



A TAXING QUESTION FOR INDEPENDENT SCHOOLS

*How should independent schools prepare for Labour's
tax plans, asks **Anna Cacciaguerra Ranghieri***

September 2023

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What are Labour's plans for independent schools?

In July, Labour launched its [Breaking Down the Barriers to Opportunity](#) mission – one of five such missions that will form a pillar of its manifesto and drive policy – aiming to “shatter the class ceiling”. Schools and class advantage are, as Keir Starmer outlined in his [recent exclusive for the Scotsman](#), a critical and increasingly central Labour flagship.

The mission pledges to:

- Levy VAT on private schools,
- End the business rates exemption for private schools.

Labour have promised to invest nearly £1bn of the money raised in “supporting a broad, enriching and excellent education for every child, recruiting and retaining thousands more teachers, reforming Ofsted and improving schools, and expanding careers advice and work experience”.

Much of the detail, however, is yet to be determined publicly.

How much money will these measures raise and what impact will they have?

Labour has previously predicted the policy would raise £1.6 billion in VAT and £100 million in business rates.

[The Institute for Fiscal Studies](#) (IFS) likewise estimates that these measures would raise gross tax revenues by about £1.6 billion. It notes that:

- Adding VAT to private school fees would have a limited effect on attendance numbers – likely a reduction of 3–7%.
- That reduction would have limited impact on tax revenues, since money not spent on school fees would likely be spent on other goods and services on which VAT would be payable.

If some pupils do move to the state sector, it estimates that extra school spending of about £100–300 million per year is likely to be required in the medium-to-long run. However, it flags that pupil numbers in the state sector are expected to fall dramatically over the next decade, so maintained schools are likely to have sufficient capacity to take on private leavers.

Overall, and in this context, the IFS estimates that Labour's proposals will raise an extra £1.3–1.5 billion net per year, allowing for an approximate 2% increase in schools spending in England.

The private sector, however, takes a more pessimistic view. HMC ([The Heads Conference](#)) points to research by Baines Cutler that removing the charitable status of independent schools would end up costing the taxpayer at least £416m by the policy's fifth year, as a result of the potential increased burden on the maintained school sector.

When could the policy be implemented should Labour win?

The policy has increasingly been used by the Party to set the tone of its prospective programme for government. As such, it can be expected to feature in Labour's first King's Speech, most likely in autumn 2024.

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The timing of its implementation will depend on whether the measures are included in a Finance Bill following a first Labour Budget, in which case the changes could be enacted by the spring of 2025, coming into force in the autumn. Secondary legislation (i.e. using amending regulations to bring about the reforms) would be another fast track that would imply a similar timeline. Alternatively, if the Party used primary legislation, the changes might have to wait until late 2026 to take effect.

What impact will a VAT levy have on fees?

Schools would, like any other business, be able to offset the VAT paid on goods and services supplied to them for business purposes (such as utility bills, maintenance costs or professionals' fees). VAT charged on capital expenditure, like new buildings or other major projects, may also be recoverable. Schools are therefore unlikely to be forced to pass on a full 20 per cent VAT increase to fees. Commentators widely speculate that [a fee increase of, say, 15%](#) from the addition of VAT is a more likely reality for many schools.

Will charitable status be removed from independent schools entirely?

Labour's mission does not clarify whether the removal of tax benefits will be achieved indirectly, by simply removing the charitable status of schools, or directly, as isolated tax measures.

The first option – removing charitable status from independent schools – would be an expensive and highly complex policy to achieve, with far-reaching consequences for the charitable sector.

Further, the [ISC has raised concerns](#) that removing charitable status from schools would create a “two-tier system” within the charity sector, and that “any charity seen as not reflecting the political ideology of the government of the day could be subject to additional taxes.”

Other options for Labour to consider would be: making it harder to obtain and maintain charitable status, using a statutory public benefit test; creating carve-outs for schools delivering minimum bursary or specialist support provision; or reforming the inspection regime to establish and confirm demonstrable public benefit.

These ‘middle ground’ options would provide a balance a between carrot and stick that may help to assuage accusations from some factions of waging a “class war”.

The precise route Labour will take, however, remains far from clear.

How do schools demonstrate public benefit?

Under the [Charities Act](#), charities must operate for the *public benefit*. There is, however, no clear statutory test, beyond Charity Commission guidance and limited case law, around what counts as public benefit, and how it is measured.

The [Charity Commission guidance](#) states that where a charity charges fees, these must not exclude “the poor” (an unclear term used by the Charity Commission). The level of provision that trustees make for “the poor” must be more than “minimal or token”. The concept of *public benefit* is not clearly defined.

There remains, therefore, uncertainty around the likely obstacles faced by independent schools to maintain charitable status, if indeed it will be possible for them to do so at all.

What communications activities should schools be thinking about now?

This is already a flagship policy for Labour that appeals to a relatively broad base of supporters. Many of the details however, as we have outlined, remain unclear.

Membership organisations like the [HMC](#) and [ISC](#) have been actively promoting the role of independent schools and have marshalled compelling arguments and data for the sector as a whole. Schools should also look to their own individual preparedness and narratives as the picture becomes clearer.

We set out below some communications considerations that individual schools should consider to build resilience and preparedness.

- a) **Scenario planning:** Given that there are a number of routes a Labour Government could take, schools should undertake strategic planning to assess potential scenarios and develop contingency plans. This includes a blanket removal of charitable status, a statutory public benefit test (including the various potential standards that could be involved in a public benefit test), and a direct withdrawal of VAT and business rates exemption.

Identifying potential risks, exploring alternative revenue streams, and considering adaptive strategies must be carefully examined to ensure they are actionable, and align with the school's mission and values. This will ensure schools can act swiftly in the face of an evolving policy landscape.

- b) **Effective communication with key stakeholders:** Engaging with parents, staff, pupils, alumni and other stakeholders is crucial during periods of uncertainty and change. They will wish to understand how the school could be impacted, that the school is well informed and up-to-date, and be provided with assurance that suitable plans will be put in place to respond and adapt.

Schools should expect parents to begin questioning the potential changes – if they are not already doing so – and should prepare an appropriate and consistent positioning line for these early-stage conversations.

- c) **Communicating public benefit:** Independent schools should proactively review and enhance their communication around public benefit activities to demonstrate their contribution to the wider community. Schools often play an integral part in their communities and extensively share resources with the maintained sector, while also operating an impressive bursary system. However, awareness of this work is often low, and the contribution unquantified.

Meaningfully supporting and contributing to a diverse range of initiatives targeted towards social mobility, community engagement and outreach is beneficial both to the school and its community. Advertising these initiatives may additionally strengthen the position of schools early should a statutory public benefit test be introduced, while safeguarding what is often a critical local provision.

Engaging frequently with external and internal stakeholders alike is critical. Forging links with policy makers, MPs, neighbouring schools, community groups, religious communities and local businesses, can embed trust and support, and establish the school's role as a community hub.

- d) **Marshal your data:** Should a statutory public benefit test be introduced, your data will be critical to demonstrating the good you do, and how it is applied. Ensure records are up to date and consider whether further information could or should be collected or recorded.

DRD Partnership's Schools Team

DRD Partnership's dedicated Schools team works alongside leading law firms to advise schools on crisis handling, resilience, preparedness, litigation and reputation matters. Should you wish to talk to us, please contact us at: schools@drdpartnership.com



Kate Miller, Partner

Kate heads DRD's Schools team. A former lawyer, she has over 20 years' experience advising corporates, institutions and individuals on a broad range of critical communications issues. Her areas of focus include litigation communications, reputation and crisis management, media and stakeholder relations, profile building, safeguarding and cyber. Kate started her career as a litigator at law firm Allen & Overy in London, qualifying in 1997. In 2000 she moved into communications, spending the first 12 years at Brunswick specialising in financial communication for corporates, including mergers and acquisitions, financial calendar, corporate positioning, stakeholder engagement, crisis and litigation.

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Anna works in DRD's Crisis and Litigation practice, having advised major global corporates, multi-jurisdictional litigations, philanthropic organisations, international governments and agencies. She works closely with legal counsel, and specialises in the education sector, having advised numerous well-known schools in navigating the Everyone's Invited movement exposing peer-on-peer sexual abuse, alongside major safeguarding crises, employment matters, investigations, criminal proceedings and transactions. She recently advised a major university group facing a high-profile employment tribunal, concerning matters around discrimination, freedom of belief and gender identity.

Before DRD, Anna worked in Westminster for an MP. She holds a degree in Modern Languages from the University of Durham, and speaks French and Italian.

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Jonny trained as a lawyer and worked for divorce lawyers Vardags, where he helped advise a wide range of clients involved in contentious reputational, privacy and family disputes. Prior to this, Jonny was at the press regulator IPSO. This role included handling issues arising from intrusive media enquiries from journalists and paparazzi, providing pre-publication advice journalists on their code of conduct, and managing press complaints. He was also involved in the 'Phone Hacking' litigation, while a paralegal at Atkins Thomson (now

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About DRD

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