

## Building a mature Institutional Architecture in the English Education System

### 1. Introduction

Public policy making, especially in modern times, places a premium on consultation and engagement with the sector or profession or area of the public and private realm which the government department is charged with overseeing. This is both for theoretical reasons – because much of what government does is effectively done by consent and there is *prima facie* need for some element of collaborative discussion – and also because on a practical basis, much of the information which government requires in order to conduct policymaking is held by the wider environment. Governments need to understand what the scale is of the issue they are addressing; the impact of what they are proposing to do or stop doing; and to hear views as to the achievability and feasibility of proposals.

In recent years, the civil service has increasingly committed to more open and collaborative styles of policymaking, recognising both the theoretical and practical needs. For example, the Cabinet Office published an “[Open Policy Making Toolkit](#)” in 2017. The [introduction](#) to this sets out that:

*Open policy making helps civil servants create and deliver policy that meets the demands of a fast-paced and increasingly digital world. It means that policy is more informed and better designed for both the government and users by:*

- *using collaborative approaches in the policy making process, so that policy is informed by a broad range of input and expertise and meets user needs*
- *applying new analytical techniques, insights and digital tools so that policy is data driven and evidence based*
- *testing and iteratively improving policy to meet complex, changing user needs and making sure it can be successfully implemented*

The second order questions that flow logically from this is how departments should consult – and for the purposes of this paper henceforth we focus on the DfE and its agencies – and with whom. The former of these is out of scope of this short paper and is the subject of ongoing work both within the [Cabinet Office](#) and elsewhere (see for example the [Behavioural Insights Team](#), [OECD](#) ).

Our contention is that in recent years the institutional architecture in England has strengthened.

## **Institutional architecture**

Most established professions have a strong institutional architecture typically comprising of four or five types of organisations:

- Sector bodies
- Professional bodies
- Trade unions
- Regulators
- Potentially, semi-autonomous research and evidence bodies

The first three types of organisations in the above list (sector bodies, professional bodies and trade unions) are *constitutionally representative*. Their governing documents (constitutions) set out the legitimate representative function they enact. Box one provides an indicative (non-exhaustive) example of the institutional architecture in the health sector.

### **Box one: Institutional Architecture in the Health Sector**

#### **Sector bodies**

- [NHS Confederation](#) - the membership organisation that brings together, supports, and speaks for the whole healthcare system in England, Wales and Northern Ireland.
- [NHS Providers](#) - the membership organisation for the NHS hospital, mental health, and ambulance services. (Until 2011, NHS Providers was a section of the NHS Confederation.)

#### **Professional bodies**

In medicine, professional bodies are also professional *regulatory* bodies which aim to ensure that proper standards are maintained by health and social care professionals and act when they are not. In order to practice in the UK, professionals are required to register with the appropriate professional body. For example:

- [General Medical Council](#)
- [Nursing and Midwifery Council](#)
- [General Dental Council](#)

#### **Trade unions**

- [The British Medical Association](#) – the trade union for doctors in the UK
- [The Royal College of Nursing](#) – the trade union for nurses and midwives in the UK
- [The Royal College of Surgeons](#) – the trade union for surgeons and dental professionals

The fourth (regulators) are broader public sector bodies but have an important consultative function because of their arm's length relationship with the central department and their statutory roles to enact policy and take account of the impact of their own regulation.

The last category (research and evidence bodies) is the most ill-defined. In some sectors, research and evidence bodies can be independent organisations, often in universities, working on a basis of public and commercial funding. In some sectors, one or more research bodies operates as a privileged position as the main curator and interpreter (and often commissioner and funder) of evidence. Such a body is normally operationally independent but linked, de facto or de jure, to a government department. Education has both of these. For the purposes of the emerging model, we include one evidence and research body in the institutional architecture.

### **Consultation and engagement in policymaking**

The bodies within this institutional architecture differ from any other organisation or individual who is involved within a sector, and who may wish to be, or benefit policy by being, involved in consultation and policymaking. This is because of the different roles and responsibilities of the former group. Such organisations:

- are permanent
- derive authority and legitimacy because of their constitutional function and / or their wide-ranging representative function
- have a wide range of interests in policy across a number of areas

[Government departments](#) with responsibility for policy in areas of professional practice typically work with all types of institutional architecture organisations. It would be unthinkable, for example, for a regulator of the medical profession to form exclusive relationships with only a subset of these groups. This would be considered regulatory capture. In the established professions, the different national actors within the architecture have properly recognised roles and functions. Government, its departments, and its regulators work appropriately with the full range of national organisations.

There is therefore a difference between organisations who should, we argue, be consulted by right, and those who may be consulted on a particular topic or depending on the relative authority or expertise of that organisation at any one time<sup>1</sup>. Consultation and engagement should be balanced,

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<sup>1</sup> Academic literature sometimes defines groups as either 'cause groups' – who represent a wide range of people brought together by a common cause – or 'sectional groups' who represent particular segments of a sector on a range of issues. Although of academic interest, we do not find this a helpful categorisation when considering institutional architecture and groups who ought to be considered by right. Some of these may be sectional groups, and some may be cause groups – but the criticality is their legitimacy by representativeness which elevates them to part of the architecture.

proportionate and appropriate, recognising the different roles and responsibilities of constitutionally representative organisations. This is important in public policy terms to ensure that policy is not 'captured.' Policy formation is stronger where institutional architecture is mature and balanced

Institutional architecture in education is less mature than that of the more established professions and is in the process of being built and understood.

## **2. Overview of the emerging institutional architecture in the English education system**

We have attempted a *non-exhaustive* mapping of the emerging architecture in the English education system. The early years and university sectors are out of scope. This first part of this section defines those organisations that are *constitutionally representative*:

- Sector bodies;
- Professional bodies; and
- Trade unions.

It also provides an overview of regulators and research and evidence organisations. Please note that we have chosen not to include national training organisations which also have an significant role to play. Each type of organisation has an important and legitimate role to play in engagement and consultation with government and its departments on matters of school, trust and further education policy.

### **Sector Bodies**

*Sector Bodies are membership organisations that bring together, support and speak for organisations in a particular sector. The organisation, not an individual, is the member. Acting as the collective voice, Sector Bodies represent and promote the interests the organisations they represent and provide members with professional support and training. Sector bodies are also often employer bodies, and should be consulted on matters relating to employer functions and responsibilities.*

- [Confederation of School Trusts](#) – sector body for academy and multi-academy trusts
- [Association of Colleges](#) – sector body for FE colleges
- [Sixth Form Colleges Association](#) – sector body for sixth form colleges
- [Local Government Association](#) - the national membership body for local authorities.

## **Professional Bodies**

*A Professional Body is an organisation with individual members practicing a profession in which the organisation maintains an oversight of the knowledge, skills, conduct and practice of that profession or occupation. Professional bodies are not employer bodies as they represent individuals. Outside of education, professional bodies are often standard-setting bodies which hold regulatory powers in relation to professionals. In education, teacher regulation is conducted by the Teacher Regulation Agency.*

- [Chartered College of Teaching](#) – professional body for teachers
- [Institute for School Business Leadership](#) (ISBL) – professional body for business leaders
- [Chartered Governance Institute](#) – professional body for governance professionals (wider than education, also includes company secretaries)
- [National Governance Association](#) – membership organisation for governors and clerks
- [Association of Directors of Children's Services](#) – professional body for DCSs.

## **Trade Unions**

*A trade union is an organisation made up of individual members and its membership must be made up mainly of workers or employees. One of a trade union's main aims is to protect and advance the interests of its members in the workplace. By definition, trade unions cannot represent or speak on behalf of employers.*

- Leadership trade unions: [ASCL](#) and [NAHT](#)
- Teacher trade unions: including [NEU](#) (also for non-teaching staff) and [NASWUT](#)
- FE and support staff trade unions, and general unions: [UCU](#), [Community](#), [Unison](#), [GMB](#), [Unite](#), [The Workers Union](#)

## **Regulators and the inspectorate**

*Regulators typically oversee a sector and can use powers of intervention in specific circumstances, for example financial, governance or education performance concerns. In England, the Inspectorate, Ofsted has powers to inspect schools and a number of other organisations but is not the regulator for schools. It does have regulatory functions for example, for early years settings.*

- [Education and Skills Funding Agency](#) – funder and regulator (finance and governance) for academy trusts.
- [Regional Schools Commissioners](#) – regulators (educational performance) and commissioners.
- [The Teacher Regulation Agency](#) – an executive agency of the Department for Education which regulates the teaching profession, including misconduct hearings and the maintenance of a record of teachers, trainee teachers and those who hold a teacher reference number.

- [Ofsted](#) – a non-ministerial department which inspects a wide range of education and social care provision. It does not have a regulatory role in relation to schools, trusts or colleges i.e. cannot intervene at the point of failure – this is the role of the ESFA or RSC.
- [Health and Safety Executive](#) – regulator for health and safety (wider than education).

For the sake of completeness, [Ofqual](#) is a non-ministerial department which regulates qualifications in England.

## **Research and evidence organisations**

*Research and evidence organisations are those that exist to generate, curate and/or disseminate research and evidence in education.*

- [Education Endowment Foundation](#) (EEF) – a national charity operating under an endowment from government with a remit to maximise the use of evidence in education with a particular focus on breaking the link between family income and educational achievement.
- [National Foundation for Educational Research](#) (NFER) – a national charity and research organisation which supports positive evidence-informed change across education systems.
- [Education Policy Institute](#) (EPI) – a national charity and evidence-based research institute which exists to raise standards in education through rigorous data analysis, research and the exchange of information and knowledge.
- University education departments also have a role in the generation and dissemination of research and evidence.

## **What makes EEF different to other research and evidence organisations in education?**

The EEF was initiated in November 2010, when then Secretary of State for Education, Michael Gove, announced plans to establish an education endowment foundation intended to help raise standards in challenging schools, inspired by the Obama administration's Race to the Top initiative in the USA.

The EEF was founded in 2011 by lead charity The Sutton Trust, in partnership with Impetus, with a £125 million founding grant from the Department for Education.

The EEF has a quasi-public sector role as the curator of evidence in education and performs a role that is broadly similar to the [National Institute for Health and Care Excellence](#) (NICE).

In March 2013, the EEF and Sutton Trust were jointly designated by the Government as the What Works Centre for Education. The original commitment to investigate a 'NICE for social policy' was in the Open Public Services White Paper of July 2011 and was also a key action in the Civil Service Reform Plan. The What Works Network is made up of 9 independent What Works Centres (including

NICE), 3 affiliate members and one associate member. Together these centres cover policy areas which account for more than £250 billion of public spending.

What Works Centres are different from standard research centres. They enable policy makers, commissioners, and practitioners to make decisions based upon strong evidence of what works and to provide cost-efficient, useful services.

What Works is based on the principle that good decision-making should be informed by the best available evidence. If evidence is not available, decision-makers should use high quality methods to find out what works.

## **Conclusion**

Building a strong institutional architecture in England is essential to good policymaking. It is in the public interest to ensure that engagement and consultation is clear, transparent, and effective - and reflects the proper roles and responsibilities of constitutionally representative organisations.