

February 2006

“Higher Standards Better Schools for All” White Paper and Education Bill 2006

Race Equality Impact Assessment

Introduction

1. This paper provides an assessment of the impact of the White Paper *Higher Standards Better Schools for All: More Choice for Parents and Pupils* (“the White Paper”) and the subsequent Education and Inspections Bill 2006 (“the Bill”) on minority ethnic groups. The assessment considers potential effects, both positive and negative, on pupils and their families, teaching and non-teaching staff in education institutions, and the wider minority ethnic communities which might be affected by any of the proposals.
 - 1.1 Through assessing the likely impact of our policies on the communities we serve, our aim is to build equal opportunities and good race relations into the policy-making process, and make sure that different groups are equally served by our policy.

Context of the assessment

- 1.2 Since 1997 the minority ethnic school population in maintained schools has grown significantly. Compared to a 2.3% increase in the total number of pupils, the number of minority ethnic pupils in maintained schools is estimated to have grown by a fifth to a third. In 2005, 17% of the maintained school population in England was classified as belonging to a minority ethnic group.
- 1.3 Many pupils from minority ethnic backgrounds do very well in our schools. Research has shown that schools can and do achieve a great deal of success in raising the attainment of minority ethnic pupils. However, there is in some cases an unacceptable achievement gap between groups of pupils from some ethnic groups, which the DfES is determined to tackle. The reasons for this disparity of achievement are complex. Our starting point is a belief that Social and economic disadvantage strongly influence minority ethnic attainment. Many minority ethnic pupils live in and around big cities. Three quarters of all minority ethnic pupils attend schools in a third of local authorities. 44% of minority ethnic pupils attend schools in either an Inner or Outer London LEA compared to 8% of White British pupils. Poverty and social class are not the only factors influencing achievement and even allowing for such factors, some schools achieve significantly better.
- 1.4 Key issues for ethnic minority communities in the school system include:
 - Ethnicity, attainment and Deprivation: poverty is the single most important factor influencing attainment, for example pupils not eligible for free schools meals out perform free school meal eligible pupils at each Key Stage. The

lowest achieving minority ethnic groups are also the most deprived. It is clear, however, that relative poverty by itself cannot explain the poorer educational outcomes experienced by BME groups.

- Attainment, ethnicity and first language: Generally, pupils whose first language is other than English perform less well than pupils whose first language is English. The results of pupils with a first language other than English improved at all Key Stages between 2003-2004.
- Attainment, ethnicity and gender: Across all ethnic groups girls out perform boys at each Key Stage.
- Gifted and Talented: Findings from the Excellence in Cities evaluation show that White UK pupils were more likely than those from other ethnic backgrounds to be identified as gifted and talented.
- Workforce diversity: In 2004 90% of teachers were from the White British ethnic category compared to 83% of pupils in maintained school. The disparity between the minority ethnic pupil and teacher population is most pronounced in Inner and Outer London. Although London schools do display significantly more workforce diversity than the rest of the country. Focus groups with Black boys in London schools shows that these boys feel that Black teachers are more encouraging, more supportive and have higher expectations for Black boys.¹
- Ethnicity and Exclusions: Research has shown that permanent and fixed term exclusions are higher amongst Black pupils and Black Mixed Heritage pupils than any other pupil group. However, the same research also found that these disproportionate exclusion rates for Black pupils had fallen considerably over the last 6 years.²
- School governance: Research shows that Black and other minority ethnic groups are under-represented in school governance. There is a lack of evidence on the causes of this. Recruitment materials are insufficiently targeted and often unrepresentative of under-represented groups. Word-of-mouth which is the most common way people become involved in school governance may be perpetuating existing diversity problems.³

Response

- 1.5 The DfES believes that everyone should have an equal opportunity to meet their aspirations, realise their full potential and improve their life chances. Providing that equal opportunity will make for a fairer and more prosperous society. We will work with our partners to ensure our policies and services recognise and respond to the diverse needs of all children, young people and adults, and to ensure that excellent learning experiences are

¹ Education Commission, 2004

² Parsons et al, 2005

³ Ellis, 2003

universally available.

- 1.6 In 2003, the Department launched a national strategy, *Aiming High: Raising the Achievement of Minority Ethnic Pupils*. This set out our absolute commitment to closing the unacceptable achievement gap that exists between children from different ethnic groups. It put in place a range of initiatives aimed at raising attainment of minority ethnic groups most at risk of underachieving. Specific commitments in the White Paper build on work initiated through the Aiming High strategy.
- 1.7 The White Paper *Higher Standards Better Schools for All* and the Education Bill aims to address some of the causal factors leading to inequality. They set out the Government's vision of an education system which will:
 - Provide a genuinely tailored offer, both in the classroom and through the provision of wider support, so that no child falls behind and no child is held back from achieving their potential;
 - Bring parents to the heart of learning by: responding to parental demand with real choice, diversity and equity of access, giving parents the ability to promote new schools and to complain to Ofsted where quality is poor; and engaging parents better with the school and their child's education;
 - Provide schools with the drive, support and freedoms they need to make higher standards for all pupils a reality.
- 1.8 The White Paper commits the Department to a number of specific activities designed to raise attainment levels amongst under performing minority ethnic groups. These include initiating, or extending, national targeted programmes aimed at Black, Bilingual, Muslim and Gypsy and Traveller pupils. Work to deliver this programme of activity is well developed and we will move to delivery from April 2006.
- 1.9 All these measures demonstrate the Department's commitment to fairness, to narrowing achievement gaps, and to targeting policies on the most disadvantaged.
- 1.10 In carrying out our Race Equality Impact Assessment we conducted a screening assessment of each commitment in the White Paper. In cases where a screening assessment identified potential adverse effects on black or minority ethnic groups, we have gone onto complete a full assessment of that policy. The full assessments show that some of the policies, taken in isolation, might have the potential to cause an adverse impact on race equality. However, we believe that the introduction of these measures remains justified provided that the risks are monitored, and that together with other policies running alongside these, and schools' general duties to ensure that all pupils receive a good education, the risk of adverse impact will be minimised.
- 1.11 We are keen to understand how these measures work in practice, and particularly to know whether the potential risk of adverse impact is realised. Alongside the regular monitoring and evaluation activity undertaken for any

policy area, we will establish monitoring arrangements to track the outcomes for minority ethnic children and learners. The new Schools Commissioner will have an important role in this respect, who in his/her role of monitoring local authorities' effectiveness in carrying out commissioning duties will take account of the extent to which the needs of communities are being met and in particular those of BME communities. One of the specific functions of the Schools Commissioner will be to monitor key indicators of parental satisfaction and publish an annual report. In carrying out these functions, the Schools Commissioner will need to consider the scope for collecting and publishing data on parental preferences broken down according to ethnic groups and other categories. We will review this information and the Department's monitoring arrangements and, if necessary, use it to inform any future policy changes.

1.12 The proposals that we have examined fall into 5 broad areas:

- **A new schools system:** local authority duty to promote high standards choice, diversity and the fulfilment of people's educational potential, and to respond to parental demand for schools; School organisation, including independent schools entering the maintained sector; Trust schools; the Schools Commissioner.
- **Choice and access for all:** School admissions; choice advice; school transport.
- **Parents and pupils fully engaged in improving standards:** Parent Councils; Parental right of complaint to Ofsted; timely information to parents; Transition Information Sessions.
- **Education tailored to the individual:** Gifted and talented; Catch-up sessions; Setting and grouping.
- **Better discipline;** supporting and reinforcing parental responsibility through parenting contracts and parenting orders; exclusions.

1.13 This assessment has taken account of the views and concerns expressed by several stakeholders, and has sought to address these wherever possible. A list of consulted stakeholders is attached at Annex A. In addition to formal consultation on the White Paper, individual policy teams engaged stakeholders in building their policies. The Steer group, for example, were centrally involved in developing the proposals on improving behaviour and discipline.

A NEW SCHOOLS SYSTEM

2. The White Paper and the Bill aim to transform our school system into one that responds better to the needs and aspirations of parents. We want every parent to be confident that the system is delivering for their child, regardless of background and ethnicity. We want to drive-up standards and increase diversity of provision and choice for parents and pupils, so that there is a wider range of schools to choose from, and a greater opportunity for parents to get their children into the school of their choice.

Local authority duty to promote high standards choice, diversity and the fulfilment of people's educational potential, and to respond to parental demand for schools

- 2.1 The pattern of school provision in any area is likely to have arisen as a result of a variety of historical factors and will not necessarily reflect the characteristics and aspirations of the current population. This is particularly true in relation to faith schools, which tend to be affiliated with the main Christian faiths rather than faiths practised by BME communities which are less well-established. The distribution of faith schools across England is uneven, with the Church of England being associated with over 4,700 of the 6,805 faith schools in England. The Catholic Church has 2,040 schools with all but 46 of the remaining schools being associated with other major Christian denominations. The 46 consist of 36 Jewish, six Muslim, one Greek Orthodox, one Seventh Day Adventist and two Sikh schools. The proportions of such schools clearly do not reflect the proportions of the population practicing those faiths.
- 2.2 These new duties in the White Paper and the Bill are intended to ensure that local authorities take account of the needs of all communities when planning the provision of school places and seek actively to increase the diversity of provision. The responsiveness duty is intended to ensure that all parents are able to express a demand for a new school and have their views listened to. We expect that this will lead to more proposals for different types of schools, including faith schools and schools with a particular educational philosophy.
- 2.3 Local authorities will need to think about the particular needs of BME parents when planning the pattern of educational provision in their areas (for example, surveys of parental opinion targeted at different communities). In carrying out the responsiveness duty, local authorities will wish to ensure that under-represented groups are encouraged to come forward and that support for parents takes account of their particular linguistic and cultural needs. The Schools Commissioner will have a role in monitoring local authorities' effectiveness in carrying out such duties.
- 2.4 Measures are already in place to ensure that all schools, including faith schools, are inclusive and meet the needs of their local communities. Promoters of new schools are to demonstrate how the new school will contribute to community cohesion. While we do not propose to introduce a quota for admission of non-adherents of the faith of the school, no school with

empty places can refuse to take pupils who are not adherents of the faith of the school.

School organisation, including independent schools entering the maintained sector

2.5 Proposals in the Bill will:

- extend competitions for new schools to include primary schools;
- allow local authorities to set up new community schools with the consent of the Secretary of State;
- abolish the local School Organisation Committee as decision-maker.

2.6 These policies will make it easier for potential promoters of new schools to be informed about where new schools are planned, and for them to become involved in the establishment of the new school. Parents and pupils will have a wider choice of school and parents will have the opportunity to make an on-going input into the development of the school. Schools will be part of a more diverse sector with a wider range of approaches to problems and examples of good practice.

2.7 Proposals for new schools outside competitions will be possible with the agreement of the Secretary of State. This might be where an independent school is proposing to come into the maintained sector, where a promoter is proposing a new school to increase diversity rather than in response to a local authority reorganisation, or where all the parties are agreed that a school of a particular faith best meets the needs of the area.

2.8 In keeping with the role of local authority as commissioner rather than provider of educational services, new schools will have a more autonomous character as mainly foundation or voluntary schools rather than community schools. The role of the authority will be enhanced as decision-maker for statutory proposals for changes to schools in place of the school organisation committee. In addition to deciding many proposals, local authorities will also be responsible for running competitions where new schools are necessary.

2.9 Amongst these groups that may be affected by the proposed policy may be parents from ethnic minorities and particular faith groups. Some of these groups may currently be under-represented in state-sector faith schools. Although not an exact proxy for ethnicity, whereas nationally around a third of children of Christian background have access to schools of a Christian denomination, and 40% of Jewish children have access to Jewish schools, only around half a percent of Muslim children have access to maintained schools with an explicitly Islamic ethos. There are also regional inequalities, with no maintained Muslim schools in the North West in spite of a high Muslim population (the first is due to open in 2006).

2.10 However, since 1997 the range of new faith schools has increased, with six Muslim, two Sikh, a Greek Orthodox and a Seventh Day Adventist school

opening, in addition to Jewish and Christian schools. Further such schools have been approved for opening over the next few years. Relaxation of the requirements for schools coming into the maintained sector from the independent sector, including building requirements, will make this option easier in future.

- 2.11 A more diverse system with greater opportunities for schools with distinctive characters, including faith schools, will widen opportunities for minorities to have schools whose characters more reflect their distinctive culture. There should be no negative impact on any groups (although there might be transitional resentments if say a school without a religious character was replaced by one with a religious character associated with a particular group). Decision-makers will be required to have regard to the community cohesion effects of proposals for new schools.
- 2.12 There may be a risk that the policy could raise expectations that might be disappointed. Proposals for new schools will still have to satisfy the decision-maker that they will be of good quality and represent value for money.
- 2.13 Where proposals for a new school for a particular faith were successful, there could be potential for a negative response from other groups, who may see provision for a particular group as favourable treatment, or think that they also should receive a new school.
- 2.14 There is sometimes concern that a more diverse system, with potential for more minority faith schools, may result in greater segregation between ethnic groups in the maintained sector. We do not think this is a major risk. There is segregation in many of our community schools because different communities live separately and children attend their local schools. No school can admit by reference to ethnicity, and to do so would breach Race Discrimination legislation. Many faith schools are ethnically diverse, for example, Catholic schools are more diverse than non-faith schools.
- 2.15 In that the policy will extend the possibility of distinctive provision for minority groups rather than restrict it, we think that this policy will not have any adverse effect on BME groups.

Trust Schools

- 2.16 The White Paper and the Bill envisage the creation of "Trust" schools. Trust schools are foundation schools with a foundation. Trusts will be charitable, not for profit organisations, able to appoint governors to the school, including - where the governing body and trust wish - the majority of the governing body. Whilst some categories of school already have a majority of governors appointed by one organisation, their sponsoring organisations are required to contribute to their capital costs, which acts as a disincentive.
- 2.17 Trust schools will make the benefits of such a governance model available more widely and remove the financial barriers to getting involved. We expect trusts to be formed by, for example, community and parents' groups, universities and existing successful schools.

- 2.18 The 2003 Home Office Citizenship Survey of England and Wales⁴ contains findings on community participation (defined as civil participation, informal volunteering and formal volunteering) by ethnic group. Although the survey was concerned with participation in general terms, the findings might serve to indicate of the likelihood of different groups to participate in the formation of trusts as a type of formal volunteering.
- 2.19 The survey found that there was a variation with the minority ethnic density of the area: in the areas with the lowest 10 per cent of minority ethnic households, 50 per cent of people had volunteered formally in the previous twelve months; in the areas with the highest 10 per cent, the proportion was 34 per cent. Likewise, in the 10 per cent least deprived areas of England, 52 per cent of people had volunteered formally in the previous twelve months compared with 31 per cent in the 10 per cent most deprived areas. The survey also found that: rates of formal volunteering were higher among White and Black African people (43% for both) than among Asians (37%) and, within the Asian group, rates were lower among Pakistanis and Bangladeshis (31% and 30%) than among Indians (41%). Chinese people recorded a particularly low rate of formal volunteering (27%). Rates also varied according to whether people were born in the UK, e.g., Asian people born in the UK were more likely to engage in formal volunteering than UK-born White people.
- 2.20 We have extrapolated from this research that there is a risk that the benefits of Trust schools will not be spread evenly and that trusts will be concentrated in areas with the greatest social capital rather than in disadvantaged areas. Disadvantaged groups, who also tend to be more removed from official structures, may be deterred from forming trusts by the legal obligations associated with being a charity trustee and – in the case of a trust which is incorporated – a member of a company.

Information

- 2.21 Trust schools will be subject to the generality of education law applying to maintained schools. They will admit pupils of all abilities. Trust schools may be created either as brand new schools or by existing schools acquiring trusts.
- 2.22 Where it is proposed to establish a new school as a trust school, the promoters will be required to consult on and publish statutory proposals setting out their vision for the school and giving details of the proposed trust. The proposals will normally be decided by the local authority in the first instance, and the local authority will take into account a range of factors including evidence of parental demand for such a school and the extent to which the promoters have demonstrated that the school will contribute to community cohesion. The promoters must set out the admission arrangements for the new school in their proposals, and once the proposals are approved they may not change the

⁴ *Home Office Research Study 289, 2003 Home Office Citizenship Survey: People, Families and Communities*. Home Office Research, Development and Statistics Directorate, December 2004 (<http://www.homeoffice.gov.uk/rds/pdfs04/hors289.pdf>).

arrangements for the first three years.

- 2.23 Where an existing school intends to acquire a trust, the governing body will similarly be required to consult and publish proposals. Where there are concerns about the impact of the acquisition of a particular trust the local authority may refer the proposals to the Schools Adjudicator to determine. In addition, the Government intends to put in place procedures for governing bodies to publish proposals for the removal of trusts, or to reduce the proportion of governors appointed by a trust from a majority to a minority. It will be possible for a minority of the governing body to trigger the publication of such proposals.
- 2.24 All schools will be eligible to become trust schools and so children from all communities will be equally able to benefit from the arrangements. Similarly, it will be open to any person who is not disqualified from being a trustee to form a charitable body to act as a trust for a school. The Government expects trusts to be formed by a range of organisations reflecting the diversity of the general population.
- 2.25 The School Commissioner will have a central role in championing the development of trust schools. This will include working with both national organisations and local community and parent organisations, particularly those in disadvantaged areas. The Schools Commissioner will support such organisations to form charitable bodies to act as trusts, in particular by providing model documentation and advice on the statutory processes. In addition, the Schools Commissioner will match potential trusts with schools.
- 2.26 In carrying out these functions the Schools Commissioner will need to have particular regard to the needs of BME communities. This will include:
- working with local partners – such as Government Offices, local authorities and regeneration partnerships – to identify existing and engage with BME community organisations as potential trust formers;
 - considering the specific needs of BME parent and community organisations as potential trust formers, for example by making advice available in minority languages;
 - working with other agencies – in particular the Charity Commission – to address any disincentives to the formation of charitable bodies by BME organisations that may be identified; and
 - targeting resources on disadvantaged areas and areas with particular BME populations to ensure that the benefits of trusts are spread fairly

Admissions

- 2.27 Trust schools, like voluntary aided schools and foundation schools, will be their own admission authority. The legislation relating to school admissions, and the School Admissions Code of Practice, will apply equally to them. This means that they cannot introduce selection by high academic ability. It also means that

they are bound by the provisions of the Race Relations Act 1976 (as amended) which requires all admission authorities to promote racial equality. In the context of admission arrangements, this means assessing the impact of their admission arrangements on minority ethnic pupils and parents.

- 2.28 A school will not be able to change its existing admission arrangements in the process of becoming a trust school. Like other admission authorities, Trust schools will also have to consult on their admission arrangements with the local authority and other local schools. If any of them believe that the proposed arrangements are in any way unfair, or that they will directly or indirectly discriminate against an ethnic group, or that they could disproportionately disadvantage (even unintentionally) an ethnic group, they can object to the Schools Adjudicator. Adjudicators are independent and their decisions are binding on the parties involved.
- 2.29 Additionally, trust schools must also have regard to any advice given by their local Admission Forum. One of the roles of the Forum is to monitor how well arrangements work for local parents and children and they should be ensuring that they operate fairly for all groups in society. The local authority should appoint onto the Forum members of faith or minority ethnic groups that comprise a significant proportion of the population covered by the Forum if they are not otherwise represented.

Decision on whether to adopt policy

- 2.30 The alternative to this policy would be to retain the status quo. This would mean that parents and community groups would only be able to establish a school and appoint the majority of the governing body if they were able to raise the necessary capital contribution.
- 2.31 As indicated above, there may be some risk that people in disadvantaged areas – including, but not exclusively, BME groups – may be less likely to form or take part in parents' or community groups which could act as trusts for schools. There is no direct evidence for this, however: we have extrapolated from research findings about differential rates of volunteering. The policy also has potential benefits for people in disadvantaged areas, however, since it will make it easier for parents or community groups to establish a school and appoint the majority of the governing body.
- 2.32 None of the responses to consultation on these proposals or to the White Paper expressed concerns about the impact of the proposals on BME communities in particular, or came from organisations representing BME communities. Some have expressed concerns that the proposals would have an adverse impact on disadvantaged communities. However, these concerns have arisen mainly from the misconception that trust schools will be able to select pupils.
- 2.33 The Government has decided to adopt the policy in line with the proposals in the White Paper because:
- it will raise standards and increase opportunities for all pupils by

- strengthening school leadership and the ethos of schools;
- it will enable all schools, regardless of their circumstances, to form partnerships with charitable organisations which can act as a permanent source of external support and expertise; and
 - in particular, it will create new opportunities for promoters, including parents and community groups, to establish maintained schools to which they may appoint the majority of governors.

Arrangements to monitor impact

- 2.34 Since there is no direct evidence that the policy will have a differential impact on BME groups, it will be important to monitor the implementation in terms of the number and location of trust schools created and the profile of the bodies forming trusts, and to take action as appropriate. This will be a role for the Department, acting through the Office of the Schools Commissioner.
- 2.35 One of the functions of the Schools Commissioner will be to monitor key indicators of parental satisfaction and publish an annual report. In carrying out these functions the Schools Commissioner will consider the scope for collecting and publishing data on parental preferences broken down according to ethnic group and other categories.

Schools Commissioner

- 2.36 The key functions of the Schools Commissioner will be:
- to promote choice and diversity in the provision of school places by challenging and supporting local authorities in their modernised role as commissioners of education and championing the development of trust schools;
 - to advise the Secretary of State on the exercise of her powers of intervention where progress is proving unsatisfactory.
- 2.37 The Schools Commissioner will support and secure the significant changes in the way local authorities commission schools for their communities. The Commissioner will also be able to challenge local authorities that fail to exercise their new duties adequately. The Commissioner will also monitor key local indicators of parental satisfaction and rising school standards, and publish an annual report. The Schools Commissioner will be a senior civil servant within the Department for Education and Skills.
- 2.38 The Schools Commissioner will have a role in monitoring local authorities' effectiveness in carrying out their new commissioning duties. In doing so, the Schools Commissioner will take account of the extent to which local authorities are meeting the needs of all the communities they serve and ensure that the particular needs of BME parents are taken into account.
- 2.39 As outlined above, the Schools Commissioner will work with the market to

promote Trusts, and in doing this will seek to engage a wide range of organisations including community groups. This will be of particular benefit to any community groups who have no previous experience of putting together proposals or forming trusts.

- 2.40 In challenging and supporting local authorities in the conduct of their duties to promote choice and diversity the Schools Commissioner will take account of the extent to which local authorities seek to meet the needs of BME communities and promote community cohesion.

CHOICE AND ACCESS FOR ALL

3. YouGov found that 76% of parents with children in state schools wanted a genuine choice over which school their child attends. The proposals in the White Paper and the Bill that aim to bring new and different providers in the system will increase choice for parents. However we want to ensure that this choice is available to all not just the most affluent. We have therefore set out further mechanisms, in admissions, in choice advisers, in information to parents and in transport, in order to ensure that every parent can access the greater choice in the schools system.

School admissions

- 3.1 The overall aim of the provisions on admissions is to improve choice for parents and ensure that admission arrangements operate fairly for all parents. The proposed legislation will re-enact the legislation that prevents admission authorities from selecting by high academic ability. It will also strengthen the existing framework by making it unlawful for schools to interview as part of the admissions process, requiring admission authorities to act in accordance with the School Admissions Code of Practice and giving Admission Forums the power to object to the Schools Adjudicator about admission arrangements in their area. It will promote choice and fair access by placing a duty on local authorities to provide advice and assistance to parents going through the process and by making it easier for schools to adopt banding arrangements.
- 3.2 The proposed changes will have a positive impact on those parents that are disadvantaged by current arrangements. The legislation puts beyond doubt that schools cannot introduce selection by ability, where it does not already exist, other than for banding purposes. Arrangements that admit on the basis of high academic ability have an adverse impact upon certain minority ethnic groups.
- 3.3 Making it easier for admission authorities to introduce banding should increase the numbers that have it in their arrangements. Banding can in some circumstances have a positive impact on how children from ethnic minority communities fare in the admissions process. Assuming all other factors remain equal, the introduction of banding into admission arrangements which would otherwise rely on, for example distance, (like the introduction of any other criterion), will tend to increase the chances of those living further away. The impact that will have on children from ethnic minority will depend on how well they are favoured by the existing arrangements. By introducing banding, the admission arrangements of a school are less dependent on, for example, where applicants live, but on the basis of the full ability range of those who apply. Although not designed to have this effect, one of the consequences of introducing banding can be to allow children living further away from a good school to gain admission to the school ahead of some applicants who are able to live closer to the school. If such a school is located in area in which people live in ethnically segregated groups within communities, it may help the ethnic mix at such schools.

- 3.4 Strengthening the admission framework, through the changes to the School Admissions Code of Practice and the extended powers of the Admissions Forum will also have a positive impact where existing admission arrangements do not work fairly for all members of the community. Currently, admission authorities are required to have regard to the advice in the School Admissions Code of Practice. This has meant in some cases that the advice and guidance in the Code has not been followed. The Government wishes to place a legal requirement on all admission authorities to act in accordance with the Code. This means that they will not be able to depart from the advice on good practice and will not be able to adopt arrangements that are considered poor practice.
- 3.5 Admission Forums are responsible for considering how well local admission arrangements work and advising admission authorities in their area about any changes they feel are necessary. The Government believes that Admission Forums should have the right to object to the Schools Adjudicator about the admission arrangements of any schools in their area. It also believes that the Forum should have the power to publish an annual report on school admissions in their area. These measures will help the Forum play an active role in promoting choice and access. In particular the Forum will have the power to obtain information from governing bodies and local authorities about the way in which admission arrangements work in their area. This will enable them to study in detail whether the admission arrangements of any or all of the schools in their area impact unfairly on any section of the community. They will be able to publish a report about such matters and will be able to object to the Schools Adjudicator about the arrangements. The Schools Commissioner will be able to draw on these reports, as well as national data already collected when drawing up his or her two yearly review of fair access (as set out in Chapter 3 of the Schools White Paper).
- 3.6 The Government wants all parents to have access to good quality advice and support when they are expressing their preferences for the schools they wish their children to go to. The existing requirement to publish information allows most parents to navigate the admissions process successfully. However, some parents require further advice and support to fully understand all the choices that are available and to make a well informed decision about which schools to apply for. That is why the Government is placing a duty on local authorities to provide this advice and support. This will ensure that all sections of the community has advice and assistance in a form that fits the needs of the parent, include tailoring the advice and assistance service to those parents whose first language is not English or where the parent needs help with form filling etc.
- 3.7 The Government believes that interviewing is subjective and should play no part in the admissions process. This position is reflected in School Admissions Code of Practice. Although few schools interview, the Government wishes to legally prohibit the use of interviewing except where it is necessary to assess a child's suitability for boarding provision. Where such interviews are currently used, we believe that their removal will improve the chances of children from minority ethnic communities to obtain a place at their preferred schools.

Consideration of Alternatives

- 3.8 If the status quo remains, schools could revert to poor practice in their admission arrangements and there will be less emphasis on the need for all those involved in the admissions process to take steps to ensure that they are fair for all parents and children. This could therefore adversely impact more on children from ethnic minority communities. The legislative proposals will provide real benefits to parents finding it difficult to navigate the admissions process. It will also provide a much stronger basis for ensuring that arrangements are fair and in line the Code of Practice.

Safeguards

- 3.9 No admission authority can introduce, or continue to use, banding in their arrangements without consulting on it each year. Any school or admission authority in the area that feels the introduction of banding, or its continued usage, is unfair, can object to the Schools Adjudicator. The Schools Adjudicator is able to consider objections that a school's admission arrangements are unfair. When coming to their decisions School Adjudicators are required to comply with admissions and equality legislation and have regard to the Code of Practice.
- 3.10 Admission Forums are required to monitor how well arrangements work for local parents and children and they should be ensuring that they operate fairly for all groups in society. The local authority should appoint onto the Forum members of faith or minority ethnic groups that comprise a significant proportion of the population covered by the Forum if they are not otherwise represented.
- 3.11 All admission authorities are required to promote equality of opportunity. The Department will contact all local authorities and schools to ensure that they are fulfilling their responsibilities on this and we will intervene where it is necessary to do so.
- 3.12 Placing local authorities under a duty to provide advice and assistance to parents will also assist those from the most deprived backgrounds to make better informed decisions about the schools they wish their children to attend.

Consultation

- 3.13 We recently consulted schools, local authorities and other stakeholders on a revised School Admissions Code of Practice, which has not been brought in to force. Although the consultation did not specifically cover the proposed changes to the legislation, many of the comments received reflected on these matters, for example on interviewing. A summary of the consultation responses can be found at <http://www.dfes.gov.uk/consultations/conResults.cfm?consultationId=1336>

Decision on whether to adopt the policy

- 3.14 We want admission arrangements to work for the benefit of all members of the

community. These proposals will go some way towards strengthening the current framework, improving choice and eliminating unfair arrangements.

Choice advice

- 3.15 The central aim of the development of a network of choice advisers is to ensure that the most disadvantaged parents are able to make an informed choice of secondary school for their child. The policy also aims to mitigate the potential negative effect of increased school diversity and consequent complexity of choice on parents least able to navigate the admissions system.
- 3.16 Local authorities will be funded to develop a cadre of advisers who will offer practical help through group or 1 to 1 sessions to targeted groups of parents. Guidance for local authorities will outline who might benefit from choice advice and this is likely to include the following:
- Parents whose children are in receipt of free school meals;
 - Parents whose own basic skills are poor;
 - Parents for whom English is not a first language;
 - Parents who have recently arrived in this country; and
 - Other targeted groups at the discretion of the local authority.
- 3.17 At National level we expect that 30% of parents should be the focus of choice adviser support, although this will vary greatly from local authority to local authority depending on levels of deprivation in the area. Funding for choice advice is likely to include a standard core element with additional funding related to deprivation factors allowing greater numbers of parents to be supported where there is greater need.
- 3.18 We are developing proposals for supporting the delivery of choice advice and the independence of advisers. One strand of this work will also involve how best we can support local authorities to meet the particular needs of BME families, particularly where English is not their first language.
- 3.19 Research into parents' experience of choosing a school⁵ showed strong socio-economic differences between the sources of information parents used to inform their choice. Parents from higher socio-economic backgrounds were much more likely to use a range of formal, written sources of information (e.g. mothers with degrees were twice as likely to use performance tables as mothers with no qualifications). Parents from lower socio-economic backgrounds were more likely to rely on school prospectuses, and to emphasise school visits, word of mouth, and discussions with family and friends. A small proportion of parents make no active choice at all. This suggests that those from poorer backgrounds may have less accurate

⁵ Flatley et al (2001) *Parents' Experience of the Process of Choosing a Secondary School*.
<http://www.dfes.gov.uk/research/data/uploads/RR278.PDF>

information on school performance and therefore make less well informed choices. The problem is particularly acute for those for whom English is not a first language, or who have difficulties with reading or numeracy.

- 3.20 In addition to strong socio-economic factors affecting the sources of information used to support school choice, we also know that ethnicity is an important factor in a number of aspects of the admissions process. Ethnicity was shown to have an independent significant association with whether or not parents were offered a place in their favourite school. Parents in urban areas are more likely not to be offered a place in their favourite school than those elsewhere, and ethnic minority parents are disproportionately represented in urban areas, so one might expect that they would be less likely to be offered their favourite choice school, however, holding other factors (such as LEA type) constant, the impact of being a non-white mother was to decrease the likelihood of being offered one's favourite school by half (0.6:1.0).
- 3.21 Knowledge of the detail of the admissions system also varies by ethnicity. In areas where popular schools are over-subscribed, successfully navigating the admissions process can involve making tactical decisions about the likelihood of entry based on the schools over-subscription criteria. Parents among whom the mother was of white ethnic origin were nearly twice as likely to say they knew the over-subscription criteria as those with a mother of non-white ethnic origin.
- 3.22 This policy of choice advice will impact positively on the ability of disadvantaged parents (amongst which there are high concentrations of some BME groups) to navigate the school admissions system effectively and make an informed choice of school for their child.
- 3.23 Failure to submit a secondary school application form or to fully understand school admissions policies and oversubscription criteria can result in a child missing out on a school place or in parents choosing schools where there is not chance of securing a place. Choice advisers should reduce the number of children for whom no application is submitted and should result in higher numbers of parents gaining a place at their first choice school.
- 3.24 In some areas it may be that choice advice raises the expectations and aspirations of parents which cannot be met immediately. Proposals elsewhere in the Schools White Paper and the Bill: making it easier for popular schools to expand and placing a duty on local authorities to support parents seeking a new school, aim to mitigate this potentially negative effect.
- 3.25 Consultation will take the form of a series of parents' reference groups conducted in London, Manchester and Hereford. These groups will sample parents' views on the policy and delivery plans for choice advice. Forthcoming guidance on choice advice will not be consulted on widely as at this stage this is a voluntary policy. However, following the passage of the Education Bill we intend to consult on revised statutory guidance on choice advice.

Decision on whether to adopt policy

- 3.26 Choice advice is key to enabling disadvantaged parents (including those from BME communities) to make an informed choice of secondary school for their child. It will narrow the gap between their ability to navigate the admissions process and that of their better educated or wealthier peers.
- 3.27 It will also offset the potential negative impact of growing complexity in the admissions process generated by increased diversity in the school system.

School Travel and Transport

- 3.28 The aim of this policy is to extend the role of local authorities in supporting access to schools through improved travel and transport arrangements, particularly for children from low income groups. The policy is intended to remove transport as a barrier to effective parental choice to the benefit of all the pupils in the local authority, and in particular for pupils from low income groups.
- 3.29 As the Audit Commission⁶ amongst others suggests, under current arrangements higher income households are more likely than lower income groups to be able to bear the costs of sending children to schools other than the 'nearest suitable' school. Wealthier families might move home to secure a place for their children in a preferred school, or might drive their children to school. Evidence also suggests that choice of school, particularly for low income groups, is often restricted by parental concerns about the cost and availability of transport. Failure to address these issues would have restricted the capacity of parents to express a preference for a school that best suits the talents, needs and aspirations of their children – particularly those from low income families.
- 3.30 The proposals will:
- Require local authorities to assess the travel and transport needs of **all** pupils, and promote safe and sustainable methods of travel to school.
 - Extend a right to free transport to pupils of secondary school age from low income families (those entitled to free school meals and those whose parents are in receipt of their maximum level of Working Tax Credit) to include transport to any one of their three nearest schools between 2 and 6 miles from their home.
 - Extend a right to free transport to primary school pupils aged 8 and over from low income families (those entitled to free school meals and those whose parents are in receipt of their maximum level of Working Tax Credit) to include transport to their nearest suitable school more than 2 miles from their home (the current cut off is 3 miles).
 - Allow a series of Pathfinders that extend the minimum offer of transport to one of three schools between two and six miles from their home to all secondary aged pupils. Pathfinder authorities will be able to make reasonable

⁶ *Going Places – Taking people to and from education, social services and healthcare*, Audit Commission, 2001.

charges to all but 'protected' children for transport arrangements they make. 'Protected' children are pupils entitled to free school meals; pupils from families in receipt of their maximum level of working tax credit; pupils with SEN and/or disabilities unable to walk even short distances by reason of that disability; and pupils living within walking distance, but where their route to school is assessed as being too dangerous to walk in reasonable safety.

- 3.31 Where pupils live within 2 miles of the school they attend, the 'travel' (walking and cycling) aspects of the policy will be of benefit to all pupils, who will all have equal access to the benefits it brings. The 'transport' elements of the policy kick in for pupils travelling more than 2 miles from the school they attend, and will therefore be of greater benefit in areas that are less densely populated (and therefore have relatively fewer schools). To the extent that BME communities tend to live in more densely populated urban areas, this aspect of the policy will be of less benefit (but no detriment) to BME communities. In the small number of local authorities involved in Pathfinder schemes, there may be an adverse impact from the introduction of charges for larger families who do not meet the criteria for 'protected' children. We will monitor the impact of charging on all groups and whether there is an unintended consequence of reduced access to school transport for BME groups.
- 3.32 We believe that enhanced travel and transport arrangements to school should help to promote inclusion and equality, to the benefit of all pupils in the locality. We will continue to monitor travel patterns on the journey to school, and the impact of these proposals – particularly in Pathfinder authorities - for any possible impact on race equality.

PARENTS AND PUPILS FULLY ENGAGED IN IMPROVING STANDARDS

4. We know that parental involvement has an affect on children's attainment. According to the Desforges Literature Review (2003), parental involvement in their child's education raises standards even after other factors like social class and school quality are taken into account.

Parent Councils

- 4.1 Statutory Parent Councils will be required for Trust schools where the Trust appoints a majority of the school governors – there are currently no such schools. The aim is to make sure that parents have the opportunity to be involved in and to influence the running of these schools.

Research

- 4.2 There is evidence⁷ that, nationally, people from minority ethnic backgrounds are under-represented on school governing bodies. We are taking action to address this, for example supporting the 'one-stop-shop' which recruits a higher percentage of volunteers from minority ethnic backgrounds than the current national picture. Case studies, governor materials and recruitment leaflets (produced in 11 minority languages) emphasise diversity.
- 4.3 The chapter in this assessment on Trust schools sets out information about 'community participation' by ethnic group⁸ (see page seven). The research showed that, due to lower levels of participation among some ethnic groups, there is a risk that the benefits of Trust schools will not be spread evenly. Groups that are less likely to engage in formal volunteering may also be less likely to form a trust because of the associated legal obligations.
- 4.4 Involvement in informal volunteering (giving unpaid help as an individual to people who are not relatives) is considerably higher than formal. As with formal volunteering, White and Black African people are more likely than Asian people to have volunteered informally (although the pattern of variation within the Asian group was different) and people who were born in the UK were more likely to have done so. The higher rates of involvement in informal volunteering suggest that this is more accessible to all groups.
- 4.5 A survey of parental involvement⁹ found that just of half (53%) of minority ethnic parents/carers felt very involved with their child's education. This was a considerably greater proportion than the main (representative) sample (38%). A high proportion of minority ethnic parents say they go to parents' evenings whenever there is an opportunity (82%), but parents for whom English is not

⁷ DfES Race Equality Scheme 2005 p35

⁸ Home Office Research Study 289, 2003 Home Office Citizenship Survey: People, Families and Communities.

⁹ Moon, N and Ivins, C (2004) Survey of Parental Involvement 2003/4, DfES RR589

their first language are less likely to do so (78%).

- 4.6 The Government funded a small-scale pilot project of Parent Councils¹⁰ to look at experience and develop some good practice. Conclusions are anecdotal and qualitative, and found that both parents and schools found that it improved relations and that parents felt more able to raise issues with the school. It also generated a few case studies, including where approaches have been developed to include parents who speak little English in discussions and decisions about the school.

Policy impact

- 4.7 In early feedback on the policy some stakeholders raised concerns that increasing the influence of parents in shaping direction of school could disadvantage BME parents and particularly parents not fluent in English.
- 4.8 Statutory Parent Councils will be required only for Trust schools where the Trust appoints a majority of the school governors. Parent Councils (where they are established) should be equally accessible to all parents. Parent Councils are designed to ensure that parents are represented, and provide a route for them to make their voices heard.
- 4.9 Minimum membership will be prescribed in regulations, so that there should be at least one parent to represent each year group. Also there will be representation of any pupils/groups within the school that may be considered to require special consideration, where they have such characteristics that particular regard should be had to their needs. This will include parents from particular minority ethnic groups. It will be for schools to decide which groups should be represented – statutory guidance will encourage schools to think about the needs of BME pupils and parents.
- 4.10 The Government wishes to keep prescription to an absolute minimum so as to allow maximum flexibility for schools to build on existing practices, and to create a Parent Council that meets their needs and the needs and wishes of their parents. The pilot study suggested that effective Parent Councils will tend to be relatively informal in tone and approach, and to involve more parents than can be members of a governing body. Statutory guidance will encourage schools to think about the needs of BME parents in deciding how the Parent Council should be organised, including how and when meetings are held.
- 4.11 The requirement to establish a Parent Council in Trust schools where the Trust appoints a majority of governors is intended to make sure that parents have the opportunity to be involved in and to influence the running of these schools. Alternatives considered were:
- a) Do nothing: there would remain an equality risk in that reducing the number of elected parent governors could perpetuate the existing under-representation of some groups on governing bodies without any

¹⁰ Human Scale Education: Setting up Parents' Councils Project 2004-05

mitigation; and

b) Another mechanism to enable parents to make their views known: ad-hoc mechanisms would be little different from the existing situation, where more confident parents are better able to make their point; requiring more frequent surveys/consultations would add bureaucracy and might discriminate against parents whose first language is not English.

4.12 Measures considered to ensure that parents from minority ethnic groups benefit fully from Parent Councils include:

- Statutory guidance to encourage schools to ensure that BME parents are represented. Schools should ensure groups are represented, but have flexibility about how to do this. School governing bodies are required to 'have regard' to the guidance.
- Good practice on engaging and involving parents, including BME groups and those who speak little/no English. Data summarised above suggests that BME parents are keen to be involved in their child's education, and are more likely to get involved in 'informal volunteering' activities. There are further plans to gather and produce good practice in advance of the measure coming into force.
- Ofsted monitoring: the new self-assessment and inspection arrangements include a section on how schools take into account the views of parents and other stakeholders, which would include Parent Councils. This means that schools should be self-aware (and be working to address problems). Inspections will focus on checking/ moderating the self-evaluation and will look more closely at areas of concern.

4.13 Parent Councils will be included in the Schools White Paper consultation process, to finish at the end of March. This consultation will inform the development of guidance and good practice, as will a series of conferences for schools which are planned for the spring/summer. Guidance/good practice will be produced before the Education Bill comes into force, and stakeholder organisations (including the CRE) will be invited to comment on drafts.

Decision on whether to adopt the policy

4.14 The Government has decided to adopt the policy because:

- a. It provides a safeguard to ensure that where schools have a Trust which appoints a majority of governors, parents are able to be involved and to influence decisions about the running of the school.
- b. Although the Parent Council will be equally accessible to all parents, evidence suggests that groups of parents (including BME parents) who are currently less likely to get involved will find the Parent Council more accessible than the status quo.

4.15 In terms of monitoring impact in individual schools, the new Ofsted self-evaluation and inspection arrangements require schools to assess how well

they listen to and act on parents' views. Arrangements for a Parent Council would be included here, and Ofsted use this as a basis for their inspection.

- 4.16 There are no current plans to monitor the make-up or impact of Parent Councils at national level. The draft legislation provides for the Secretary of State to issue guidance 'from time to time' – this process will include taking stock of the impact of Parent Councils, good practice and issues which should be addressed.

Parental Right of Complaint to Ofsted

- 4.17 We are aiming to give all parents explicit access to a national complaint service from Ofsted where local procedures have been exhausted, to complain on matters that relate to the school as a whole. This could be a complaint from an individual or any number of parents
- 4.18 At present, Ofsted has no formal and recognised role in investigating complaints from parents. A small number of parents (between 100 and 200) do complain to Ofsted each year on matters relating to their children's schools. However, Ofsted has no power, other than its power to inspect a school, to intervene. Causing the inspection of a school is not appropriate or proportionate as a response for many of these complaints. As a result parents can be left frustrated when they attempt to raise issues with a school or local authority and fail to resolve the issue through those routes.
- 4.19 A recent survey on Ethnicity and Education in 2004 (The Evidence on Minority Ethnic Pupils), revealed that 17% of the maintained school population in England was classified as belonging to a minority ethnic group. The survey on parental involvement of minority ethnic parents, reported that 53% of minority ethnic parents/ carers felt very involved with their child's education, considerably greater proportion than the 38% of a representative sample of all parents who reported this. A higher proportion of minority ethnic parents say they go to parents' evenings whenever there is opportunity (82%). Parents for whom English is not their first language are less likely (78%).
- 4.20 This survey makes clear that minority ethnic parents participate in their children's education in high proportions. There is no reason why our policy aimed at enabling parents to complain to Ofsted on school related matters should not have any adverse effect on ethnic minority parents/carers.
- 4.21 The policy would allow Ofsted to consider complaints, seek additional information and respond in a proportionate manner. For Ofsted to be able to seek information there will need to be a duty on the school to convene a parents' meeting where this is considered necessary. It will enable Ofsted to assess more fully the circumstances behind the complaint.
- 4.22 This will give parents and carers the opportunity to influence the standard of education received by their children, by enabling them to raise concerns with Ofsted where they have exhausted the local complaints procedures.

- 4.23 In practice allowing Ofsted to follow up complaints in the way that is proposed could mean that some schools benefit by avoiding what might otherwise have resulted in an unscheduled inspection. By having a system whereby schools know that Ofsted has a role in following up complaints from parents, this may serve as a prompt to schools to seek to resolve the matter to avoid the possibility of escalation.
- 4.24 We will work with Ofsted to enable all parents to have access to make a complaint should they wish to do so, by ensuring that information about making a complaint to Ofsted is available to all parents and is in a range of community languages.
- 4.25 Each school should have a Race Equality Policy and will assess the needs of its community and should take reasonable steps to ensure every parent group is represented at the meetings. Ofsted will assess through inspections the steps schools are taking to ensure all parents are engaged.
- 4.26 Ofsted will have responsibility for monitoring the effectiveness of the policy and will feed back its findings periodically to the Secretary Of State. We will work with Ofsted in ensuring that HMCI is able to monitor that the views of all groups are represented.

Termly information to parents

- 4.27 All parents have the right to regular and high quality information about what their child is learning, how well they are progressing and areas for development. Schools have a range of data about the performance and progress of individual pupils and can use this information to target particular learning needs and provide tailored support. Making this information available to parents, and providing appropriate opportunities for discussion, can help parents understand how they can be actively engaged in their child's learning.
- 4.28 The White Paper proposals will ensure the provision of termly information to parents on their child's progress and encourage schools to discuss progress with the parents each term. At present the legal minimum requirement is that schools are required to provide parents with a written report on their child's progress once a year and the opportunity for face-to-face discussion of that report. This new policy will ensure that all schools will give parents information at least 3 times a year on the progress of their child and performance against targets, and will give them the opportunity for face-to-face discussion with teachers about what their children need to do to progress further and how parents can help with their children's learning.
- 4.29 The thrice-yearly reports are intended to keep parents better informed about their children's progress and to better equip them to support their children's learning. Schools would need to ensure that this information and the discussion is accessible to parents from BME communities, including those who do not speak English well.
- 4.30 There is little research on whether parents from BME communities are more or

less able to offer support to their children. Parents who do not speak good English may find it harder to provide direct support to their children at school. However, even though all parents may not be able to offer direct help with specific pieces of work, they would still be able to offer support and encouragement. As set out above, research suggests this is the most effective way a parent can support their child. All parents can encourage their children to do well at school and create positive aspirations.

- 4.31 Parents from different BME groups may well have different attitudes and approaches to their child's education and may have different preferences for how schools might engage with them. We have some limited evidence about cultural differences from London Challenge Community Action Fora, which were set up in 2004 with representatives from different BME communities in recognition of the contribution that parental involvement can make to countering educational underachievement. The reports from the Fora indicate that some minority ethnic communities prefer to receive information orally.
- 4.32 We will provide schools with best practice guidance from autumn 2006 and amend Regulations which set out the expectations for communication with parents from autumn 2007. In drawing up best practice guidance, we will take into account all the information we obtain about how to ensure that schools engage as effectively as possible with BME parents.
- 4.33 There is no reason to believe that more frequent reporting will have an adverse impact on BME groups. Thrice-yearly reporting to parents recognises the contribution that parental involvement can make to countering the educational underachievement seen among some minority ethnic groups.
- 4.34 Consultation and evidence gathering, in the context of the overall policy aim to involve parents in their children's education, will inform the guidance that will be issued to schools to support the new reporting arrangements. The guidance will make it clear that the expectation is that schools should reach out to parents from different BME communities so that they benefit from the changes, and will include case study material to exemplify approaches. Specifically examining issues relating to BME groups as part of our evidence gathering will help to identify potential race equality issues. These will then be addressed in drawing up guidance.
- 4.35 There are plans to gather more evidence during 2006 to explore best practice in how schools report to parents and engage them in their children's learning. As part of this we will undertake consultation with parents and representatives of parents organisations, including those from BME communities, about commitments in the White Paper including how thrice-yearly progress reports could be most helpful to parents in supporting their child's learning (this is part of wider consultation on WP and not just on reporting to parents).
- 4.36 Based on existing evidence, the policy will not have an adverse impact. More frequent reports on progress will raise awareness among parents from BME groups on how they can help support their child's learning and will encourage more parents to get involved.

- 4.37 Ofsted reviews will provide a baseline for measuring how well schools are doing in engaging and involving parents.

Transition Information Sessions

- 4.38 By 2010 all schools in England will offer information sessions for parents of children starting primary school and starting secondary school. Content will be designed to better enable all parents to support their child in achieving against the Every Child Matters outcomes.
- 4.39 Pupils' rates of progress often slow during Key Stage 3 at the start of secondary school. In 2004 children from a number of ethnic minority groups (Bangladeshi, Pakistani, Mixed White and Black Caribbean, Mixed White and Black African, All Black groups, Gypsy/Roma and Travellers of Irish heritage) performed below average in Key Stage 3 tests. In addition the attainment of these groups in 2004 was consistently below the average for all pupils at each Key Stage. There is emerging evidence that these patterns of achievement are largely (although not wholly) evident at a very early age, as measured by the Foundation Stage Profile at the end of Reception Year.
- 4.40 Starting school and transition to secondary school are critical stages in children's lives but can also see dips in parental engagement and pupil performance. Transition information sessions will play a valuable role in building a firm foundation for effective partnerships between parents and schools. They will engage parents in a dialogue about parenting issues and maximise their understanding of the stage their child is about to begin and increase their confidence and willingness to engage with their child's school and learning. The sessions will provide a gateway to the wider parenting support offer in extended schools, making parents aware of the opportunities to access information, advice and support in their role as parents through the school, as and when they want.
- 4.41 Criteria for the development of a framework and content for transition information sessions and the training programme for facilitators will stress the need to ensure sessions are promoted to and useful for parents from BME communities. For parents from BME communities who are "hard to reach" and who might be less likely to attend, local authorities, schools and facilitators involved in the initial demonstration project will be encouraged to make good use of outreach, including home visiting. The demonstration project will be the subject of an evaluation; this will include assessment of the impact of the sessions on parents from BME communities which will inform the development of practice to increase take-up.
- 4.42 We will take the following steps to ensure the full benefits of this policy for BME communities:
- We will ensure that materials are appropriate and useful for parents from BME communities;
 - Where parents from BME communities are hard to reach, outreach work will be

- encouraged to promote take-up, including home visits;
- Evaluation of the demonstration project will assess the impact on parents from BME communities.

EDUCATION TAILORED TO THE INDIVIDUAL

5. Personalisation means tailoring education provision so that it meets the needs and interests of every child and young person, and provides opportunities and supports them to flourish and progress in their learning. Personalised learning represents the next stage of our educational reform to drive up excellence so that every child realises their full potential and we narrow achievement gaps between different socio-economic and ethnic groups of pupils.
- 5.1 Our proposals in the White Paper and the Bill on personalisation are underpinned by a strong focus on supporting schools to ensure every child, including black and minority ethnic children and those from low socio-economic groups, master the basics in English and mathematics and that those who have a particular gift or talent are stretched.

Gifted and Talented

- 5.2 The aim of this policy is to improve the attainment, aspirations, motivation and self-esteem of gifted and talented pupils, especially those from disadvantaged backgrounds, by improving the quality of identification, provision and support in all schools and colleges, in part through more effective personalised education.
- 5.3 The national gifted and talented programme starts from the premise that ability is evenly distributed throughout the population. Our guidance on identification of gifted and talented populations by schools says that they should be broadly representative of the whole school population by ethnicity, gender and socio-economic background. Identification should be based on a range methods that identify not only the high attainers but those with the potential to be high attainers who are at risk of under-achieving.
- 5.4 A recent report published by the National Foundation for Educational Research (NFER) to evaluate the impact of the Excellence in Cities programme on minority ethnic pupil achievement, found that relatively few pupils from ethnic minority backgrounds were identified as gifted and talented in 2002 and the percentage of pupils from Black African/Caribbean backgrounds was particularly low. However, in 2003 there was an improvement in the proportion of pupils identified as gifted and talented from 10% to 11% of the cohort, especially marked in relation to Black Caribbean and Black African pupils.
- 5.5 We subsequently wrote to all Excellence in Cities partnerships and Clusters in 2004 to raise awareness of the NFER report findings, and to remind them to observe the Department's best practice guidance on the identification of gifted and talented pupils from ethnic minority backgrounds. We encouraged them to support schools to observe our guidance and to locate and share examples of good practice. We have also introduced a multi-strand project specifically to address the problem, details of which are set out below.
- 5.6 The membership of the National Academy for Gifted and Talented Youth (NAGTY), which recruits the top 5% by ability nationally, is also unrepresentative of some Black and minority ethnic groups, particularly those of

African, Bangladeshi and Caribbean origin. NAGTY takes this issue seriously and has recently undergone an evaluation to ensure that the admissions criteria and processes do not disadvantage pupils from ethnic minority backgrounds. NAGTY is confident that its ongoing attention to ensuring equity of opportunity, aligned with the White Paper programme explained below, will ensure that BME pupils are properly represented in its membership in future.

- 5.7 As part of the White Paper programme for Gifted and Talented education we shall be:
- Establishing a national database of all pupils on gifted and talented registers in schools. This will include all secondary pupils eligible for NAGTY membership. This will enable us to monitor the ethnic composition of gifted and talented populations nationally, regionally and locally - and to tackle the issue directly in all schools and areas where it is prevalent, through support provided by School Improvement Partners;
 - Producing updated guidance on the identification of gifted and talented pupils which will address this issue directly;
 - Supporting NAGTY's "GOAL" programme which is designed to sponsor membership of NAGTY for pupils from disadvantaged backgrounds including BME pupils, and an entitlement to enhanced programmes specially tailored to their needs;
 - Introducing a project to develop tools and materials to help schools identify and address the needs of their Black and minority ethnic gifted and talented pupils. This will involve working with clusters of primary and secondary schools, using our self evaluation instrument to audit their current practice and develop and implement an improvement plan. Consultants will work with the schools to develop resources that can be deployed nationally.

- 5.8 From 2006 we will use the secondary School Census data to monitor and evaluate the gifted and talented population in all maintained secondary schools. From 2007 we will use the primary School Census data in the same way. The database will also incorporate information about membership of NAGTY. As NAGTY membership grows to include all pupils in the top 5%, we shall continue to monitor carefully the impact of their recruitment criteria to ensure that there is no bias; and take action to redress any inequities if demonstrated.

Catch-up sessions

- 5.9 The aim of this policy is to help pupils who have fallen behind age-related expectations to catch up, particularly in English and Mathematics, with a focus on key stage 3. In 2004 children from a number of ethnic minority groups (Bangladeshi, Pakistani, Mixed White and Black Caribbean, Mixed White and Black African, All Black groups, Gypsy/Roma and Travellers of Irish heritage) performed below average in Key Stage 3 tests. Other groups (Chinese, Indian, Irish and Mixed White & Asian) performed above average. In part this reflects

the performance of these groups in their Key Stage 2 assessments at the end of primary school. Pupils who do not achieve the expected results (Level 5) at Key Stage 3 are unlikely to get 5 good GCSEs or equivalent, which is a key indicator of their future education and employment prospects.

- 5.10 This policy will help children from all ethnic groups who have fallen behind age-related expectations at the start of, or during Key Stage 3, to catch up. We will ensure all schools receive guidance on how to deliver effective catch up tuition and that they have expert teachers trained to do so. We will provide extra funding to all secondary schools, targeting in particular those with the most pupils who are under-achieving. This will improve the average performance of ethnic minority groups that perform below the national average.

Setting and Grouping

- 5.11 The White Paper makes a commitment to encourage more schools to adopt grouping and setting by ability as a way of helping to personalise the teaching and learning of all pupils, and announces that independent research will be published early this year into current best practice. The White Paper expressly recognises the need to ensure that setting and grouping practices do not lower expectations for pupils in lower ability groups, or limit their curriculum choices.
- 5.12 There are different terms applied to different approaches to grouping pupils by ability within a school:
- **Setting** – putting pupils into different sets according to their ability in a particular subject. A pupil might be in the top set for maths, but a lower set for English
 - **Streaming** – putting pupils into different streams according to a general assessment of ability. Each stream is taught together for all, or the majority, of classes
 - **Mixed ability** – there is no attempt to group together pupils of similar ability. Pupils may be grouped in a mix of abilities, friendship groups or gender
 - **In-Class Grouping** – putting pupils into different ability groups within a mixed-ability class. Commonly used in primary schools
- 5.13 The Department for Education and Skills does not routinely collect data on the extent to which schools set, stream or group pupils by ability. But Ofsted as part of their section 10 school inspection cycle do collect information on whether lessons are set by ability or not. However, from this year onwards and as a consequence of their shorter sharper schools inspections, Ofsted will no longer be collecting information around pupil grouping or setting.
- 5.14 In its 2003/4 school inspection cycle Ofsted noted that of all the lessons which inspectors observed around 10% of Key Stage 2 (KS2) lessons were set by ability in primary schools; rising to around 36% at Key Stage 3 (KS3) and 35% at Key Stage 4 (KS4). However the overall figures mask large differences between subjects: 82% of lessons are set in mathematics and 61% in science,

compared with less than 10% in citizenship and PE. In 1996/97 Ofsted noted that around 28% of KS3 and 37% of KS4 lessons were set. Given the lack of robustness of comparing data over time it can be said that since 1997 there has been a moderate increase in the level of setting at KS3 with little or no change at KS4.

- 5.15 Pupil grouping or setting by ability enables teachers to match better their teaching to pupils' learning needs. We know that effective grouping of pupils by ability can help to build motivation, social skills, better engage pupils in their own learning and most importantly raise standards for all pupils.
- 5.16 A Literature Review commissioned by the DfES and published in October 2005 also tells us that boys, pupils from some minority ethnic groups and pupils with Special Educational Needs (SEN) are over-represented in lower sets, which mirrors the below-average performance of these groups of pupils nationally. However evidence indicates that in ability-based grouping, pupils in lower groups can be more vulnerable to making less progress, becoming demotivated and developing anti-school attitudes, which is not conducive to narrowing achievement gaps or promoting race equality and inclusion. The research evidence highlights that pupils in lower sets are more likely to experience lower teacher expectations, poorer quality of teaching and a limited range of curricular and assessment opportunities. This is as a result of school organisational decisions which tend to assign weak or non-specialist teachers to pupils in lower sets.
- 5.17 Therefore, there is a potential risk that, if these issues are not addressed in any expansion by schools of grouping and setting, it could adversely affect boys, minority ethnic and SEN pupils. In order to ensure that low attaining groups are not adversely affected schools will be directed to high quality guidance, best practice materials and training on how to tailor teaching to support pupils who face some of the greatest challenges – including gifted and talented children, those from black and ethnic minority groups, looked after children, and children with SEN. A central element of our guidance on the use of setting and grouping will be raising schools' awareness of the potential negative impacts on lower set pupils, and the provision of examples where schools have used ability grouping to raise the attainment of all groups.

Consideration of alternatives

- 5.18 An alternative would be to actively promote the discontinuance of setting and grouping by ability on the grounds that pupils in lower groups are more vulnerable to making less progress and promote mixed ability grouping instead.
- 5.19 However a number of research studies have compared the effects of setting with mixed ability grouping on pupil achievement and concluded that; overall, there is no significant effect on pupil achievement. Within these studies there is evidence that the effects of setting and mixed ability on achievement varies amongst different groups of pupils; setting tending to favour high ability pupils whilst adversely affecting low ability pupils and mixed ability tending to favour low ability pupils at the expense of high ability pupils. So regardless of whether

setting is or is not promoted to schools there is a potential risk of adversely affecting a particular group of pupils.

- 5.20 Bearing in mind schools have been grouping pupils by ability for many years, the real alternative to this policy would be to retain the status quo that schools continue to decide when and how to adopt grouping and setting practices, based on the existing guidance from the Department for Education and Skills with no new guidance or further support. But the potential adverse affects on pupils in lower sets identified by research studies occur under the status quo, and a policy of inaction would do nothing to address that.
- 5.21 Some research has shown that setting can be effective if (a) instructional level and pace are completely adapted to pupil performance level, and (b) setting is in some subjects is balanced with mixed ability for most of the day (Slavin 1987b). Also research indicates that within-class grouping may have greater potential to raise standards through personalising the learning experience for pupils and enhancing the benefits of mixed ability teaching (Kutnick et al 2005). Promoting the discontinuance of setting and grouping would mean that schools are less able to tailor teaching to meet pupils' learning needs.
- 5.22 Also, we know schools grouping practices vary widely with age of pupils and curricular area offering social and academic benefits. We need to focus on ensuring that we mitigate the adverse affects on certain groups of pupils. We aim to do that by providing guidance and support to schools on personalisation that carefully addresses the expectations of pupils in lower ability groups focusing particularly on disseminating effective practices.
- 5.23 Through the Government's National Strategies we will continue to offer guidance, teaching materials and training of high quality backed up by expert consultancy support to enable schools to take advantage of the new resources available. We will also enlist the support of the National Academy for the Gifted and Talented Youth (NAGTY) and Specialist Schools and Academies Trust to provide expert guidance and resources.
- 5.24 We will encourage more schools to learn from innovative and best practice that some schools are already employing without lowering expectations for pupils in lower ability groups or limiting choices in the curriculum.

Consultation

- 5.25 The abundance of existing research on pupil grouping provides a wealth of information into the attitudes of pupils and teachers, giving us a ready-made consultation. In general many pupils and teachers, particularly secondary schools, see ability grouping as a good thing allowing pupils to learn at the appropriate pace, even though there was some recognition that lower sets may have lower aspirations and affect self-esteem.
- 5.26 Also, feedback from headteachers indicates that they are in agreement with our policy that it should be for schools to determine for themselves when and how to group pupils by ability but would welcome guidance and examples of best

practice in grouping pupils.

- 5.27 Furthermore, we have commissioned further research to identify the approaches that schools use that are effective in ensuring that pupils in low ability groups do fulfil their potential and are inspired and motivated to learn. A key focus of the research will be to identify any key differences in approaches for pupils from different ethnic groups and social classes. The findings from this new research will be used as a base for providing further advice and guidance to schools about effective practice in raising the standards of pupils in lower ability groups.

Decision on whether to adopt policy

- 5.28 Grouping and setting pupils by ability helps to support the wider Government reforms about personalising learning - putting the learner at the centre and tailoring education to individual need, interest and aptitude so as to fulfil every young person's potential.
- 5.29 Schools are already grouping and setting pupils by ability, and we know that they have been doing this for a long time as a way of personalising teaching and learning to meet the needs of pupils. That is why we wish to pursue our policy of encouraging more schools to adopt effective pupil grouping and setting practices. But we know that some schools struggle with the complex demands that are created by ensuring that all pupils make progress whatever their grouping and that is why the White Paper sets out further help and support for schools around personalisation, including through setting and grouping.
- 5.30 It will continue to be for individual schools to decide how and when to group and set pupils by ability.

Arrangements to monitor impact

- 5.31 We will monitor the impact of grouping and setting of pupils by ability through the National Strategies network of Regional Advisors and consultants. They will be able to provide regular feedback on how schools are progressing on implementing their plans for personalisation which will include grouping and setting pupils by ability, and their impact, including on minority ethnic groups.
- 5.32 We will also use pupil-level assessment data from National Curriculum tests and examinations to monitor the achievement of different groups of pupils, such as those from minority ethnic communities, and assess their progress.
- 5.33 Ofsted's move to shorter school inspections means they will no longer collect information on the level of grouping and setting in schools. Therefore, we will consider commissioning external evaluators such as Ofsted or other contractors to undertake a study of the impact and extent of pupil grouping and setting by ability in schools, including explicit consideration of the impact on minority ethnic pupils.

BETTER DISCIPLINE

6. All of proposals in this section came out of the recommendations of the Practitioners' Group on School Behaviour and Discipline (Steer Group). The Group was made up of experienced head teachers and teachers who examined a wide range of evidence and representations from key stakeholders before reaching their conclusions. The Ministerial Stakeholder Group on Behaviour and Attendance has been consulted on and agreed to the principle of these changes. This Group is comprised of representatives from ATL, ConfEd, NAHT, NASUWT, NUT, National Governors' Council, Ofsted, PAT, Parent Governors Representatives Network, SHA and Unison.
- 6.1 The following assessments acknowledge that some minority ethnic groups are disproportionately over-represented in both fixed period and permanent exclusions data, and that Black pupils are often disciplined and criticised more often than pupils from other ethnic groups. Each assessment details our arrangements to monitor the effect of our policies on BME students. Further action will be taken if necessary.

Extending Parenting Contracts and Orders

6.2 The main aims of this policy are:

- to prevent exclusion by enabling parenting contracts to be used as an earlier intervention to modify behaviour before exclusion occurs. The current arrangements require an exclusion (of any duration) to have first taken place by which time behaviour problems will have escalated and disruption to the pupil's education will have taken place.
- to take account of inclusive policies in some schools and local authorities by removing the requirement to exclude a pupil before a parenting order can come into play. The current arrangements require two or more fixed term exclusions or a permanent exclusion for serious misbehaviour before a parenting order can be utilised. The new arrangements will enable an order to be applied for following serious misbehaviour whether or not the pupil is excluded. The threshold of misbehaviour required will not change as a result of the legislation; the intention is simply to remove what may be a 'perverse incentive' to exclude in order to avail of the power in its current form.
- to take account of schools' increasing financial and other autonomy by enabling them to make their own applications for parenting orders. The existing legislation only allows local authorities to apply to the Magistrates for the orders, but there is no reason why schools should be prevented from making applications themselves. In addition, it may be the school rather than the authority that holds the resource; many local authorities have delegated all or devolved elements of their behaviour budgets to schools and the Government expects that this trend to continue as more schools establish partnerships to work in collaboration. So increasingly schools will be able to decide how best to use their financial resource and whether to apply to the courts for parenting orders.

- 6.3 Parenting contracts and parenting orders for behaviour are two of a range of interventions available to tackle poor behaviour in school and to enable schools and local authorities to engage with parents effectively, whether on a voluntary or compulsory basis.
- 6.4 Parenting contracts are two-sided formal written agreements between a parent and either the local authority or the governing body of a school. Contracts are voluntary. In a contract, the parent agrees to comply with specified requirements (tailored to their situation) and the local authority or governing body agrees to provide specified support (tailored to parents' needs).
- 6.5 Parenting Orders are imposed by the Magistrates' Court following a successful application by the local authority and are intended for parents unwilling to engage with voluntary measures. Orders require a parent to comply with any requirements specified in the order and to attend a parenting course (which could, in exceptional circumstances, include a residential element) or some other form of counselling or guidance specified by the responsible officer. Breach of the Order is an offence punishable by a fine of up to £1000.
- 6.6 The current measures were introduced in the Anti-social Behaviour Act 2003 and came into force on 27 February 2004. Between September 2004 and 31 July 2005, 418 contracts following exclusion had been offered of which 410 were accepted by the parent. This shows that the vast majority of parents will accept a contract and there is little need to compel parents (by way of a parenting order) to accept support or engage in a parenting programme. No applications have been made for an order following exclusion partly because it has taken time for LAs to put procedures in place to implement parenting contracts and orders but also because LAs are anxious to engage with parents on a voluntary basis wherever possible.
- 6.7 Under the current legislation we expect that, in the coming year, there will be a sharp increase in the number of parenting contracts and a small number of parenting order applications. Feedback from the local authorities where contracts are already being used indicates that schools LAs are finding that parenting contracts are improving pupil behaviour. For example, in one Authority contracts have been used to good effect as part of the re-integration process, where pupils have been permanently excluded from school and need to be returned to a school setting. Contracts were used for every permanent exclusion in the pilot phase (21 in total) and only 1 pupil was not successfully re-integrated. LA and school staff and parents were very positive about the use of contracts. Contracts for truancy (which can already be used as an early intervention before attendance problems become entrenched) have been more widely used by LAs and schools (as at 31 July 2005 6221 contracts for truancy had been offered of which 5717 were accepted) and feedback has been positive. For example:
- In one LA, the use of parenting contracts in attendance cases resulted in an average reduction in individual pupil absence of 30%;
 - One school reports that parenting contracts have reduced persistent lateness – 58 pupils were arriving late on a regular basis; this has been

reduced to 3; and

- In another school, 36 cases were initially identified, but parenting contracts succeeded in improving attendance in 32 of these cases, meaning that only 4 needed to be referred to the courts.

6.8 LAs and schools have been given statutory guidance on the proper use of parenting contracts and orders which emphasises the importance of positive engagement with parents and highlights a number of statutory duties to which schools and LAs must have regard including race equality legislation. In addition the Department has produced, in 10 languages, a parent friendly leaflet on parenting contracts. This leaflet explains the process and the benefits to parents. In summer 2005 the Department, with Relate, ran a series of workshops to help LAs identify and source appropriate parenting provision including sessions on engaging with Black and minority ethnic parents. A signposting guide to sourcing provision was produced after these events and published in September 2005. All the relevant guidance and documents can be viewed at: <http://www.dfes.gov.uk/behaviourandattendance/index.cfm>. We will review and revise our existing guidance and good practice material in the light of the proposed changes and any feedback received.

Policy Impact

- 6.9 The measures can apply to the parents of any pupil exhibiting the requisite behaviour regardless of ethnicity. There is evidence that some minority ethnic groups are disproportionately over represented in both fixed period and permanent exclusions data (see the exclusions section below for more detail), and that Black pupils are disciplined and criticised more often than pupils from other ethnic groups and are often disciplined more harshly than white pupils are for the same sorts of behaviour. So there is a risk that the new measures, although not being triggered by exclusion, could be disproportionately targeted on certain ethnic groups.
- 6.10 We have some evidence to suggest that Black parents might be less likely to engage with a parenting contract. The Department's research report 616, *Minority Ethnic Exclusions and the Race Relations (Amendment) Act 2000*, chapter 9, notes that "parents who had been asked to make an appointment to come into school to discuss their child's difficulties did not find this an easy situation. These meetings did not help to establish or strengthen good home school relations.....Few spoke positively of the relationship between school and home." However, other survey evidence shows that minority ethnic parents report feeling involved in their children's education (53%), especially Black Caribbean (59%) and Black African parents (68%) [Source: Moon & Ivins, 2004 *Parental Involvement in Children's Education* DfES Research Report].
- 6.11 In any event, positive, non-judgemental engagement with parents is the key to successful use of parenting contracts. The advice and guidance we have aimed at schools and local authorities has emphasised this. Early indications are that over 90% of parents offered a contract accept it but in many authorities acceptance rates are approaching 100%. Now that parenting contracts in their current form are beginning to be used in greater numbers we shall be gathering

effective practice in this area and disseminating it widely. We will follow up with any local authorities having low acceptance rates. All of our communications with, and information to, parents about contracts have sought to avoid stigma – stressing that all parents need support at some point and the contract is a useful way of getting that support if your child is having difficulties with attendance and behaviour. If, as anticipated, earlier use of contracts helps to promote positive relations with parents and reduce later exclusions then this should accrue benefit to those ethnic groups with a higher exclusion rate.

- 6.12 But even if parents from certain ethnic groups are less likely to engage in contracts it does not necessarily follow that they will be over-represented as subjects of parenting orders. Parenting contracts are voluntary and there is no sanction for breach. The threshold for a parenting order is and will remain significantly higher than that for parenting contracts.

Consideration of alternatives/mitigation

- 6.13 Data shows that the outlook for excluded pupils can be bleak in terms of educational outcomes and progression to anti-social behaviour and crime - the Youth Cohort Study shows that only one in five young people who reported having been excluded from school in Years 10 or 11 (permanently or for a fixed period) achieved 5 A*-C GCSEs compared to almost three in five young people who had not been excluded. (DfES (2005) *Youth Cohort Study: The Activities and Experiences of 16 Year Olds: England and Wales 2004* Statistical First Release 04/2005). are over twice as likely to commit an offence as their in-school counterparts (*MORI 2002 Youth Survey by the Youth Justice Board*).
- 6.14 Feedback from early users of parenting contracts indicate that they can be extremely helpful in preventing further exclusion, by using them more proactively (rather than reactively following exclusion) the benefits will potentially increase. Enabling orders to be used without exclusion would enable this measure to be used while education continues.
- 6.15 The proposed changes are logical extensions to the existing statutory framework and were requested by stakeholders.

Arrangements to monitor impact

- 6.16 Use of these measures will be included in an existing data collection on parenting contracts and orders. We propose to extend this to monitor by ethnicity the use of parenting orders for behaviour in school (whether triggered by exclusion or not). This decision will be taken in the light of burdens on collecting information from local authorities and schools.

Requirement for parents to take responsibility for their children's whereabouts during the first 5 days of an exclusion from school (from September 2007)

- 6.17 The main aim of this proposal is to require for parents/carers to ensure that pupils in the first five days of exclusion are not found in a public place during normal school hours without reasonable justification. Parents who fail to do so

will be subject to a penalty notice fine of £50 (rising to £100 pounds if paid after 28 days and within 42 days) and liable to prosecution in the event of failure to pay. Conviction may lead to a fine of up to £1,000, failure to pay may result in imprisonment.

- 6.18 There is concern that fixed period exclusions are not an effective sanction on the pupil. They can be perceived as a “reward” for poor behaviour in that the child gets time off school. Furthermore there is concern that some pupils when excluded may make a public nuisance of themselves and be drawn into anti-social behaviour.
- 6.19 The outlook for pupils excluded from school can be bleak in terms of educational outcomes and progression to anti-social behaviour and crime. Excluded pupils can gravitate towards places and activities unsupervised by a responsible adult, such as arcades and shopping centres where their behaviour may be a nuisance. This is partly because much of the time during which a pupil is excluded is not spent in education, training or other useful activity. Children are left to their own devices and are therefore much more likely to get into trouble.
- 6.20 The vast majority of fixed period exclusions are for short periods (85% are for 5 days or fewer with the average duration being 3.8 days) and two thirds of pupils who are excluded for a fixed period exclusion only experience a single period.

Policy impact

- 6.21 Some minority ethnic groups are disproportionately over represented in both fixed period and permanent exclusions data. 2003/04 data shows that compared with White permanent exclusion rate of 0.14%, Black pupils are excluded at a rate of 0.29% and some other groups are higher (Traveller of Irish Heritage: 0.66%, Gypsy/Roma 0.62% and Black Caribbean 0.41%). However, some ethnic groups (all Asian groups) are excluded at a lower rate than the White population. Although this level of disproportionality is cause for concern it is at least encouraging to note that it has reduced significantly since 1997: in that year Black pupils were three times more likely to be excluded and they are now two times more likely. This downward movement shows that the rate can be brought down successfully.
- 6.22 Parents would have responsibility for ensuring appropriate supervision their child during the first five days of an exclusion. Parents will not themselves be expected to sit with their children. The duty is to keep the child out of public places. Parents can make appropriate arrangements with relatives, friends or neighbours. Depending on the child’s age, the child would be on its own recognizance.
- 6.23 As described above some ethnic minority groups (notably Black Caribbean, Traveller/Irish and Gypsy/Roma) are over-represented in the exclusions data. They, and their parents/carers, are therefore more likely to be disproportionately affected by the introduction of this duty. Furthermore, these groups are likely to be socially disadvantaged and have lower incomes. In

addition, they may include more single households. However, it should be remembered that at present the presumption is that all parents (including from these groups) have to take responsibility for their children's whereabouts and supervision when they are excluded under the current arrangements. These proposals are designed to reinforce that responsibility by providing a balance between sanctions and support.

- 6.24 Nevertheless, the duty has been framed to ameliorate some of these potential consequences. As outlined above, the duty will not require the parent/carer to take time off from work to supervise their child at home. Parents can make arrangements for the child to visit a friend or relatives house if they are unable to supervise them themselves. This should help single households. We are aware that some gypsy/traveller families live in public places and so would automatically be caught by the duty not to be found in a public place. The legislation is framed in such a way that they could avail themselves of the defence of "reasonable justification". Failure to pay the £50 penalty will result in prosecution which could lead to a fine of up to £1000. Courts must take ability to pay into account in setting the level of any fine.
- 6.25 Given the disproportionality of ethnic minority groups among those excluded, any positive action taken to improve the educational provision for excluded pupils should benefit ethnic groups with a higher exclusion rate more although this policy itself does not address disproportionality. We are already committed to tackling disproportionality, and have an action plan in place which underpins the following policies. This has three elements. Firstly, we are mainstreaming within the Department; influencing policy and ensuring equality issues are embedded in key policy issues. Secondly, we have disseminated clear messages to all local authorities recommending specific actions (including analysing exclusions data and taking any appropriate remedial action) and will be sharing examples of good practice. This included three days of intensive study of Black exclusions in London in February 2006 by officials and practitioners to identify causes of disproportionality and gather good practice. Lastly, we are targeting individual local authorities where data shows particularly high disproportionality and offering support from National Strategies Regional Advisers for Behaviour and Attendance. This focus should help to reduce disproportionality.

Consideration of alternatives/mitigation

- 6.26 As mentioned above, the outlook for pupils excluded from school can be bleak. Although parents are implicitly responsible for their children when they are excluded from school, most pupils excluded for a fixed period receive only minimal education. The alternative to our policy would be to maintain this status quo.
- 6.27 This proposal, together with the parallel proposals to ensure that schools and local authorities make provision from day 6 of an exclusion, will help to ensure that excluded pupils receive a proper education and are given the opportunity to address issues surrounding their behaviour. This is why we have decided to go ahead with this decision.

Arrangements to monitor impact

- 6.28 We will extend the Department's current data collection exercise for penalty notices for truancy to include penalty notices for "whereabouts". The precise nature of the data to be collected is still subject to ministerial decision in the light of burdens on collecting information from LAs and schools.

Requirement for schools / local authorities to provide full time education for pupils excluded over 5 days (from September 2007)

- 6.29 Together with the related policy to make parents explicitly responsible for their children during the first five days of any exclusion in a school year, the aims of this policy are to ensure that exclusion is a sanction (rather than as an extra holiday) and to ensure that other than the first week, excluded pupils continue in full time education off-site. At present local authorities are committed, although not required by law, to providing full time education from day 16 of any exclusion. This policy is also part of the Government's wider "Respect" agenda and should mean that no excluded pupils are wandering the streets. They should either be under their parents' responsibility (days 1-5) or in full time education.
- 6.30 Schools will be responsible for providing full time education from day 6 of any fixed period exclusion in a school year. This means that once a pupil has served 5 days, including aggregated lesser periods, the school must provide full time education for each and every period of fixed period exclusion within the school year. Local authorities will likewise be responsible for providing full time education from day 6 of any permanent exclusion. This requirement applies to all excluded pupils of compulsory school age.
- 6.31 Since September 2002, local authorities have been committed to providing full time education for all permanently excluded pupils from day 16 of their exclusion, and have aspired to providing similarly for pupils excluded for fixed periods over 15 days although numbers are small. Most authorities have been able to do this most of the time but at any time there have always been a couple of authorities that have been unable to do this. At present Buckinghamshire and Hertfordshire are not meeting this requirement.
- 6.32 Existing DfES guidance makes it clear that, in commissioning education outside mainstream schooling local authorities should also ensure that contractual arrangements with external providers and for admission of pupils are consistent with local policies and with statutory requirements to promote equality of access by all. Further they should also ensure that the provider has arrangements in place to fulfil legal requirements in respect of the Race Relations (Amendment) Act and other equal opportunities legislation.
- 6.33 In 2003/04 9,880 pupils were excluded permanently excluded from school and they should have been provided with full time education from day 16. We are unable to predict the number of pupils likely to be permanently excluded in 2007/08 but it is likely to be around 10,000. This policy would entitle them to full

time education from day 6, provided by their local authority. For pupils attending school outside their home local authority this responsibility falls to their home local authority rather than the school's local authority. We only have one year's data on fixed period exclusions. In 2003/04 there were 344,510 fixed period exclusions involving 201,780 pupils (some pupils were excluded for a fixed period more than once in the school year).

- 6.34 Schools would be free to make whatever educational provision they consider appropriate, except sending the child home. This could range from low cost approaches such as reciprocal arrangements between neighbouring schools to high cost approaches such as Pupil Referral Units or contracted provision.
- 6.35 All pupils should have equal access to educational provision following an exclusion. Because certain ethnic groups are disproportionately excluded, it should follow that pupils in those same groups should benefit most when they are excluded in future, although this is a difficult argument to present positively. Alongside this, we are also committed to tackling the disproportionate rate of Black exclusions and are implementing an action plan, which is described at 6.25.
- 6.36 We do not have any data on the take-up of alternative provision, either general data or by ethnic group. We clearly need to ensure that all pupils have equal access to appropriate provision following exclusion, based on their needs.
- 6.37 Local authorities are currently committed to provide full time education from day 16 of a permanent exclusion, while schools in the Behaviour Improvement Programme (BIP) programme have been expected to make provision from day 1 of any exclusion. The threshold of five days to trigger full time educational provision was arrived at after weighing up alternatives. As far as fixed period exclusions are concerned, 80% of all exclusions are for five days or less which makes 5 days appear a useful threshold. For permanently excluded pupils the present arrangements should provide them with full time education from day 16 but for the first 15 days they may receive minimal education and may not be under close parental supervision. Allowing pupils to remain without full time education for 15 days (three weeks) is a long time. The five day threshold equates to a school week which sounds reasonable. This proposal harmonises arrangements for both fixed period and permanently excluded pupils: parents are responsible for their children's whereabouts during the first 5 days of any exclusion then either the school or the local authority should provide full time education from day 6.

Arrangements to monitor impact

- 6.38 We intend to provide schools and local authorities with advice on how to go about setting up provision from day 6 which will include specific guidance on how to cater for the diverse needs of pupils. This will explicitly discourage a "one size fits all" approach. We also intend to monitor the provision made for excluded pupils. We will need to know that provision is in place, that there is an appropriate range to meet pupils' needs and that it meets quality standards.
- 6.39 Detailed plans are still being drawn up but we are likely to conduct a one-off

survey in autumn 2007 then monitor the impact of this policy through a combination of ODPM Best Value Performance Indicators (BVPIs), sampling and analysis of official and Ministerial correspondence. Other options being considered include asking Ofsted to undertake a thematic inspection of education out of mainstream school (Alternative Provision) to assess the quality and appropriateness of the provision for these pupils. Monitoring numbers of pupils taking up provision would be of limited value as we need to be assured that pupils are being referred to appropriate provision which best meets their needs. We would therefore request a thematic inspection with a specific remit to target some areas with significant ethnic minority population in order to assess whether needs are being met and to gather and disseminate good practice.

Mandatory reintegration interviews

- 6.40 This policy is aimed at schools (head teachers) and parents, and impacts on pupils on their return to school following a fixed period exclusion.
- 6.41 Current exclusions guidance (*Improving Behaviour and Attendance: Guidance on Exclusion from Schools and Pupil Referral Units, paragraph 27*) recommends that head teachers should arrange a reintegration interview with the parents at the end of a fixed period exclusion. This policy makes such an interview mandatory for the schools as part of the exclusion process. Parents will be encouraged to attend and if they do not it is proposed that failure by a parent to attend a reintegration interview will be a factor which the court must take into account when deciding whether to impose a parenting order on the parents (under the Anti-social Behaviour Act 2003).
- 6.42 We intend to make reintegration interviews mandatory at the end of any fixed period exclusion from a primary school and at the end of a fixed period exclusion of 5 days or more from a special school or secondary school. This requirement would be introduced by September 2007 (when other exclusions-related sections of the Bill come into force), but could be introduced earlier in the year.
- 6.43 The purpose of the interview is to ensure that parents are fully informed as to why the exclusion took place and to encourage them to engage with the school in trying to sort out any underlying problems. It is the Government's view that much misbehaviour at school which leads to exclusion could be avoided if parents co-operated more closely with the school and supported the school's disciplinary approach. The interview is also intended to be an opportunity for the school to discuss with the parents how best to handle the reintegration of excluded pupils into the school, and any support that may be put in place to achieve this.
- 6.44 At present reintegration interviews following a fixed period exclusion are recommended as good practice but because they are not mandatory we have no data on the number of schools that use them, engagement rates by parents and any breakdown by ethnicity. However anecdotal evidence from head teacher associations suggests that most head teachers currently invite parents to a reintegration (perhaps in 80 per cent of cases in secondary schools).

6.45 We only have one year's data on fixed period exclusions. In 2003/04 there were 344,510 fixed period exclusions involving 201,780 pupils (some pupils were excluded for a fixed period more than once in the school year). This data is broken down by age, type of school, duration and ethnicity. There were 41,300 fixed period exclusions from primary schools and all these would trigger mandatory reintegration interviews. There were 288,040 fixed period exclusions from secondary schools and 15,170 fixed period exclusions from special schools, but reintegration interviews would only be mandatory for exclusions of 5 days or longer. Duration is not broken down by type of school but of the total 344,510 fixed period exclusions in 2003/04, 252,380 were for less than 5 days, leaving just 92,130 in scope (some of which are from primary schools). Fixed period exclusions of 5 days or longer account for only 26% of the total.

6.46 There are two elements to this policy:

- a) Reintegration interviews will be mandatory for head teachers to arrange following a fixed period exclusion of any pupil irrespective of ethnic group as outlined above in paragraph 3. These interviews are intended to be used by schools positively as a means of engaging with parents within the broader context of encouraging positive engagement with parents. We therefore intend to provide schools with full guidance encouraging them to use reintegration interviews positively and this will be accompanied by good practice examples. This will emphasise the need to build positive relationships with parents from the outset so that they do not perceive the invitation to a meeting at the school as a threat and associate it with bad news. This element of the policy provides a positive opportunity for schools to engage with parents.
- b) The second element is around the expectation that parents will attend the interview and the consequences if they do not. This is potentially a negative impact. We know that certain ethnic groups are excluded disproportionately (see paragraph 7 above) and this means that their parents would be likewise disproportionately invited to reintegration interviews. We have some evidence that Black parents would be less likely to attend MRIs. The Department's research report 616, *Minority Ethnic Exclusions and the Race Relations (Amendment) Act 2000*, chapter 9, notes that "parents who had been asked to make an appointment to come into school to discuss their child's difficulties did not find this an easy situation. These meetings did not help to establish or strengthen good home school relations... Few spoke positively of the relationship between school and home." However, other survey evidence shows that minority ethnic parents report feeling involved in their children's education (53%), especially Black Caribbean (59%) and Black African parents (68%) (Source: Moon & Ivins, 2004 *Parental Involvement in Children's Education* DfES Research Report). If Black parents are less likely to attend interviews at school than White parents, then it follows that it is more likely that this could be used as evidence if the court is already deciding whether to impose a parenting order on the parents.

6.47 Alongside this, we are also committed to tackling the disproportionate rate of Black exclusions and are implementing an action plan, as described above at

6.25.

- 6.48 As mentioned above, reintegration interviews have been recommended good practice for some time. Full consideration was given to the most appropriate sanction for parents who do not attend reintegration interviews. One option would be to introduce a penalty notice but this was dismissed because it would criminalise non-attendance and shift attention from the pupil's bad behaviour to the parents' behaviour. The purpose of the reintegration interview is to work with parents to improve the pupil's behaviour. By using non-attendance as evidence if the court is deciding whether to impose a parenting order on the parents, the context and any mitigating factors can be fully taken into account.
- 6.49 As outlined we are planning to provide schools with guidance on good practice around reintegration interviews which will emphasise the need to engage with minority ethnic parents in particular. This will include good practice references to schools that introduced positive policies to engage with all parents and have adopted particular strategies to engage with groups of parents that otherwise would not be as engaged. We are also committed to reducing the current disproportionate rate of exclusion among some ethnic groups (see paragraph 10).

Arrangements to monitor impact

- 6.50 It would impose unnecessary additional burdens on schools to require a detailed data collection on numbers of parents invited to reintegration interviews, attendance rates and outcomes. But we plan to obtain a snapshot by sampling once the policy is implemented. This would include a breakdown of parents invited and those that attended broken down into ethnic groups.

Annex A - List of External Stakeholders

- Dr Idries Mears, Director, Association of Muslim Schools UK
- Tahir Alam, Chair of Education Committee, Muslim Council of Britain
- Trevor Philips, Commission for Racial Equality (CRE)
- Jeremy Crook, BTEG Black Training and Enterprise Group
- Karen Chouhan, 1990 Trust
- Trevor Hall, Windsor Fellowship
- Michelynn Lafleche, Runnymede Trust
- The Refugee Council
- Race for Opportunity
- Joe Greenland, National Mentoring Consortium, University of East London
- Arun Kundnani, Institute of Race Relations
- Mr Pinaki Ghoshal, NASSEA, Ethnic Minority Achievement Service, Manchester City Council
- Mr Ian Jones, National Association for Language Development in the Curriculum
- Dr Liz Statham, SASSEA, Hampshire Ethnic Minority Achievement Service
- Mr Imtiaz Bhatti, MASSEA, Sandwell Ethnic Minority Achievement Project
- Cheron Byfield, The National Black Boys Can Association