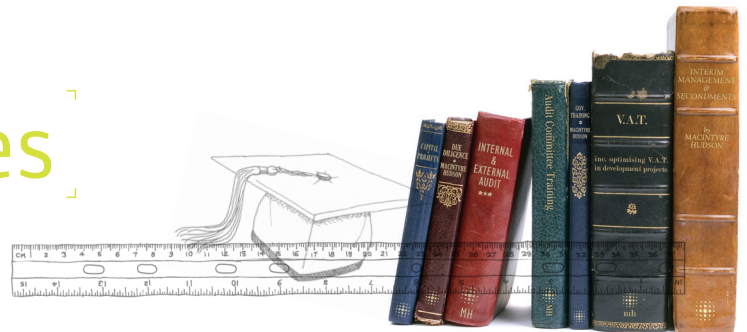




# Independent Issues

Autumn 2011



Independent Issues is an occasional review of some items noted in press articles and other documents. Its purpose is to advise MHA MH staff of current issues of importance or interest which may affect their work. It is also circulated to MHA MH clients for their interest. **This edition makes reference to publications up to 31 October 2011.**

## 1. Charitable Status & Public Benefit

The battles with the Charity Commission, the approaches being adopted by Independent Schools to meet the Test of Public Benefit, and their acceptability to the Commission, have been almost constant items in Independent Issues.

Following inspections of the benefits being offered by a sample of Independent Schools it had increasingly looked as if **only by offering a substantial number of free or subsidised places** to poorer children could schools in the sector pass the test, retain their charitable status and, hence, their tax breaks worth approximately £120m per annum. Other approaches, such as providing access to school playing fields, offering various forms of educational support or sponsoring academies would be insufficient.

However, in the middle of October, a complaint that the Charity Commission had exceeded its remit in requiring two schools to offer bursaries to children from poor families was upheld in a Charities Tribunal at the High

Court. It was ruled that “although it is necessary that there must be more than a de minimis or token benefit for the poor, once that low threshold is reached, what the trustees decide to do ..... is a matter for them”.

Thus, a school will still have to provide a public benefit, but the form that this should take will be a matter for **the trustees of the school to decide**. Further, financial support need not necessarily be only for the poor; bursaries or scholarships for those able to pay only part of the fees should also be seen as for the public benefit.

The ruling also indicated that the guidance of the Charitable Commission regarding what independent schools must do to meet the test of benefit was too prescriptive. The commission was directed to re-write this guidance with the form of wording being agreed with the Independent Schools Council (ISC).

## 2. Developments in the State Sector

As previous editions of Independent Issues have suggested, many developments in the organisation and operation of state schools have the potential to influence the behaviour and success of schools in the independent sector. And there is a good deal of talk regarding the **erosion of boundaries between the two sectors**.

### 2.1 The Development of Free Schools

In the summer of 2010 Independent Issues referred to the “free schools” initiative being pursued by the Government. These new schools would be “free” from Local Authority control and established through the wishes of parents, teachers, charities or local communities.

Attendance would also be free, no fees would be due. Funding would be provided through the Government. It was suggested at the time that the number of such schools would be small.

In the event 24 schools opened in September 2011, eight of them in London. Seven have been formed by the **conversion of schools from the independent sector**.

Michael Gove, Secretary of State for Education, expects there to be 50 free schools in London alone by 2015. Approval has already been given for a **further 55 to be opened next September** in various parts of the country – although this number has disappointed the New Schools Network (NSN) which was hoping for an additional 80-100 to be approved.

### 2.2 The Growth of Academies

Whilst the number of newly established free schools is still small, but significant, the **growth in the number of academies has been considerable**.

The academy movement was first conceived as an initiative whereby failing inner-city schools would be taken over by charities, businesses or faith groups. But, as

noted in the Summer 2010 edition of Independent Issues, all state secondary and primary schools have now been invited to apply for academy status. Again, **these schools are free from local authority control** and receive directly the entirety of the funding previously provided to, and top-sliced by, the Local Authority. They, too, can set their own Pay and Conditions for staff.

There are already 1,300 academies.

Mr Gove has said that these schools, free schools and academies, “benefit from longer school days, smaller class sizes, improved discipline and higher standards all round.....”. Sounds quite like many of the characteristics sought by parents currently sending their children to independent schools.

### 2.3 Expansion of Grammar Schools

It now seems likely that some of the surviving grammar schools will be expanded. In June, Nick Gibb, the Schools Minister, announced that grammar schools would be allowed to “take advantage of new rules to admit extra students **without seeking the permission of local authorities**”.

It is expected that many grammar schools will convert to academies.

And, of course, as noted in the past, many parents struggling to send their children to independent schools would be very happy with a grammar school alternative.

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## 3. Sponsorship of Academies

### 3.1 The Pressure

In July, Lord Adonis, the driving force behind the introduction of academies in the previous Government, called on **every independent school to sponsor a failing state school which has converted to academy status** and that they must embrace the changes caused by the expansion of the academies programme.

Lord Adonis had made similar pleas in the past – and a number of independent schools (28 to date) have become sponsors of academies – but the force and scope of his comments, and those of the Government, **have become more insistent of late**. He has called for “federations of state and private schools ..... where private schools are not just giving advice and assistance but.....take complete responsibility for the governance and leadership of academy, **staking their reputation on the success of their students as they do for fee-paying pupils**”.

He believes that “England will never have a world-class education system until **both state and private education come together**”.

Further, Nick Gibb, the Schools Minister, told the Headmasters’ and Headmistresses’ Conference (HMC) that “we have a clear expectation that the strongest state schools converting to academies should partner the weakest..... and I **hope that the same expectation can apply to the independent sector**”.

And the Prime Minister called upon independent schools to tear down the apartheid between the state and private sectors and take over failing

schools as academy sponsors. Mr Cameron has met with ten Heads of a number of leading independent schools in Downing Street to pursue the matter.

Challenges indeed.

### 3.2 Responses of the Sector

There seems to be considerable resistance to this pressure. The key reasons being expressed by the schools seem to be concerns over:

- A lack of expertise – the qualities and experience required to manage, say, boarding schools in rural locations would be very different to those required to meet the challenges of inner-city coeducational comprehensives
- The reaction of parents paying fees for the benefit of pupils in other schools
- Potential damage to the reputation of the school.

But there has been a positive response. The HMC has established a Primary School Academy Group to sponsor under-performing primary, rather than secondary, schools. The rationale for this is that the educational gap between the rich and the poor widens particularly between the ages of 9 and 10.

All members of the HMC are being **encouraged to consider sponsoring a primary school** alongside a business or charity.

However, it will be interesting to see how the ruling on schools’ charitable status, and its apparent reinforcement of the independence of the sector, affects the response of schools to this encouragement to sponsor failing schools.

## 4. University Entrance and Access Agreements

Independent Issues has often observed that the reputation of senior independent schools is bound to the numbers of their pupils who gain admission to top universities. A recent study for the Sutton Trust has shown that 100 schools accounted for 31% of all admissions to Oxbridge – of which 84 were independent schools with the remaining 16 being grammar schools.

The Summer 2011 edition of Independent Issues suggested that recent developments in the Higher Education (HE) sector surrounding the increases in tuition fees, **and their dependence upon Access Agreements**, are probably causing increased anxiety in independent schools regarding their ability to maintain the high proportion of their pupils obtaining entrance to top universities.

Increasingly examples are quoted of universities using a student’s social background or school performance data (the so-called **contextual data**) to give some sort of priority or advantage to their application.

Practices adopted by high-ranking universities which have been reported include:

- A flagging-up of disadvantaged student applications
- Requiring lower entrance requirements of some students
- Adjusting the ranking order of students according to their social background.

Universities can now request information from the Universities and Colleges Admissions Service (UCAS) on the background of students.

From next year universities will be required to set targets for the number of disadvantaged students to be admitted.

## 5. The Higher Education White Paper

The HE White Paper “Higher Education: Students at the Heart of the System” sets out the framework for the operation of the university sector in the immediate future. It was published at the end of June.

The aims of the White Paper, and the policy proposals to achieve these aims which might be seen as having the greatest potential impact on the continued success of the independent sector, are noted below.

### 5.1 The Aims of the Paper

The White Paper states its aims to be threefold:

- To ensure Higher Education (HE) receives the funding it needs, even as savings are made in public expenditure
- Institutions to provide a better student experience – better teaching, feedback and preparation for work
- Institutions to take more responsibility for increasing social mobility.

There are a large number (39) of policy proposals to achieve these aims. Many relate to issues noted in previous editions of Independent Issues.

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## 5.2 Policy Proposals

### 5.2.1 Higher Education Funding through Student Contributions

- From the academic year 2012-13 all higher education institutions (HEIs) will charge an undergraduate tuition fee in the range £6,000 to £9,000 per annum
- No first-time undergraduate will be required to pay a fee upfront; loans will be available for both tuition fees and living costs
- Loans will be repaid at a rate of 9% of earnings above a threshold of £21,000 per annum, with the rate of interest on the loan varying with the level of income.

### 5.2.2 Improving the Student Experience

- HEIs will be expected to provide a standard set of improved and expanded information for prospective students on a course-by-course basis, which will facilitate comparison between institutions
- The universities and colleges admission service (UCAS) and HEIs are to be asked to provide information on **the actual qualifications held by previously successful applicants for each course**. Apart from advising prospective students on the likelihood of their being accepted on to a particular course this should help young people to **choose which subjects and which qualifications to study in the sixth form**
- Information on employment and earnings outcomes will be provided by various organisations for prospective students, their parents and advisers

- Universities will be allowed to expand if they can attract **students achieving the equivalent of AAB grades at A Level**.

### 5.2.3 Increasing Social Mobility

- All institutions charging more than £6,000 per annum must receive approval for Access Agreements from the Director for Fair Access. The Agreement will set out what the institution will do to **attract students from disadvantaged backgrounds**
- The Office for Fair Access (OFFA) is to be **strengthened with its capacity quadrupled**. This will enable it to provide more active challenge and support to universities and colleges.
- The Director for Fair Access is to be asked to advise whether OFFA's current powers are **the right ones to achieve its statutory goals**, but the director will continue to have a duty to protect academic freedom including **an institution's right to decide who to admit and on what basis**.

The current total expenditure by institutions on Widening Participation and other access activities is £407m per annum. Under the approved Access Agreements this figure, which includes such initiatives as fee waivers, bursaries and scholarships, is set to rise to £602m by 2015-16.

Figures provided by the Higher Education Funding Council for England (HEFCE) indicate that this level of spending represents **27% of fee income above £6,000 per annum**.

## 6. The Unrestrained Recruitment of AAB+ Candidates

### 6.1 Implications for Widening Participation and Independent Schools

Competition for AAB+ students will increase and become more intense. Universities able to attract more AAB+ students will be able to expand if they so wish. And where, disproportionately, are such students educated, particularly in those subjects most valued by universities?

For example, in 2010, despite only 15% of the A Level population attending an independent school:

- 4,112 pupils from independent schools gained an A\* grade in A Level mathematics, compared with a total of 3,420 from all comprehensive schools
- In foreign languages independent school pupils gained 1,068 A\* grades – more than double the total in all comprehensive schools combined
- Of the ten subjects identified by the Russell Group of large research universities as being most useful in gaining a place, pupils from independent schools were 2 to 4 times more likely to obtain an A\* grade than those in comprehensive schools.

But the intention to increase the proportion of disadvantaged and state school educated students in the most selective universities is clear.

Accordingly a tension may be generated between an institution's desire to attract AAB+ students and satisfying the conditions of its Access Agreement regarding the admission of students from disadvantaged backgrounds.

But will universities be able to comply with these Widening Participation targets in the light of the financial changes being introduced and their possible impact on demand for higher education?

Participation in HE will require a student to take on substantial debt (£40,000?) or the student's parents to provide much greater financial support than at present. In either case prospective students and their parents will surely be **more selective over the projected course of study**.

Indeed some universities now appear to be **preparing for a fall in student recruitment in 2012**.

Thus, unless the AAB criterion is "contextualised" selective universities wishing to expand at a time when many are preparing for a reduction in demand following the increase in tuition fees, may well **find it difficult to increase their proportion of disadvantaged or state-school educated students**.

Nevertheless, this determination to improve access to the best universities for those in state schools, together with the ability of parents to pay still-increasing school fees in the present economic climate, **poses a threat to independent schools**. It must be a concern for those in the schools that many parents may decide to compromise – to send their children to a state school and top it up with private tuition – as have 23% of those currently in state secondary schools!

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## 6.2 Which Institutions have the Highest Proportion of AAB Candidates?

Information made available by HEFCE has revealed that:

- The identity of the universities with the highest proportion of AAB candidates is perhaps not quite as may have been assumed
- The top places in such a league table are not exclusively held by the Russell Group of 20 large research-led universities
- Some of the 17 smaller research-led universities of the 1994 group hold some of the highest positions, although some certainly do not.

**The identity of institutions recognised as elite universities may be changing; a super-elite may formally emerge.**

## 7. Post-Qualification Application (PQA)

A procedural change being advanced to increase the proportion of disadvantaged and state school pupils entering top universities is the introduction of a "post-qualification applications" system.

It is believed by some that disadvantaged students underestimate their ability, and their likely performance in the A Level examinations for which they are preparing. This means

that they fail to apply to the best universities. It is also believed that the grades predicted for those in state schools are less accurate than those in independent schools.

The University and College Admissions Service (UCAS) has carried out a review of the existing applications system and recommended changes whereby final A Level examinations would be held rather earlier, with results published in July, so that pupils can apply to universities on the basis of actual, rather than predicted, A Level grades.

The arrangements being proposed are described in the consultation document produced by UCAS as a "fully-modelled process". The application system is comprised of three elements:

- Apply 1 – open all-year (September to the following June) to applicants who already hold entry qualifications. eg Students taking a gap year. (On current numbers 17% of applicants would be placed in this way)
- Apply 2 – open from the end of June to the third week in July for candidates who have just completed their qualifying examinations and intend to commence their higher education in October of the same year. Only two choices of course/institution would be permitted. (On current numbers 63% of students would be placed in this way)

- Apply 3 – Open from the fourth week in July to the first week in October for late applicants and those not holding any offers of HE places.

A Level examinations would have to start 15 days earlier than at present. First year undergraduates would commence their studies in October.

Such an arrangement would operate from 2016, although an interim procedure could be in place from 2014.

It seems possible that making an application through Apply 2 to Oxbridge, and for other highly selective courses such as medicine, could be something of a gamble **if only two choices can be made**. Every year, for example, thousands of applicants to Oxford and Cambridge, who are predicted, and go on to achieve, three Grade A passes or better at A Level, fail to gain admission. Thus, for many, a lot would be left riding on only one alternative application choice – something which could deter applications from those very students which the proposals are intended to encourage. A realistic understanding of the chances of success would become even more important – which is more likely in those (often independent) schools familiar with the standards required of applicants.

Attempts to change the examination timetable to facilitate post-qualification applications have been tried before. Some teachers, examination boards and universities have been of the view that any gain in social mobility would be too slight to justify the upheaval.

The consultation closes on 20 January 2012.

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## 8. Gap Years

The possibility of taking a gap year in 2011-12 was regarded as a casualty of the increase in higher education tuition fees in September 2012. However

- with universities set to charge higher fees than those expected in 2012-13 and
- with some Government policies on the allocation of student numbers designed to drive down average fees

it could well be that typical tuition fees in 2013-14 will be lower than 2012-13.

Thus a gap year in 2012-13 could be a good (financial) idea for some students.

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