

Careers England Policy Commentary 16

This is the sixteenth in an occasional series of briefing notes on key policy documents related to the future of career guidance services in England. The note has been prepared for Careers England by Professor Tony Watts. It builds upon Policy Commentaries 15 and 15A, issued in 2011, on the Coalition Government's emerging policies on career guidance.

In publishing this Policy Commentary, Careers England – with the full support of the Consortium Board for the Quality in Careers Standard (for details, please see the Careers England website) – reaffirms that:

“In fulfilling its new duty to ‘secure independent careers guidance’ for their pupils and students, a school will be most effective where:

- 1. Its overall careers education, information, advice and guidance programme is quality-assured against one of the dedicated quality awards available and where that Award meets the Quality in Careers Standard national validation.*
- 2. It builds upon its internal programme by securing specialist careers advice and guidance services from an external provider, close to the labour market and therefore able to assist young people to make informed choices: such a provider should meet the matrix Standard, as the accepted ‘industry standard’ for advice and guidance on learning and work.*
- 3. The externally secured provider of career guidance employs professional careers advisers who are occupationally competent in line with professional standards, as determined by the Careers Profession Alliance.*

In the absence of more definitive guidance for school leaders and governing bodies, this three-pronged approach is commended to all making key decisions in England's schools.”

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Careers England Policy Commentary 16

Statutory Guidance for Schools on Securing Access to Careers Guidance

A.G. Watts

Background

1. The Statutory Guidance (see Annex) is directed at head teachers, school staff, governing bodies and local authorities. It relates to the duty, under the Education Act 2011, for schools to ‘secure access to independent and impartial careers guidance for their pupils from September 2012’ (SG, section 8).

2. The Government’s decision to issue Statutory Guidance on this duty was announced by Lord Hill (Parliamentary Under-Secretary of State for Schools) in the House of Lords in July 2011. He stated:

‘... listening to this debate, I recognise that it would be sensible to allow the scope for some short, focused guidance to be issued to schools to support them in fulfilling their new duty.’¹

The Government’s decision to issue the Guidance was a concession to Liberal Democrat peers, in return for persuading them to withdraw a series of tabled amendments relating to quality assurance of career guidance provision in schools. Amendment 87, for example, proposed that:

‘The Secretary of State must prescribe standards with which the governing body and head teacher of a maintained school must comply which cover –

- (a) the quality and frequency of careers guidance;
- (b) the need for careers guidance to be face-to-face;
- (c) the requirement that the delivery of guidance must be by persons trained in careers guidance; and
- (d) the requirement that guidance must include both academic and vocational options.’

3. Baroness Jones (Labour) asked for the promised ‘short, focused guidance’ to be made available to the House of Lords before the Report stage of the Bill, at least in draft form.² This was not done. However, following discussions with Careers England and the Institute of Career Guidance on the continuing concerns, the Liberal Democrat peers re-tabled the amendments in a revised format for the House of Lords Report Stage debate on the proposed duty on 24 October 2011. In particular, they pressed the Minister for further

¹ Lord Hill of Oareford in House of Lords, 13 July 2011, during consideration of the proposed new duty as set out in the Education Bill (which had reached its House of Lords Committee Stage in its passage through Parliament).

² Baroness Jones of Whitchurch in House of Lords, 13 July 2011.

assurances on the quality assurance of those ‘secured’ to provide careers guidance, on their professional competence, and on the availability of face-to-face careers guidance for young people who might seek or require it. Lord Hill gave a further promise to issue Guidance, indicating that it would be more explicit than the ‘short, focused guidance’ he had earlier promised:

‘I am happy to commit to highlighting this issue in statutory guidance and making it clear to schools that young people have much to gain from a face-to-face exploration of their skills, abilities and interests, which can help them think through the learning and career options open to them... We will place a clear expectation on schools that they should secure face-to-face careers guidance where it is the most useful support, in particular for disadvantaged children and those who have special needs or are learners with learning difficulties and disabilities.’³

This led the Liberal Democrat peers not to move their proposed amendment: they expressed themselves satisfied by the promise of more significant Guidance to assist school governing bodies and head teachers in determining how to discharge their new duty.⁴

4. The Education Act received the Royal Assent on 15 November 2011. A first draft of the Statutory Guidance was discussed by the Government’s National Careers Service Advisory Group at its meeting on 8 November 2011. In the light of the Advisory Group’s comments, a revised version was circulated by officials to all its members on 21 November 2011, requesting final comments by 5 December 2011. The resulting final draft was supported by a small working group comprising some members with particular relevant expertise. All members of the Advisory Group were then advised that this final draft would be submitted to Ministers before Christmas, for their approval, with a view to issuing it to schools early in the New Year.

5. Since then, there have been interminable delays. It is evident that there have been disputes between Ministers about how robust and how detailed the Statutory Guidance should be. Meanwhile, schools have been setting their budgets for the financial year beginning April 2012, without guidance of any kind about the new duty they have to discharge from September 2012, and the financial provision required for this. Civil servants have been repeatedly reminded by members of the Advisory Group about the damaging effects of these delays. Despite this, it is only now, on 26 March 2012, that the Guidance is being published.

6. The published version does not incorporate any of the substantive amendments proposed by members of the Advisory Group. Indeed, in important respects, it is weaker than the version initially discussed by the Advisory Group on 8 November 2011. The analysis below accordingly seeks to identify not only what is included, but also what is omitted.

³ Lord Hill of Oareford in House of Lords, Education Bill Report Stage, 24 October 2011.

⁴ Email from Baroness Sharp of Guildford to Paul Chubb of Careers England, 24 October 2011.

Main contents and omissions

7. Five features of the Statutory Guidance are especially worthy of attention in this respect:

- The nature of the duty to secure independent and impartial careers guidance for pupils.
- Quality assurance of external providers of career guidance.
- Other careers activities for young people.
- The continuing role of local authorities.
- The issue of impartiality in relation to other learning and work providers.

8. First, on the nature of the duty, the Guidance states that:

‘In fulfilling their new duty, schools should secure access to independent face-to-face careers guidance where it is the most suitable support for young people to make successful transitions, particularly children from disadvantaged backgrounds or those who have special educational needs, learning difficulties or disabilities’ (section 13).

‘Independent’ is defined explicitly as ‘external to the school’; it is also made clear that it must be ‘impartial’ (section 11), i.e. ‘showing no bias or favouritism towards a particular education or work option’. Two features of this key statement are particularly worth noting:

- There is no indication of who is to determine ‘where it is the most suitable support’, or on what criteria. Implicitly, it is left for schools to determine this, on whatever criteria they choose. If they decide that access to independent face-to-face guidance is not ‘the most suitable form of support’ for most or indeed for any of their pupils, they are free to do so. No provision is made for young people or their parents to have any say in the matter, in the form of a right or entitlement.
- The statement that such guidance is ‘particularly’ relevant to children from disadvantaged backgrounds or with special educational needs can easily be read as implying that it is *only* relevant to such pupils. The point was strongly made by the Advisory Group in the consultation that this should be balanced with a strong statement about the value of independent careers guidance for most, if not all, young people. No such statement has been included.

9. Second, on ways of assuring the quality of external careers guidance providers, the Guidance states that:

‘Schools can commission independent careers guidance from providers engaged in delivering the National Careers Service or from other providers or individual careers guidance practitioners, as they see fit... The Skills Funding Agency will

require providers of the National Careers Service to be accredited to the revised version of the matrix Standard by April 2013. The existence of this national quality standard will assist schools in making well informed decisions about which providers to work with. The organisation responsible for administering the matrix Standard on behalf of government, emqc Ltd, will provide schools with access to information about which organisations hold the Standard and are suitably accredited to provide independent careers guidance services' (section 14).

Schools if they so wish can use the matrix Standard as a quality guide in determining from whom to secure careers guidance, but they are not required to do so. On the professional standards of practitioners, the only relevant statement in the Guidance is that:

'Where schools deem face-to-face careers guidance to be appropriate for their pupils, it can be provided by qualified careers professionals' (section 14).

Again, the key here is the use of 'can' rather than 'must' – which reduces it to a meaningless statement of the obvious. Also, no reference is made to the ongoing work of the Careers Profession Alliance: the reference in the first draft to the CPA developing an online register for members who have reached a level 6 qualification in the career development profession, extended in the final draft to indicate the wider extent of the CPA's work, has been completely deleted.

10. Third, on providing other careers activities for young people, the Guidance states that:

'Schools should consider a range of wider careers activities such as engagement with local employers and work-based education and training providers to offer all young people insights into the world of work, and with local colleges and universities for first-hand experience of further and higher education. Schools are free to determine the most appropriate forms of engagement but might consider mentoring, workplace visits, work experience, work shadowing, enterprise clubs, employer talks and links with local higher education institutions' (section 15).

The first draft of the Guidance linked this to a paragraph explaining that the repeal of the requirement for schools to provide careers education did not imply that careers education was unimportant: schools should recognise that the range of activities encompassed within the term 'careers education' is significant in contextualising the careers guidance on offer to pupils, and supporting the development of their decision-making and career management skills; and should consider how these activities are best delivered. This was strengthened in the final draft submitted to Ministers: in particular, schools were strongly encouraged to consider the various quality awards for careers education, information, advice and guidance provision in schools and colleges, using the new national validation – the Quality in Careers Standard – to determine an appropriate quality award to pursue.

Despite the welcome given recently to the Quality in Careers Standard by Ministers⁵, none of this appears in the published version.

11. Fourth, on the continuing role of local authorities, the Guidance states that:

‘Local authorities will retain their duty to encourage, enable or assist young people’s participation in education or training. They will be required to assist the most vulnerable young people and those at risk of disengaging with education or work. Local authorities are also expected to have arrangements in place to ensure that 16 and 17 year olds have received an offer of a suitable place in post-16 education or training, and that they are assisted to take up a place. This will become increasingly important as the participation age is raised’ (section 17).

In addition, there are references to the continuing role of local authorities in tracking all young people’s participation through the local Client Caseload Information System, and to the requirement for schools to supply relevant information (sections 18-19). In the consultation with members of the Advisory Group, it was suggested that it would also be helpful to refer to the benefits to schools of working in partnership with local authorities in respect of how these various duties are to be discharged; and also to the fact that some local authorities are planning to offer careers guidance services for schools to purchase, while others are supporting schools with the commissioning process or quality-assuring potential providers. No such references are included.

12. Fifth, on the issue of impartiality, the Guidance states that:

‘Schools have a responsibility to act impartially and recognise where it may be in the best interests of some pupils to pursue their education in a further education college or a university technical college, for example. This may include A levels, apprenticeships and vocational options. This will require schools to establish and maintain links with local post-16 education and training providers, including further education colleges and work-based education and training providers, to ensure that young people are aware of the full range of academic and vocational options.

‘Schools are also encouraged to arrange visits for 14-16 year olds to local colleges, work-based education and training providers and universities and, where appropriate, to supplement these with local college and work-based education and training provider prospectuses being made available to pupils to assist informed decision making’ (sections 20-21).

⁵ Speaking at West Lancashire College (8 March 2012), John Hayes (Minister for Further Education, Skills and Lifelong Learning) said: ‘I am pleased to welcome the establishment of the Quality in Careers Standard. The standard will provide national validation of the quality awards used by schools, colleges and work based learning providers to demonstrate they are offering strong support to young people through careers education, information, advice and guidance. This is a really good example of an initiative which will help providers to do their best for all their learners.’

In the consultation, members of the Advisory Group also suggested that reference should also be made to schools inviting providers of other learning and work options into the school to provide information about the options on offer. This is not included.

13. Other sections of the Guidance include:

- Ensuring adequate provision for pupils with special educational needs or disabilities (section 16).
- Reference to the National Careers Service website and helpline, ‘to which schools may wish to direct pupils’ (section 10).
- A statement that the guidance will be reviewed by March 2013 following a consultation on extending the age range to which the duty will apply (section 4). This represents a postponement (the date previously discussed was May 2012).

14. Finally, it is worth noting that the definition of the role of careers guidance for young people adopted in the Guidance is very limited:

‘Schools have a role to play in supporting their pupils to make well informed and realistic decisions by providing access to impartial and independent information and guidance about the range of education and training options that are most likely to help young people achieve their ambitions’ (section 2).

There is no reference here to the role of guidance in helping young people to *determine* their ambitions – i.e. their longer-term *career* goals – or to the role of schools in helping their pupils to develop career management skills. Yet the definition of career guidance in footnote 2 in the Guidance, drawn verbatim from the OECD/EC definition⁶, explicitly defines it as referring to ‘services and activities, intended to assist individuals of any age and at any point throughout their lives, to make educational, training *and occupational* choices *and to manage their careers*’.

Commentary

15. The Statutory Guidance replaces the DfE communication to schools issued in April 2011. The April communication stated that:

‘Those schools that have already developed their own arrangements for providing impartial careers advice and guidance – for example, by employing their own careers adviser – may continue to do so. However, in such cases a school must also ensure pupils have access to a source of guidance which is independent and external to the school. This might include web-based or telephone services, and/or face-to-face guidance from a specialist provider.’⁷

⁶ Organisation for Economic Co-operation and Development & European Commission (2004). *Career Guidance: a Handbook for Policy Makers*, p.10. Paris: OECD.

⁷ Department for Education (2011). The Education Bill – changes to the delivery of careers guidance.

The use of the words ‘might’ and ‘and/or’ in the final sentence of this statement suggested that schools could fulfil this duty, at a minimum, by providing ‘access to online resources’. Since it is difficult to see how such access could be denied, such an interpretation would effectively render the duty meaningless. This statement in the April communication caused considerable concern, and there has since been continued widespread confusion on this issue.⁸

16. Recently, however, the issue appeared to have been definitively clarified in a press statement issued by John Hayes (Minister of State for Further Education, Skills and Lifelong Learning):

‘The new statutory guidance to schools on Section 29 of the Education Act 2011 will underline the new legal duty on schools to secure independent and impartial careers advice and guidance. It will not be sufficient for schools to employ their own careers professional, good though they may be, and then rely on signposting to a website, excellent as that may be.

‘Young people benefit from face-to-face careers guidance. As Lord Hill said in the House of Lords during the passage of the Education Bill, “Pupils can benefit enormously from support offered in person that raises their aspirations and leads them onto a successful path”.’⁹

David Willetts (Minister of State for Universities and Science) reiterated this in response to an oral Parliamentary Question:

‘The Department for Education will publish statutory guidance for schools very soon, and it will make it clear that schools cannot discharge their duty simply by relying on in-house support or by signposting to a website.’¹⁰

These explicit assurances were widely welcomed.

17. The Statutory Guidance as published ignores these recent assurances. It offers no means for preventing a school from stating that it has discharged its responsibility by signposting to a website or helpline. All the school has to do, in the terms of section 13 of the Guidance, is to state that it views such signposting, rather than providing independent face-to-face guidance, as ‘the most suitable support for young people to make successful transitions’. Despite the assurances sought and presumed to be given in the House of Lords, and the statements by Ministers cited in para.16 above, the Guidance appears to provide no basis on which a sustainable challenge to such a position could be mounted.

18. It is significant that the statements in para.16 above were both made by Ministers based in the Department for Business, Innovation and Skills. It is evident that there has

⁸ See Watts, A.G. (2011). *Careers England Policy Commentary 15A: The Coalition’s Emerging Policies on Career Guidance*, para.16.

⁹ Quoted in Careers England press notice on the Quality in Careers Standard, 14 March 2012.

¹⁰ David Willetts in response to Parliamentary Question 100025 from Damian Hinds MP, 15 March 2012.

been a conflict between DBIS and the Department for Education in relation to the Statutory Guidance, as there has throughout the evolution of the Coalition Government's policies in this field.¹¹ The version of the Guidance published by DfE makes no concessions to the DBIS views.

19. To add to this, the Guidance provides minimal support on quality assurance (para.9 above), alongside an impoverished view of career guidance (para.14) and abandonment of support for careers education as a coherent curriculum rather than a diffuse set of 'activities' (para.10 above). It also fails to mention the processes which the Government itself has supported financially (significantly, through DBIS): the professional standards being developed by the Careers Profession Alliance (para.9 above) and the Quality in Careers Standard (para.10 above).

20. The Guidance does not meet the concerns expressed by the Liberal Democrat peers that provided the initial rationale for the Guidance and persuaded them to drop their amendments to the Education Bill (see para.2 above). The failure of peers to pursue the request for a draft of the Guidance prior to the final debates in the Lords (see para.3 above) left them exposed to deception.

21. The Guidance also totally ignores all the professional advice given by members of the Government's National Careers Service Advisory Group. Indeed, in important respects (see paras.9 and 10 above), the published version is weaker even than the initial version shown to the Group. The 'consultation' was a sham.

22. To add injury to insult, the substantial delays caused by the inter-Departmental conflicts and the protracted process of demolishing the results of the consultation have, as noted in para.5 above, left schools to determine their budgets without guidance of any kind. Early evidence suggests that this is already seriously impairing the availability of careers advice and guidance to young people in schools across England.¹²

23. The publication of the Statutory Guidance at least provides a statement in the public domain which addresses schools' attention to its responsibilities in the field of career guidance. But this is a dismal document. It effectively leaves it open for schools to decide not only what they want to do for their pupils in this area, but also whether they wish to do anything of substance at all. Most schools will do whatever they can, because they care for the futures of their pupils; but some will make minimal provision, because they consider that the Government does not require them to do more.

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¹¹ For a detailed analysis, see Watts, A.G. (2011). *Careers England Policy Commentary 15A: The Coalition's Emerging Policies on Career Guidance*.

¹² Institute of Career Guidance (2012). *Facing Up to the Future*. Stourbridge: ICG.

Annex

THE EDUCATION ACT 2011
THE DUTY TO SECURE INDEPENDENT AND IMPARTIAL CAREERS
GUIDANCE FOR YOUNG PEOPLE IN SCHOOLS

STATUTORY GUIDANCE FOR HEAD TEACHERS, SCHOOL STAFF,
GOVERNING BODIES AND LOCAL AUTHORITIES

ABOUT THIS GUIDANCE

1. This is statutory guidance from the Department for Education. This means that recipients must have regard to it when carrying out duties relating to the provision of careers guidance for young people. This guidance replaces ‘The Education Bill – changes to the delivery of careers guidance’, a document made available to schools in April 2011.
2. The purpose of this guidance is to identify the key responsibilities of schools in relation to careers guidance for young people. Schools have a role to play in supporting their pupils to make well informed and realistic decisions by providing access to impartial and independent information and guidance about the range of education and training options that are most likely to help young people achieve their ambitions. This information will become increasingly important as young people will be required to participate in education or training until the end of the academic year in which they turn 17 from 2013, and to their 18th birthday from 2015.
3. Apart from the elements identified in this statutory guidance, it is for schools to decide the careers guidance provision to be made available based on the needs of pupils and the opportunities available. Schools should meet the costs of provision from their overall budgets, including the pupil premium.

REVIEW DATE

4. This guidance will be reviewed by 03/2013 following a consultation on extending the age range to which the new legislation relating to young people’s careers guidance will apply.

WHAT LEGISLATION DOES THIS GUIDANCE RELATE TO?

5. This guidance is being issued under section 45A of Part VII of the Education Act 1997 and schools must have regard to it.

WHO IS THIS GUIDANCE FOR?

6. This guidance is for:
 - Head teachers, school staff and governing bodies in all community, foundation or voluntary schools and community or foundation special schools (other than one established in a special school) that provide secondary education
 - Local authorities that maintain pupil referral units

7. Academies and Free Schools will be subject to the same requirements through their Funding Agreements.

BACKGROUND

8. The Education Act 2011 places schools under a duty to secure access to independent and impartial careers guidance for their pupils from September 2012. While complying with the requirement to secure careers guidance from an external source, schools will be free to make arrangements for careers guidance that fit the needs and circumstances of their pupils, and will be expected to work, as appropriate, in partnership with external and expert providers.
9. Once the duty on schools has been commenced, there will be no expectation that local authorities will provide a universal careers service. The statutory responsibility under section 68 of the Education and Skills Act 2008 requiring local authorities to encourage, enable and assist the participation of young people in education or training, remains unchanged.
10. The National Careers Service will be fully operational from April 2012. It will comprise a single website (www.nationalcareersservice.direct.gov.uk from April) and telephone helpline number (0800 100 900) to which schools may wish to direct pupils.

STATUTORY DUTY

11. The Education Act 2011 inserts a new duty, section 42A, into Part VII of the Education Act 1997, requiring schools to secure access to independent¹³ careers guidance¹⁴ for pupils in years 9-11. Careers guidance must be presented in an impartial¹⁵ manner and promote the best interests of the pupils to whom it is given. Careers guidance must also include information on all options available in respect of 16-18 education or training, including apprenticeships and other work-based education and training options.

RESPONSIBILITIES OF SCHOOLS

12. The Government's general approach is to give schools greater freedom and flexibility to decide how to fulfil their statutory duties in accordance with the needs of their pupils. However, there is an expectation that schools will have regard to the following statutory guidance when deciding on the most appropriate forms of independent careers guidance.

Securing access to independent face-to-face careers guidance

13. In fulfilling their new duty, schools should secure access to independent face-to-face careers guidance where it is the most suitable support for young people to make

¹³ Independent is defined as external to the school.

¹⁴ Careers guidance refers to services and activities, intended to assist individuals of any age and at any point throughout their lives, to make educational, training and occupational choices and to manage their careers. The activities may take place on an individual or group basis and may be face-to-face or at a distance (including help lines and web based services). They include careers information provision, assessment and self-assessment tools, counselling interviews, careers education programmes, taster programmes, work search programmes and transition services.

¹⁵ Impartial is defined as showing no bias or favouritism towards a particular education or work option.

successful transitions, particularly children from disadvantaged backgrounds or those who have special educational needs, learning difficulties or disabilities.

Assuring the quality of external providers of careers guidance

14. Schools may work individually or in consortia/partnerships to secure careers guidance services. Schools can commission independent careers guidance from providers engaged in delivering the National Careers Service or from other providers or individual careers guidance practitioners, as they see fit. Where schools deem face-to-face careers guidance to be appropriate for their pupils, it can be provided by qualified careers professionals. The Skills Funding Agency will require providers of the National Careers Service to be accredited to the revised version of the matrix Standard by April 2013. The existence of this national quality standard will assist schools in making well informed decisions about which providers to work with. The organisation responsible for administering the matrix Standard on behalf of government, emqc Ltd, will provide schools with access to information about which organisations hold the Standard and are suitably accredited to provide independent careers guidance services.

Providing other careers activities for young people

15. Schools should consider a range of wider careers activities such as engagement with local employers and work-based education and training providers to offer all young people insights into the world of work, and with local colleges and universities for first-hand experience of further and higher education. Schools are free to determine the most appropriate forms of engagement but might consider mentoring, workplace visits, work experience, work shadowing, enterprise clubs, employer talks and links with local higher education institutions.

Ensuring adequate support for pupils with special educational needs (SEN) or disabilities

16. Pupils should receive independent and impartial advice about all of the mainstream education, training and employment opportunities on offer, regardless of their individual circumstances. For those with learning difficulties and/or disabilities, this advice should also include information on the full range of specialist provision that is available. Schools should work closely with local authorities who have an important role to play, in particular through the provision of SEN support services and section 139A assessments.

Working with local authorities

17. Local authorities will retain their duty to encourage, enable or assist young people's participation in education or training. They will be required to assist the most vulnerable young people and those at risk of disengaging with education or work. Local authorities are also expected to have arrangements in place to ensure that 16 and 17 year olds have received an offer of a suitable place in post-16 education or training, and that they are assisted to take up a place. This will become increasingly important as the participation age is raised.
18. To enable local authorities to fulfil these duties, they will continue to track all young people's participation through the local Client Caseload Information System (CCIS) in order to identify those who are at risk of not participating post-16, or are in need of

targeted support. Schools should work with local authorities to support them in recording young people's post-16 plans and the offers they receive along with their current circumstances and activities.

19. Section 72 of the Education and Skills Act 2008 requires all schools to provide relevant information about pupils to local authority support services. Schools should also work in partnership with local authorities to ensure they know what services are available, and how young people can be referred for support. From 2013 schools will be under a duty to notify local authorities whenever a 16- or 17- year old leaves education.

Working with education and training providers

20. Schools have a responsibility to act impartially and recognise where it may be in the best interests of some pupils to pursue their education in a further education college or a university technical college, for example. This may include A levels, apprenticeships and vocational options. This will require schools to establish and maintain links with local post-16 education and training providers, including further education colleges and work-based education and training providers, to ensure that young people are aware of the full range of academic and vocational options.
21. Schools are also encouraged to arrange visits for 14-16 year olds to local colleges, work-based education and training providers and universities and, where appropriate, to supplement these with local college and work-based education and training provider prospectuses being made available to pupils to assist informed decision making.

**Participation Division
Department for Education
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