

REFORMED GCSE AND A-LEVEL SUBJECT CONSULTATION:

GCSE CITIZENSHIP STUDIES

Response by the Bingham Centre for the Rule of Law

20 November 2014

[www.binghamcentre.biicl.org](http://www.binghamcentre.biicl.org)

## INTRODUCTION

1. The Bingham Centre for the Rule of Law welcomes the consultation on reformed GCSE and A-Level subject content. The Centre's response is authored by Ms Xiao Hui Eng (Research Fellow in Citizenship Education and the Rule of Law) and Dr Lawrence McNamara (Deputy Director and Senior Research Fellow).

### Summary of this response

2. In this response, we cover only the specification for GCSE Citizenship Studies, focusing on the following Question 1 of the consultation questions and, specifically, on the second and third bullet points in that question:<sup>1</sup>
  - whether the content reflects what students need to know in order to progress to further academic and vocational education
  - whether the amount of content in the qualification is appropriate and, if not, whether you have any suggestions for removing or adding content

### About the Bingham Centre

3. The Bingham Centre for the Rule of Law was launched in December 2010 and is devoted to the study and promotion of the rule of law worldwide. Its focus is on understanding and promoting the rule of law; considering the challenges it faces; providing an intellectual framework within which it can operate; and fashioning the practical tools to support it. The Centre is named after Lord Bingham of Cornhill KG, the pre-eminent judge of his generation and a passionate advocate of the rule of law. It is part of the British Institute for International and Comparative Law, a registered charity established more than 50 years ago and based in London.

### About the Bingham Centre's Citizenship Education in Schools project

4. The Bingham Centre has been running a new citizenship-teaching pilot since Autumn Term 2014. The project is funded by the Legal Education Foundation. The project provides print-based and audio-visual materials and lesson plans, with case studies and examples that engage students with topical, curriculum-relevant issues where democracy, justice and rights arise in different contexts such as immigration, criminal justice, cultural and religious diversity, rights to a fair trial, equality before the law, the abuse of power, and human rights. It is geared towards enhancing student understanding of the KS3 citizenship curriculum and is designed to develop functional skills and personal learning and thinking skills in line with the national curriculum.
5. The project is being piloted in ten schools this academic year with a view to wider roll-out. It has attracted significant interest. We would be very happy to provide the Department for Education consultation team with a copy of the teaching resource pack (160 pages plus DVD) and discuss any aspect of the programme, including how it might inform the GSCE curriculum.
6. A one-page summary of the project is attached as an appendix.

---

<sup>1</sup> Department for Education, *Reformed GCSE and A Level Subject Consultation, September 2014*, p 13  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/358590/GCSE\\_and\\_A\\_level\\_consultation\\_document\\_FINAL.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/358590/GCSE_and_A_level_consultation_document_FINAL.pdf)

## A. CITIZENSHIP SKILLS, PROCESSES AND METHODS

7. The Bingham Centre very much welcomes the guidance given on 'Citizenship skills, processes and methods' for the GCSE<sup>2</sup> which, in summary, requires that students be able to demonstrate the ability to think independently, communicate and advocate for their own viewpoints while being able to take into account the viewpoints of others, evaluate and interpret sources of knowledge and evidence to construct arguments and come to supported conclusions.
8. Further, we support the aims and learning outcomes for the GCSE specification that specify that the content should also 'enable students to acquire the knowledge, understanding and skills to take responsible citizenship actions, play a positive role in public and democratic life as informed and active citizens, and provide them with the basis for further learning and study.'
9. These stated aims are very much in line with the skills-based aspects of national curriculum requirements.
  - The KS3 curriculum requires that, 'Pupils should use and apply their knowledge and understanding whilst developing skills to research and interrogate evidence, debate and evaluate viewpoints, present reasoned arguments and take informed action.'<sup>3</sup>
  - The KS4 curriculum requires that, 'Pupils should develop their skills to be able to use a range of research strategies, weigh up evidence, make persuasive arguments and substantiate their conclusions. They should experience and evaluate different ways that citizens can act together to solve problems and contribute to society.'<sup>4</sup>
10. The development of these skills is fundamental to continuing education at A-level and beyond, not only in Citizenship Studies, but in many other subjects that require the skills outlined above which are cross-curricular in nature. This is particularly relevant in the study of all the arts, humanities and social science subjects.

## B. COURSE CONTENT SPECIFICATION

11. The Bingham Centre agrees that there is a benefit to a greater level of specificity in course content, for the reason that there will be a greater level of uniformity in topics covered by students, and to some extent therefore, quality control in coverage.
12. However, it is our opinion that the proposed content specification is too prescriptive and seeks to address too many topics, and in doing so, will not meet (a) the aims and skills-based learning

---

<sup>2</sup> Department for Education, *Draft GCSE subject content, September 2014*, p 9

<sup>3</sup> Department for Education, *Citizenship programmes of study: key stages 3 and 4*, National Curriculum in England, September 2013

<sup>4</sup> Department for Education, *Citizenship programmes of study: key stages 3 and 4*, National Curriculum in England, September 2013

outcomes<sup>5</sup> stated for the GCSE specification and more broadly (b) the aims and purpose of study of the national citizenship curriculum.<sup>6</sup>

13. The implication of this is that skills required for further study at A-level and beyond will not be fully developed. In our view, the skills of evaluation, analysis and application of knowledge and understanding will not be fully developed where there is too much knowledge-based content to cover. The time that schools can realistically allocate to teaching the subject will only allow a superficial look at many of the complex topics in the specification without having the opportunity to delve into the debates and varying views behind the topics that would allow students to develop curriculum skills. In trying to cover too much ground, the opportunity for students to be able to think more deeply about the topics will be missed. The views recently expressed by Democratic Life and the Association of Citizenship Teachers are very persuasive in this regard. Commenting on the consultation, they state: 'The specification of knowledge has been significantly increased in the proposed subject content and this raises important issues for teaching training.'<sup>7</sup>
14. We suggest an approach that allows an exploration of the law and the justice system through the lens of fundamental concepts, i.e. the purpose of the justice system and what it seeks to achieve, and what a good justice system based on the fundamental principles of equality, fairness, liberty and justice would look like.
15. Some of the historical and factual content in the form in which it is currently proposed – that is, as content-oriented points – does not particularly lend itself to discussion and independent thinking. It would serve skills-development better when located as part of, and framed within, analysis and discussions of concepts, institutions and contemporary legal issues, rather than being free-standing teaching points.
16. For example, the points on sources and evolution of the law, operation of and actors within the justice system, could well be subsumed into more broadly drafted teaching points that *evaluate* the law and the justice system based on the fundamental concepts of equality, fairness, liberty and justice that they serve.
17. This approach underlies the Bingham Centre's current Citizenship Teaching Project, a summary of which is in the appendix. We acknowledge, of course, that there are numerous possible thematic foundations that can be used and, moreover, we are not at all suggesting that the Rule of Law should be the only one. However, it may particularly useful as an illustration because of its contemporary place in legal and political debate (including in debates around citizenship)<sup>8</sup>, and because it captures very well many important issues in the proposed GCSE content.

---

<sup>5</sup>Department for Education, *Draft GCSE subject content, September 2014*, [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/358272/Draft\\_Citizenship\\_Content.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/358272/Draft_Citizenship_Content.pdf)

<sup>6</sup> Department for Education, *Citizenship programmes of study: key stages 3 and 4*, National Curriculum in England, September 2013 [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/239060/SECONDARY\\_national\\_curriculum\\_-\\_Citizenship.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/239060/SECONDARY_national_curriculum_-_Citizenship.pdf)

<sup>7</sup> With your help, we can make the new Citizenship GCSE even better,' Michael Grimes, Democratic Life website, <http://www.democraticlife.org.uk/2014/10/18/with-your-help-we-can-make-the-new-citizenship-gcse-even-better/>

<sup>8</sup> For example, it has been cited by the Prime Minister as a part of 'golden thread' of economic development internationally. It is a core theme that is being proposed in the UN Post-2015 Development Agenda: see, for

## Conclusion

18. In general, the Bingham Centre recommends fewer teaching points that are more broadly drafted and that emphasise reflection about the law and the justice system. This approach presumes the teaching of factual knowledge but does not over-emphasise facts at the expense of engagement with ideas. It would permit learning that is more concept-based and would give students a vehicle through which to develop skills that are fundamental to achieving, among other aims and learning outcomes in the current proposed content, the aim of 'contributing to democracy and public life,' as well as meeting the skills-based requirements of the national curriculum.
19. The implication of allowing the necessary skills-based development specified on the curriculum is that students would be better equipped to progress with further study in this subject and in other subjects at A-level and beyond.

---

## APPENDIX

### Using the Rule of Law to teach citizenship content and concepts thematically

#### *What is the rule of law?*

20. Lord Bingham of Cornhill, KG, the former Lord Chief Justice of England & Wales, and one of the most remarkable jurists of his generation wrote in his landmark book of 2010, *The Rule of Law*, that:

the rule of law requires 'all persons and authorities within the state, whether public or private, should be bound by and entitled to the benefit of laws publicly made, taking effect (generally) in the future and publicly administered by the courts.'

21. There are **eight principles that follow from this core definition**:

- **Accessibility:** The law must be accessible and so far as possible intelligible, clear and predictable.
- **Law not discretion:** Questions of legal right and liability should ordinarily be resolved by the application of law and not the exercise of discretion.
- **Equality before the law:** The laws of the land should apply equally to all, save to the extent that objective differences justify differentiation.
- **The exercise of power:** Ministers and public officers at all levels must exercise the powers in good faith, fairly, for the purpose for which the powers were conferred, without exceeding the limits of such powers and not unreasonably.
- **Human rights:** The law must afford adequate protection of fundamental human rights.

- **Dispute resolution:** Means must be provided for resolving, without prohibitive cost or inordinate delay, bona fide civil disputes which the parties themselves are unable to resolve.
- **A fair trial:** Adjudicative procedures provided by the state should be fair.
- **The rule of law in the international legal order:** The rule of law requires compliance by the state with its obligations in international law as in national law.

### *How the Rule of Law underpins citizenship teaching content*

22. The rule of law and its constituent principles are ideally suited for understanding law, democracy, rights and responsibilities in the UK and abroad. The Bingham Centre has used rule of law principles as a thematic basis to explore much of the legal content of the citizenship curriculum in its citizenship teaching project.
23. The project introduces students to the concepts of equality, fairness, liberty and justice that are the central tenets of our justice system, bringing to life their practical significance in our daily lives using contemporary legal debates. Illustrative case studies and examples engage students with topical curriculum-relevant issues where democracy, justice, and rights arise in different contexts such as immigration, criminal justice, cultural and religious diversity, rights to a fair trial, equality before the law, the abuse of power, and human rights.
24. Below is an **illustration of the range of curriculum topics that can be covered by using the rule of law** and its constituent concepts as a theme, showing how such an approach will necessarily incorporate knowledge about the law and the justice system, but without making factual information the focus and allowing instead a more analytical, reflective and skills-based style of learning.
- In addressing accessibility of the law students can be introduced to the law-making process and the function of the law.
  - Limiting discretion within the law introduces students to the purpose behind law within a society.
  - Addressing the legitimate exercise of power lends gives students an introduction to the concept of power, its exercise and its limits, and introduces students to actors within the law enforcement system.
  - In learning about equality before the law, students may explore equality legislation, civil and criminal offences and corresponding penalties that should apply equally to all. They are introduced to the youth justice system whose aim is to provide young people an equal opportunity as adults to access justice by taking into consideration their different needs.
  - The topic of human rights opens up discussions about freedoms, rights and responsibilities, human rights legislation at national, regional and international levels.
  - Dispute resolution introduces students to all parts of the legal process, looking also at the institutional and policy elements necessary to access justice.

- Fair trial gives students the opportunity to examine the process of court trials as a means of dispute resolution and the principles behind criminal justice.
- The international legal order brings into discussion the issues surrounding the UK's interaction with the wider world, including membership of international organisations, and introduces students to international law as a means of addressing legal issues with an international dimension such as conflict and climate change.