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Day of Discussion on

THE PRIVATE SECTOR AS SERVICE PROVIDER AND ITS ROLE IN IMPLEMENTING CHILD RIGHTS

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THE PRIVATE SECTOR AS SERVICE PROVIDER AND ITS ROLE IN IMPLEMENTING CHILD RIGHTS

This paper is presented by ARCH, Action on Rights for Children in Education:

THE IMPLICATIONS FOR THE RIGHTS OF THE CHILD OF PRIVATE SECTOR INVOLVEMENT IN UK EDUCATION

ARCH is a UK-based, not-for-profit organisation committed to the UN Convention on the Rights of the Child. It campaigns for the rights of children to have their views on educational issues that affect them considered within the family, within schools and at national level in future planning and decision-making.

ARCH members are children, parents, educators and others with an active interest in ensuring that children's rights in education are respected. Families within ARCH have chosen a range of educational provision, depending on their family circumstances and their children's wishes.

ARCH does not have a hierarchical structure; individuals or groups from within the membership identify and assume responsibility for specific projects, referring back to the full membership for discussion and approval.

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THE IMPLICATIONS FOR THE RIGHTS OF THE CHILD OF PRIVATE SECTOR INVOLVEMENT IN EDUCATION

Current private sector involvement in UK state education.

The involvement of the Private Finance Initiative in the UK state education sector is well advanced and continues to grow. Most Local Education Authorities (LEAs) contract out at least some of their functions and several LEAs are now run entirely by private firms; indeed, as one such company asserts: “WS Atkins is effectively Southwark LEA”. School inspections are undertaken by companies such as Serco and Tribal Group on behalf of OFSTED.

Where schools are concerned, the most common form of PFI project is a ‘DFBO’ (Design, Finance, Build and Operate) where a company or consortium will be awarded a long-term contract to design, finance and build a school, or several schools, within a local authority area and subsequently to supply all of the ‘non-core services’ such as maintenance, catering and cleaning. The contract is normally awarded for 25-35 years, during which time the LEA will pay ‘rent’ and service charges on the school building.

An immediate concern that arises from the length of these DFBO contracts is the assumption that the way in which education is delivered will not change significantly during the next three decades and that, for the majority of children, it will continue to happen in large buildings, sub-divided into smaller classrooms.

At present, there is widespread concern in the UK that our current model of school education is inappropriate to a post-industrial society. Think-tanks and the UK government’s Department for Education and Science (DfES) are looking at radically different alternatives; however, it is hard to envisage how any proposals for fundamental change can ever be more than abstract diversions when government is locked into the financial commitment of long-term DFBO contracts. If it were decided that a model of education that required very different facilities would be in the best interests of children, how would this be effected?

Private or Public Service?

There are relatively few companies involved in education PFI; the same names crop up repeatedly, both alone and in different permutations with each other when consortia are formed to bid for specific government PFI projects. Many companies are subsidiaries of far larger concerns where education represents just one aspect of the parent company’s PFI involvement. In turn, PFI may be only one source of revenue to the company. In some cases the parent company is based outside the UK.

The most obvious feature of a private company is that it exists to make a profit and is legally bound to maximise the return on investment by shareholders, whereas a public service exists to fulfil a specified duty to society, funded largely by tax revenue. A company must act in the best interests of shareholders, which raises the possibility of conflict with Article 3 of the CRC. How will the best interests of the child be a primary consideration in the event that they conflict with those of shareholders?

A private company is accountable to shareholders, who have considerable power to affect company practice as they can choose to withdraw their investment. This raises the worrying possibility of the funding of social and educational priorities being decided by those who have not been democratically elected, who are not in any way accountable to the public and whose financial status may leave them unaware of, or unresponsive to, the needs of those whose circumstances and experiences are very different.

Article 2 of the CRC forbids discrimination against children on any grounds, but as private sector involvement in education grows, it remains to be seen whether projects involving minority groups, or the socially unpopular, can attract the same levels of funding as, say, large-scale projects undertaken in a desirable area where a return on investment is virtually guaranteed, and the ethos reflects favourably upon the company.

'Core' and 'Non-Core' Services

Although DFBO schemes divide services into 'core services' such as teaching, and 'non-core services' such as buildings maintenance, in practice this cannot be a rigid division. Inevitably the educational performance of a school impacts in several ways upon the company responsible for its operation.

A 'failing' school risks associating the company name with failure. It may also reduce its ability to make a profit if standards drop and the number of children on the roll falls. Companies involved in DFBO have another source of income from letting out the building for various purposes outside of school hours, but if the school itself is unpopular, it can affect the willingness of the local community to use the building and services. Disenchanted pupils may cause damage to the fabric of the building, increasing the maintenance costs and making the building unattractive to other customers. It is therefore in a company's interests to ensure that 'core services' do not impact negatively upon it.

Some education companies are already running LEAs; other are involved in 'School Improvement Projects' with LEAs. UNISON, the public services union, states that companies are able to influence school governors in the appointment of head teachers, and are now bringing further pressure to bear on government to allow them to hire and fire teaching staff.

If a company can exert such pressure, or gains the right to employ teaching staff directly, what guarantees are there that staff will not be selected who best reflect the ethos of the company and who share beliefs about political systems and the role of business? In that case, bearing in mind Articles 13 & 14 of the CRC, how would it be ensured that children learn impartially about a range of economic and political ideas - including those that are not favourable to business interests, or are critical of business activities in other parts of the world?

Market Forces

Most parents delegate their duty to educate their children in accordance with s7 of the 1996 Education Act to schools overseen by elected national and local government. These bodies are accountable to electors, and their policies, at least in theory, can be shaped through democratic process. The resulting policies will apply equally to all children in state schools.

The private sector advocates opening education to market forces on the basis that 'customers' will gain more individual choice, and the power to reject provision that does not meet their requirements. The idea that families have the option of voting with their feet is, however, dependent upon the existence of alternatives, and upon an assumption that 'customers' are on a level playing field at the outset. The market place tends to favour those best equipped to demand what they want, leaving the vulnerable at a considerable disadvantage.

The possible restrictions on real choice have already been outlined above; moreover, if government is committed to 25-year contracts with the private sector, they will also have an interest in ensuring that families use the facilities for which it is paying. PFI in itself creates a demand and shapes social policy by committing the government to contracts with long-term financial obligations. The UK government has already demonstrated where its priorities lie when faced with conflict between Article 3 and financial considerations, as the following extract from The Howard League for Penal Reform's briefing paper regarding privately-run Secure Training Centres demonstrates:

> 'Prior to the General Election the Labour Party had been opposed to the creation of STCs. In 1995 Tony Blair, then Shadow Home Secretary, said:
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> *"It is really short-sighted beyond belief to invest large sums of money in building new penal institutions for 200 young people when we are neglecting programmes that are far less expensive and which may diminish the numbers that go to such institutions."*
>
> The Howard League had hopes therefore that the new Labour Government would...cancel the STC programme. However on 3 July 1997 Jack Straw announced that Medway and four other proposed secure training centres would go ahead. He said the contract tied the Government into "significant monthly payments" from April 1998 regardless of whether the facility was used or not.' ('Child Jails: the case against secure training centres' - Howard League for Penal Reform 1999 <www.howardleague.org>)

When weighing up the desirability of subjecting education to market forces, it is also important to remember that market conditions can be adverse. In the wake of the Potter's Bar rail accident, for example, Jarvis (a major PFI actor) saw its share prices fall substantially; companies are extremely vulnerable to such sudden events. In the event that there is a downturn in the market, a company's duty is to do whatever is necessary to protect shareholder interests. What are the implications for education during a decline in company fortunes?

Education PFI companies are actively recruiting senior staff from the public sector and, in doing so, are reducing the pool of expertise available within LEAs that would enable them to respond effectively should a company collapse. There is a real risk that LEAs will lack the ability to provide an effective safety net during a crisis. Can the right to education under Article 28 of the CRC be unconditionally guaranteed in the event of, say, company insolvency?

Curriculum

There are implications for the curriculum arising from increasing private sector involvement. Within industry several groups exist, composed of representatives of major companies, whose purpose is to seek to influence government policies throughout Europe in favour of industry. The largest and most influential of these, the European Round Table of Industrialists (ERTI), has its own Education Task Force, the role of which is to formulate education policies that will provide the workforce required by industry. The former Chair of the Task Force, Gerhard Kromm of Thyssen-Krupp, has reportedly denounced the 'culture of laziness' where students study subjects of no relevance to industry, and there is a reportedly widespread belief within the ERTI that the purpose of education is to prepare human resources for industry.

Many of the policies currently being pursued by the DfES coincide with those contained in the ERTI's paper: 'Actions for Effectiveness in the Knowledge Economy' presented to the European Council in Stockholm in 2001, in which concern was expressed that there were 800,000 vacancies for information technology professionals in Europe for which education systems were failing to prepare candidates.

It is predicted that the number of vacancies could rise to 1.7 million by 2003, but the number of young people leaving full time education each year throughout Europe vastly exceeds this figure. If an industrial agenda is pursued in the school curriculum, there will presumably be many whose education has equipped them for employment that is ultimately unavailable, and inevitably raises the distasteful possibility that industry is pursuing a 'cherry-picking' agenda with regard to children.

Article 29 of the CRC states that the education of the child shall be directed to the development of the child's personality, talents and mental and physical abilities to their fullest potential. The implications for Article 29 of a curriculum designed to meet the expressed needs of industry are worrying: how would the educational needs of young people whose talents and abilities lie in the arts or the humanities be met?

The arts sector is still a significant employer in the UK, albeit without the resources to offer the competitive salaries, or the effect on Gross National Product and consequent political power, enjoyed by industry.

Conclusion

The UK government appears to have entered into PFI as a short-term means of funding long overdue repair to the infrastructure of public services in the UK, but without due regard to the long-term implications of such a strategy, in particular upon human rights, of increasing the involvement of the private sector in public policy and administration.

PFI and the growing involvement of industry in education present significant challenges to the full implementation of the UN Convention on the Rights of the Child. If the UK government has a serious commitment to children's rights, it should go no further along the road to privatisation until these challenges have been addressed, the necessary legislative changes made and all possible steps taken to ensure that private sector involvement in education cannot impact adversely upon the rights of the child.