Out on Top*, Mckinsey and Company



37. We have many thousands of gifted teachers who work tirelessly to change the lives of young people in our country for the better. But one of the tragedies of recent years is that, despite record spending, there are still not enough of these good teachers changing lives in good schools. For this reason, and in line with the best systems in the world, attracting and retaining the best teachers while ensuring that they receive quality professional training to develop and reach the highest standards lies at the heart of *The Importance of Teaching* White Paper.
38. There is no evidence to suggest that effective pedagogy for pupils from deprived backgrounds is qualitatively different from that for other pupils but there is evidence to suggest that pupils from deprived backgrounds may be less likely to experience the good quality teaching they need and deserve. It is an injustice that, as Cabinet Office data suggests, schools with more than 20 per cent of their pupils eligible for FSM are more likely to be rated worse in their teaching, employing teachers with lower levels of qualification and less likely to come from an outstanding training institution.
39. It is our duty to ensure that all pupils have access to high-quality teaching. Reforms to initial teacher training, our new teacher bursary scheme, the expansion of the National and Local Leaders of Education programmes and the Teach First programme, as well as bureaucracy-reduction measures outlined above are all crucial parts of our strategy for fulfilling that duty.
40. We are also determined, through the Pupil Premium, to give every school and teacher the resources they need to deliver excellence for the poorest pupils. Because head teachers and teachers, rather than central government, are best placed to make the right decisions for their pupils, we will not tell schools how to use the Premium. But we do expect that it will help schools to ensure that disadvantaged pupils get the good teaching that we know makes more difference than anything else to their progress and attainment.
41. There are two additional elements of our approach to ensuring all pupils have access to high-quality teaching for which we have legislated through the Education Act. Pupils eligible for FSM in primary schools and secondary schools are, respectively, 1.66 and 1.41 times more likely than wealthier pupils to be in a school rated as inadequate by Ofsted, so by accelerating the pace at which the worst-performing schools are converted into Academies, we will improve the quality of teaching available to many of our poorer children quickly. To enable us to target this proven form of intervention at the most needy schools and implement it in the most effective way, the Education Act refines the Secretary of State's powers to intervene in underperforming schools. The positive impact of the Academies programme on disadvantaged groups is set out in more detail in the Equalities Impact Assessments for *The Importance of Teaching* White Paper and the Academies Act 2010.
42. By abolishing the General Teaching Council for England, the Education Act will also help us to create a more effective system for dealing with those

teachers who do not perform to an acceptable level. The evidence shows that concerns about the previous arrangements, and the time and effort that they involve, have deterred head teachers, governing bodies and employers from tackling underperformance. The majority of local authorities have, for example, never referred a teacher to the GTCE for incompetence. We are revising the performance management and capability arrangements and simplifying guidance to enable head teachers to tackle poor performance at the school level. However, in cases of serious misconduct, the Secretary of State will be able, as the regulator, to consider whether to bar a teacher referred to him from the profession.

### **A new accountability framework will set out high expectations for every pupil**

43. We want to ensure that the twin virtues of greater independence and greater accountability drive rapid improvement in our schools. In recent years schools have suffered from a form of bureaucratic compliance which drove them to look first to meet government targets and strictures. Instead, schools should feel accountable to parents, pupils and communities for how well they serve their pupils.
44. The new accountability framework outlined in *The Importance of Teaching* White Paper will set clear, high expectations while giving teachers and heads the freedom to choose their own approach. Some of the major changes are non-legislative. To ensure that schools are held to account for every child's attainment and progress, we are reforming performance tables to include headline indicators that reflect the key priorities of raising the attainment threshold, improving progress for all pupils, and raising the attainment of disadvantaged children; we are sharply increasing the range of data about school performance available to parents, governors and the public; and we have introduced the English Baccalaureate because we believe every pupil, regardless of their background, should secure a broad base of academic knowledge.
45. Ofsted inspection offers a robust assessment of the quality of education that a school provides. The independent challenge inspection offers can confirm school self evaluation and stimulate further improvement. However, in recent years inspectors' focus has been spread thinly over a long list of issues. Through the Education Act, we are replacing this with a clear focus on four areas – pupil achievement, the quality of teaching, leadership and management, and behaviour and safety.
46. This increased focus on the core aspects of teaching and achievement will allow inspectors to pay closer attention to the progress of all pupils, and the provisions will be underpinned by a requirement for the Chief Inspector to have regard to the needs and relative performance of the range of pupils. This includes, in particular, the needs of disabled pupils and those with special educational needs.

47. Inspections are often the catalyst for school improvement, so Ofsted should concentrate inspection where it is most needed. We have therefore legislated to target inspection on poorer performing schools, and, since schools with high levels of deprivation are more likely to be judged by Ofsted to be inadequate, disadvantaged and underperforming pupil groups are likely to benefit most from this new focus.

**Every parent and pupil should be able to choose a good school that meets their needs**

48. The Academies programme is central to our approach to school standards, especially in tackling the most significant areas of underperformance and deprivation. Academies were originally established to raise standards by breaking the cycle of underperformance and low expectations in such areas. But we will no longer allow the narrow ambition of the Academies programme under the previous government to limit its success. We have legislated through the Academies Act 2010 so that over time all schools, including for the first time primary and special schools, will have the right to acquire Academy status, spreading the clear benefits of additional autonomy across the school system. More than 1,500 schools have now applied to become Academies – meaning that 40 per cent of secondary schools are, or are seeking to become, Academies. The positive impact of the Academies programme on disadvantaged groups is set out in detail in the Equalities Impact Assessments for *The Importance of Teaching* White Paper and the Academies Act 2010.

49. As with Academies, the aim of the Free Schools programme is to drive an improvement in standards for all children. It encourages non-profit and voluntary bodies including charities, teachers and parents – many of whom have a particular focus on improving educational opportunities for pupils from particular ethnic or disadvantaged groups, or those with SEN – to open new schools in response to demand. The first 24 Free Schools opened this year – many of them in areas of deprivation – and many more are aiming to open in 2012 and beyond.

50. The Academies Act 2010 provides much of the legislative basis for Free Schools, but the Education Act makes three further changes to ensure the programme can make as much difference as possible to standards across our education system. It extends the powers of the Secretary of State to give school land that is no longer needed to new Free Schools; it reforms the local authority process for establishing new schools so that Academies and Free Schools are given precedence; and it enables Free Schools to be set up that serve 16-19 pupils and/or pupils who need alternative provision because mainstream schooling is not appropriate for them. Potential providers interested in opening such schools are already coming forward, and in many cases their intention is to focus on serving vulnerable young people not well served by existing institutions.

51. Evidence from similar policies abroad suggests that Free Schools can be very significant engines of social mobility, as set out in detail in the

Equalities Impact Assessment and the Case for Change document<sup>7</sup> that accompanied *The Importance of Teaching* White Paper.

52. One example mentioned is Sweden, where 'Free Schools' are independent from government control and can be set up by a variety of individuals and organisations including groups of parents, private sector corporations and non-profit or voluntary organisations. There is a whole body of evidence pointing to the positive effects of the Free Schools model in Sweden, not least that, according to official statistics, pupils in Swedish Free Schools gain higher average point scores than those from state schools, and at a lower cost. Several studies have also clearly shown that the introduction of Free Schools has had a positive effect on standards across the Swedish system. For instance, a 2003 study found that a ten per cent increase in the number of children attending Free Schools led to a six per cent increase in performance in standardised ninth-grade mathematics tests.<sup>8</sup>

**Ensuring all children have access to high quality early years education, and maintaining a diverse market for childcare, will support parental choice and tackle disadvantage.**

53. *The Coalition: Our Programme for Government* states that: we "support the provision of free nursery care for pre-school children, and we want that support to be provided by a diverse range of providers".

54. There is strong evidence that high quality early years education gives young children the best start in life and the foundation for success later in life. Research shows that gaps in achievement begin as early as 22 months.<sup>9</sup> At that age, children from disadvantaged backgrounds who were achieving well, begin to fall behind and are overtaken by children from more affluent backgrounds. High quality early years education is linked to higher cognitive and non-cognitive development at age 10, which in turn is linked to higher lifetime income. Our strategy for narrowing the gap in educational attainment between rich and poor must therefore include changes to ensure that all children, and especially the most disadvantaged, have access to high quality early years education.

55. There has been movement in this direction in recent years. Since September 2009, local authorities have been funded to deliver a targeted offer of up to 15 hours of free early education per week to 15 per cent of their most disadvantaged two-year olds. Given the striking evidence about how early the gap between rich and poor emerges, and how persistent it proves to be, we want to extend this to every disadvantaged two-year-old. Despite current economic constraints, we are providing additional funding to local authorities to allow them to increase the level of free nursery places they currently provide from 20,000 (nationally) to around 130,000. By

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<sup>7</sup> <http://www.education.gov.uk/b0068570/the-importance-of-teaching>

<sup>8</sup> Ahlin, A. (2003) Does school competition matter? Effects of a large-scale choice reform on student performance –Uppsala University Department of Economics Working Paper

<sup>9</sup> Feinstein L., *Inequality in the Early Cognitive Development of British Children in the 1970 Cohort*, *Economica*, Volume 70, Number 1, February 2003 , pp. 73-97(25)

2014/15 this will amount to around £380m per annum. We have backed this funding by legislating through the Education Act to introduce an entitlement of 15 hours free early education for the most disadvantaged two-year-olds.

56. We are seeking the views of the early years sector and voluntary groups, to help us define disadvantage in the most suitable way to ensure the funding is targeted on those children who would benefit the most. The evidence shows clearly, however, that by targeting poverty, we will also benefit children from an ethnic minority background and those with a disability.
57. We are targeting additional investment, and setting out a clear entitlement, where we can make the biggest difference: by intervening early amongst the most disadvantaged. But to provide all families with access to appropriate high-quality early education, we must also protect and promote the existence of a competitive market with a diverse range of providers. This includes state provision, delivered through primary and maintained nursery schools, as well as private, voluntary sector and independent providers, all operating across local markets.
58. Uncertainty in the early years sector has been threatening to undermine our aim of promoting a diverse and high quality early years market. Schools with nursery classes, and maintained nursery schools, have been unclear whether they can charge for nursery education over and above the free entitlement of 15 hours per week for three- and four-year-olds. Without being able to charge for additional hours, financial pressures might have made it difficult for some schools to provide high quality, flexible provision in a sustainable way. Some providers could have closed, reducing their provision or requiring financial support from local authorities.
59. We are therefore amending legislation so that nursery schools, and schools with nursery classes, are able to charge for nursery education beyond the 15 hours currently offered free. Providing this clarity should encourage the development and maintenance of a diverse and sustainable market for early education, support parental choice and tackle disadvantage.
60. This is an entirely voluntary power, so that it is up to providers whether or not to charge for nursery education beyond 15 hours, and they will make their decisions in consultation with parents and in line with their statutory equality duties. They will not be able to charge for the current 15 hours delivered free, will only be able to charge at up to full cost recovery, and will not be allowed to make a profit from provision charged for. The existing prohibition on schools charging for other services and activities will remain in legislation. The introduction of charging for nursery education over and above the 15 hour entitlement could be perceived to be of greater benefit to those better able to pay for additional hours. However, the evidence for the positive impact of high quality early education on child outcomes does not indicate increased benefits from a full time place (typically 25 hours) over the regular part time place (15 hours) available free to all three- and four-year-olds.

61. Furthermore, significant financial support is available for lower income parents who need more than 15 hours of childcare because of their working patterns. The childcare element of working tax credits can cover up to 70 per cent of childcare costs.
62. Frank Field said in his recent report, that for some children, by the time they start school, 'life's race is by then already effectively over'.<sup>10</sup> That is why the Education Act ensures the most disadvantaged two-year-olds have access to early education, and supports the kind of high quality and sustainable nursery education market that the evidence shows can make such an impact on narrowing educational attainment gaps.

**Giving parents of children and young people with special educational needs and/or disabilities greater control: Direct payments for education provision.**

63. The Special Educational Needs (SEN) and Disability Green Paper '*Support and Aspiration: A new approach to special educational needs and disability*', outlines the Government's intention to improve the current system of support for children and young people with SEN and/or disabilities. It responds to calls, from families, for a system that is focussed around their individual needs, responsive to their everyday life and gives them greater control over the services they use.
64. We believe that there is value in broadening the scope of direct payments to achieve this. The Education Act therefore enables the Government to establish a pilot scheme to test the use of direct payments for education provision for children and young people with SEN or disabilities, including the testing of equality issues. Anecdotal evidence, and the limited research available, suggests that there is potential for some groups within the community to lose out. In particular we recognise that direct payments could: disadvantage those with less capacity to manage a budget; reinforce weaknesses in the current system; and disadvantage other service users if funding is taken away from centrally provided services to support a direct payment.
65. The SEN and Disability Green Paper Pathfinder Programme (that the pilot will operate within) will provide a controlled environment to test out and evaluate this scheme. It will help us to establish whether any of the concerns above are valid and, if so, how the pilot authorities, working with the Pathfinder Support Team, can mitigate them. Evaluation of the pilot will seek to establish whether the programme increases choice and control and whether benefits are reported by families from a range of backgrounds including different age groups, types of SEN/disability, ethnicity and socio-economic backgrounds.

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<sup>10</sup> [http://povertyreview.independent.gov.uk/final\\_report.aspx](http://povertyreview.independent.gov.uk/final_report.aspx)

**More effective careers advice, and less central prescription over the availability of courses will help to reduce the number of young people not in education, employment or training.**

66. It is of crucial importance to a young person's future prospects that they remain and succeed in education or training beyond the age of 16. Such young people are more likely to earn higher wages and be in employment at a future date. By contrast young people who do not participate in education, employment or training (NEET) are more likely than their peers to be unemployed, earn less, receive no training, have a criminal record and suffer from poor health and depression.
67. Attainment at 16 is the single most important factor in determining later participation and attainment at ages 17-19. Those who have no or low qualifications are much more likely to be NEET by the age of 18. Given that gaps in attainment between rich and poor start so young and widen during school years, it is predictable but shameful that they are so wide for 16- to 19-year-olds. Young people who are NEET are disproportionately drawn from lower socio-economic groups. Data from the Longitudinal Study of Young People England suggests that young people who are eligible for Free School Meals are three times more likely to be NEET for a year than their better-off peers. And the picture is no better with regard to ethnic minorities and vulnerable groups. Amongst 16- to 19-year-olds in 2005, 13 per cent of African Caribbean people were NEET compared with eight per cent of white British and four per cent of those of Indian heritage. Young people with a health problem or disability are twice as likely to be NEET, persistent truants are four times more likely to be NEET at 18, and around 11 per cent of all 16- to 18-year-olds NEET are teenage mothers or pregnant young women.
68. So, despite welcome recent reductions in the number of 16- to 18-year-olds NEET we need to do more to reduce this and narrow the attainment and achievement gaps.
69. We will only be able to get more young people to participate if the right provision is available. Our view is that central government cannot and should not mandate what that provision must be. We believe that schools, colleges and local authorities are best placed to determine the right mix of provision for the young people in their area. That is why through the Education Act we are repealing the centrally prescribed Diploma entitlement.
70. We are also, through the Education Act, making Apprenticeships available to young people, including those with Learning Difficulties and/or Disabilities (LLDD), on a more sustainable and viable basis. The approach in the Apprenticeships, Skills, Children and Learning Act 2009 placed a duty on the Chief Executive of Skills Funding (CE of SF) to secure an Apprenticeship place for all suitably qualified young people in certain groups who wanted one. The groups were: all 16-18 young people and young people aged 19-24 with LLDD or who are care leavers. Since Apprenticeships are jobs, delivery would have been dependent on finding places with employers for all the young people concerned, which in practice

is be beyond the capacity of the CE of SF or of Government, since they cannot dictate to employers whom to choose as their staff. The Education Act puts that right by re-defining the approach as a duty on the CE of SF to prioritise funding for young people in those same groups who have secured an Apprenticeship place. It also places a duty on the CE of SF to make reasonable efforts to secure the participation of employers in the provision of Apprenticeship training. Extension of the funding to age 24 for young people with LLDD and care leavers is maintained in recognition that people in these groups may take longer to acquire the skills and qualifications needed to secure an Apprenticeship. The redefined approach is a more robust commitment than before because it can be delivered, and because it gives the young people concerned first claim on funding.

71. The evidence shows that the availability of provision is not, on its own, sufficient to reduce numbers of young people not participating. Just as important is ensuring young people receive good quality information and advice on the opportunities available to them, and that vulnerable young people receive the right help. For example, one study showed that young people who had taken part in activities such as visits to university during the final year of compulsory schooling were nearly twice as likely to have changed their minds about participating in education after the age of 18.<sup>11</sup>
72. Alan Milburn's report, *Unleashing Aspiration: The Final Report of the Panel on Fair Access to the Professions* underlined the critical contribution careers guidance makes to increasing social mobility.<sup>12</sup> It also noted that: "Throughout our work we have barely heard a good word about the careers work of the current Connexions service. We can only conclude that its focus on the minority of vulnerable young people is distracting it from offering proper careers advice and guidance to the majority of young people." Similarly Lord Browne, in his report on higher education identified very clearly the need for better careers guidance for young people and adults, saying that: "Many prospective students do not get adequate advice or information to help them choose a course of study."<sup>13</sup>
73. To address these widely held concerns, we are reforming careers advice services. The Education Act gives schools responsibility for securing access to impartial independent careers advice. This will give them greater freedom to determine the most appropriate forms of support for their pupils based on individual needs and circumstances. It will also focus local authorities' duties on providing targeted support to vulnerable young people, those not in education, employment or training and young adults with learning difficulties and disabilities up to age 25. We will remove the powers to direct local authorities in supporting young people so that they will decide how to act on the basis of their statutory duties and in light of local priorities.

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<sup>11</sup> Morris, M and Rutt, S (November 2006), *Evaluation of Aimhigher: Excellence Challenge Longitudinal Pupil Analysis Report*, DfES RR 814

<sup>12</sup> Alan Milburn (2009), *Unleashing Aspiration: The Final Report of the Panel on Fair Access to the Professions*

<sup>13</sup> <http://www.bis.gov.uk/assets/biscore/corporate/docs/s/10-1208es-securing-sustainable-higher-education-browne-report-summary.pdf>



74. Although more 16- and 17-year-olds are participating in education or training than ever before, our firm resolve to make sure disadvantaged young people get as good a deal as their better off peers means that we are committed to implementing the increase in the participation age to 17 in 2013 and 18 in 2015 so that all young people have the opportunity to participate and achieve. However, through the Education Act we are making it possible to delay the introduction of the enforcement of this increase, if it turns out that the system is not yet ready. Otherwise we may run the risk of criminalising young people, especially those from disadvantaged groups who might find it harder to stay on in education, or be less inclined to do so.
75. Taken together, these measures will help all young people, whatever their needs, background or circumstances, to have the opportunity to participate in education or training and success at university or in work.
76. The Education Act also contains two measures which are part of an overall package of reforms to higher education funding and student finance. An Equality Impact Assessment of these reforms (November 2010) is published separately.<sup>14</sup>

**Other than attainment, behaviour and exclusions remain our greatest concern in promoting equality**

77. Disruption affects teachers' ability to teach. Most pupils do not want to have their concentration disturbed or lessons interrupted, and parents want to send their children to school knowing that every lesson will be a good one. Research shows up to 50 minutes teaching can be lost per teacher, per day because of behaviour issues.<sup>15</sup> This is time that no pupil, especially those who are underperforming, can afford to lose.
78. We also know that a third of teachers identify pupil behaviour and discipline as one of the main de-motivating factors they experience at work. Two thirds agree that negative behaviour is driving them and their colleagues out of the profession, as well as being a major barrier to attracting talented potential recruits to teaching. Unless we can solve the problem of bad behaviour and disruption in the classroom, it will be difficult to attract more talented people into the classroom and to give disadvantaged children the inspiration they need. We cannot allow poor behaviour to deprive schools and their pupils of good teachers and good teaching.
79. A sharper focus on discipline will improve school ethos and raise the attainment of all. We are on the side of teachers and we will not be deflected from laying down lines which those who behave badly must not cross. The reforms outlined in the Schools White Paper will do this by returning the powers teachers and heads need inside and outside of the classroom, whilst stripping away the rules that far too often prevent them from maintaining

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<sup>14</sup> <http://www.bis.gov.uk/assets/biscore/higher-education/docs/i/10-1310-interim-equality-impact-assessment-he-funding-and-student-finance.pdf>

<sup>15</sup> NASUWT (2010)

order and promoting good behaviour. This Act extends teachers' powers to search pupils without their consent and restores their ability to issue same day detentions where they are appropriate. It also gives head teachers the confidence to exclude pupils who do cross the line, by removing the power of appeal panels to reinstate excluded pupils, which damages the ability of the head teacher to maintain good discipline for all pupils.

80. No professional sees exclusion from school as a positive outcome for a child or young person. We want our reforms to encourage schools to intervene early on and focus on supporting those pupils whose behaviour problems are likely to escalate and put them at risk of permanent exclusion. Exclusion should always be a last resort for a head teacher. Our changes to the exclusions process through this Act also include financial penalties for unreasonable exclusions.
81. We also know that pupils from certain backgrounds are more likely to be excluded than others. The data from 2009/10 shows that children who are eligible for free school meals are around four times more likely to receive a permanent exclusion and three times more likely to receive a fixed period exclusion than children who are not eligible for free school meals. In 2009/10 the permanent exclusion rate for boys was approximately four times higher than that for girls. Pupils with SEN accounted for 74 per cent of all exclusions. The Act gives parents the power to request that an SEN expert attend the review of their child's exclusion, giving them the reassurance that the specific needs of their child are considered in full.
82. Exclusion from school does not mean exclusion from education but at present the attainment of pupils in alternative provision is extremely low. In 2009/10, only 1.4% of pupils in alternative provision at the end of Key Stage 4 achieved 5 or more GCSEs at grades A\*-C, including English and mathematics, compared with 53.4% in all schools in England. This represents a worrying and unacceptable failure to deliver the best for children and young people disproportionately affected by exclusion.
83. We are determined to address this problem and will do so by refocusing the system for dealing with exclusions and alternative provision. We want to make it clear that head teachers have authority to exclude pupils. But we want to balance this authority with clear responsibility for both the quality of the education their excluded pupils receive and what they achieve.
84. In line with our commitment to schools having the autonomy, funding and responsibility for the decisions they take, we wish to move towards delegating money for alternative provision to schools so they take responsibility for the future education of any pupils they exclude.
85. A range of reforms will help schools and local authorities to improve alternative provision. Through this Act, we are making it possible for Pupil Referral Units (PRUs) to convert to Academy status, and we are removing barriers to voluntary organisations setting up new alternative providers by extending the Free Schools programme to the alternative provision sector.

This will help ensure that those organisations with a proven track record in turning young lives around are given the opportunity to educate excluded pupils.

86. We are confident that these measures will promote a diversity of alternative provision for excluded pupils and other vulnerable young people who are not in mainstream schools, such as teenage mothers and recently arrived young asylum seekers. This will range from Free School alternative provision and professionally-run voluntary sector providers sitting alongside high-performing PRUs, all with greater freedom to innovate. This approach will be better able to offer tailored provision and meet the needs of young people in the sector.
87. To help us identify what more needs to be done to improve alternative provision, we have asked the Department's behaviour adviser, Charlie Taylor, to conduct a full review..
88. Boys, black and mixed ethnic pupils and pupils with SEN are over-represented in the population of children educated in alternative provision, so the improvements these changes will bring to the quality of that education will benefit these groups in particular.
89. The combination of changes to the exclusions process and to the delivery of alternative provision represents a significant reform. Many improvements can be made in the short term and this Act makes the necessary legislative changes to achieve those improvements. Full reform of the system is likely to take some time to implement, and we will roll out the broader arrangements in a measured way, consulting the sector as we do.

### **Monitoring impact**

90. We will continue to monitor schools' performance in terms of overall standards and narrowing the attainment gap between rich and poor pupils through data published annually, which will also allow us to monitor the impact of our new approach to tackling school underperformance. We will also continue to monitor the performance of protected groups under the Equality Act. In addition, we will monitor other data about the performance of the system – including, for example, information about the academic qualifications of new teachers and about the number of head teacher vacancies. Within the next few years this data will start to give us indications about the impact of the White Paper's policies, and we will also be able to draw on Ofsted thematic reports into specific issues within the school system. In this way, we will add to the wealth of international evidence and understand how the system can improve even further in future.
91. We will carry out a formal post-implementation review of the Education Act in three to five years.

92. We have planned separate reviews of specific areas of the White Paper, including:

- a. Free Schools and Academies
- b. bureaucracy and reducing prescription
- c. new approach to exclusions
- d. Education Endowment Fund.

93. Measures to increase the transparency of school-level data and the publication of the Department for Education's business plan will make more information publicly accessible to support our aim of increased democratic accountability.