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### **On Her Majesty's Disservice: HMI and Summerhill School**

*'It is freedom or nothing because if it is less than freedom it is not Summerhill'*  
(Geoffrey Robertson, QC)

*'I think the first image I have of it [HMI Inspection 1999] was when they came down the drive and there were 8 of them marching down with clipboards and suits. They were in twos'* (Summerhill teacher)

#### **Introduction:**

This is the story of how Government Inspectors (HMI) tried to close down Summerhill School. It begins with the 1999 Inspection of the school, and the issuing of a 'Notice of Complaint' – a list of alleged inadequacies in the school. Failure to remedy these would have led to the closure of the school, or at the very least, the destruction of its freedoms. Summerhill appealed against these complaints, and the appeal was heard by a Tribunal in 2000. The Government backed out of the appeal after only three days. Summerhill then complained about the quality of inspection, an appeal that was largely dismissed by OFSTED, and then by an appeal adjudicator. There is no doubt that the events of 1999-2000 were a victory for the school. Equally, that

victory is far from final and legal changes in 2003 once again threaten the philosophy and practices of Summerhill. This article vindicates the school's claims, and offers a comprehensive indictment of the inspectorial process. It is also a case study of the 'audit culture' in action, providing insight into the defective culture and ethos of government agencies, in particular the lengths they will go to in order to make sure that evidence and reason do not get in the way of Policy.

This article offers a research-based critique of the 1999 HMI/OFSTED inspection of Summerhill School. It draws on empirical evidence of the condition of the school at that time (Stronach et al 2000, hereafter the Nuffield evaluation)<sup>i</sup>, as well as that provided by the Independent Inquiry (Cunningham et al)<sup>ii</sup>. Additional evidence and argument produced in the Tribunal case is considered. The article then examines the subsequent attempts by OFSTED's Director of Inspection, Mr David Taylor, to justify inspection processes and verdicts in relation to Summerhill. Finally, the paper looks at OFSTED's treatment of evidence and argument within the 'audit culture' more generally.

### **The HMI evidence base**

First, what was the quality of the initial OFSTED inspection in 1999? That issue is addressed in relation to aims, evidence, and judgement.

#### **aims**

OFSTED documentation (1995 *Framework Guidance*, 1997 *Inspection of Independent Schools*, 2000 *Inspecting Schools*, *The Framework*) is absolutely clear:

'Schools are judged on how well they fulfil their stated aims and on whether these aims are appropriate in the context of the school and the pupils it serves'

Summerhill's aims are well-known. The 'Brief History of Summerhill' states the following: 'to allow children freedom to grow emotionally; to give children power over their own lives; to give children the time to develop naturally; to create a happier childhood by removing fear and coercion by adults.' As the 'oldest child democracy in the world' the School claims that the 'aim of life is to find happiness' and tries to ensure that its students will develop such qualities as 'self-esteem, tolerance, integrity, fairness, compassion, assertiveness and humour'. Voluntary attendance at lessons, and democratic agreement by staff and students together on the rules of the school are central processes in realising the school's philosophy.

The Nuffield team comprehensively inspected all of the OFSTED data relating to Summerhill. It became clear that the aims of the school were neglected in the 1999 Inspection. First, this was because HMI did not value these aims: 'The school's values and ethos are a very significant barrier to real improvement'; '[a] root cause of these defects [in attainment] is non-attendance at lessons.' The school allows the pupils to mistake 'the pursuit of idleness for the exercise of personal liberty'. Second, it was because they did not investigate these values in practice. For example, only 1 of the 54 lodged HMI Observation Forms<sup>iii</sup> addressed out-of-class learning. The school as a learning community was neglected. There is no evidence from the teachers and pupils at the school that the HMI paid any attention in their questions to broad, developmental aims. Indeed pupils reported that the most frequent question was 'how often do you attend lessons?' Third, it was because HMI wanted to 'ensure that all pupils are fully engaged in study across a broad and balanced curriculum'. The school had therefore placed an 'unacceptable burden of responsibility' on the pupils, tantamount to an abdication of 'professional responsibility'. Finally, the Inspection 'Framework'<sup>iv</sup> made these biases in terms of the focus of the Inspection inevitable. In offering 18 evaluative categories of judgement, only 4 related at all to the School's central aims (see paragraph above). Accordingly, the HMI report devoted 11 sections to teaching/formal curriculum and only 3 to matters of spiritual, moral, social and cultural development. In fact, the Framework was largely concerned with

the ‘quality of teaching’ which HMI in 1999 clearly conflated with the ‘quality of education’, as the Nuffield evaluation pointed out. HMI had complained:

‘..their curriculum is fragmented, disjointed and likely adversely to affect their future options’ (para 10)

‘..their education is fragmented, disjointed and likely to adversely affect their future options’ (para 60)

‘Education’ and ‘curriculum’ are apparently interchangeable terms, separable only by a split infinitive.

Thus it is hard to understand how OFSTED could square its stated intention to start from the school’s own aims with their subsequent approach to Inspection. But in 2000 the Secretary of State for Education, Estelle Morris, had no such difficulty: it had not been ‘the Secretary of State’s intention [In 1999 David Blunkett was Secretary of State, with Chris Woodhead as HMCI in charge of OFSTED] to force the school to close or to abandon its educational philosophy’. In a letter to Austin Mitchell MP (13.6.2000), Morris reiterated the DfEE’s commitment to respecting the school’s philosophy: ‘We have said all along that we wanted Summerhill school to encourage – not force or manipulate – pupils to attend or undertake suitable private study’. In so doing she was echoing the earlier DfEE press release which also adopted the same rhetoric of consistency – ‘we have said all along..’ The press release might have carried more weight if the internal PR memo hadn’t been headed ‘LINES TO TAKE’.

The key to understanding these apparent contradictions is to realise that although OFSTED responses to evaluating the aims of the school were, as we will demonstrate, ill-informed, incoherent and indefensible, they were not inconsistent. Four moves were recurrently made<sup>v</sup>:

**Move 1: assert the inviolability of the school’s philosophy in principle**

(eg: ‘The Department does not seek to impose a particular pattern of provision

or philosophy on schools'; voluntary attendance at lessons is recognised as a 'key principle of the school's philosophy'; 'Summerhill's expressed primary aim is to allow pupils to develop at their own pace' )

**Move 2: attack the central tenets of that philosophy in practice** (eg: pupils are allowed to mistake 'the pursuit of idleness for the exercise of personal liberty'; the school must eliminate 'erratic attendance' at lessons; 'all pupils [must] fully engage in study throughout their school'; the school is accordingly guilty of an 'abrogation of educational responsibility'; 'these issues at the heart of education, are left to the individual pupils, who by non-attendance at lessons, are able to disadvantage themselves')

**Move 3: prioritize OFSTED aims over Summerhill's** (eg: attainment is 'at the heart of education'; OFSTED 'focus on teaching to explain why pupils achieve as they do'; 'there is no evidence that use of national norms indicated a lack of understanding of the school's aims and approach'; 'there are major areas of unresolved difficulty where the school's philosophy is in conflict with wider external expectations of pupils' levels of achievement and progress'; '..HMI made judgements about the performance of the school as they were required to do, against the evaluation criteria set out in the Framework')

**Move 4: cover your tracks by reasserting the inviolable nature of the school's philosophy** (eg: 'The Report [1999] is certainly not attacking the principle of non-compulsory lessons'; '..this report cannot and does not pass judgement on the unique philosophy on which Summerhill is founded';)

That is perhaps enough evidence to confirm that when OFSTED promise to inspect schools in terms of 'how well they fulfil their stated aims' they mean in fact how well they fulfil OFSTED's stated aims – in terms of the Framework criteria, national norms, and a conventional schooling measured in terms of 'effective' teaching graded on a 7-point scale.

**evidence**

OFSTED invoke a stakeholder model of evaluation, claiming to gather evidence to inform their judgements from parents, pupils, governors and teachers. In respect of parents the OFSTED guidelines indicate that Inspectors should consider ‘the extent to which parents are satisfied with what the school provides and achieves’. 100% of the parents consulted by OFSTED asserted that their children benefited greatly from the school. This was discounted by HMI in two different ways. First, they tried to undermine the extremely positive nature of this finding<sup>vi</sup>:

‘..it is not surprising that parents who choose to place their children in its care are thoroughly supportive of its values and philosophy’

Note the shift from evidence of outcomes (the parental claim) and HMI’s attempt to deflect debate back to aims. It was clear, nevertheless, that the 100% approval was too much for HMI to report. They claimed:

‘**Most** parents who responded to the questionnaire are strongly assertive of the beneficial effects of their school’ (my stress).

Finally, a parents’ meeting was held by HMI. Parents reported a failure in the ‘stakeholder’ model – HMI were felt to be arrogant, insensitive and dictatorial. Parents were scathing about the inappropriateness of the inspection focus in relation to school aims. It was like ‘judging tennis by the rules of basketball’; HMI were ‘entering a racoon at a dog show’<sup>vii</sup>.

The stakeholder model puts a strong emphasis on pupil perspectives. It also requires Inspectors to ‘act in the best interests of the pupils at the school’:

‘..the interests and welfare of pupils are the first priority in relation to anything that inspectors observe’

Despite the 1999 inspection being one of the most intensive in OFSTED history (8 inspectors for 60 pupils) pupils felt that their views were ignored,

and that attendance at lessons was the Inspector's sole concern. As one pupil put it:

'When we were being inspected I felt really harassed by the inspectors in such a way that I did not attend very many of the lessons as they were always looking over my shoulder to see what I was doing'

Certainly, the OFSTED evidence base contains no records of interviews with pupils and pupil views are not recorded in the 1999 Report, except where they are discounted in favour of HMI interpretations. For example, HMI argue that pupil choice places an 'unacceptable burden of responsibility on these pupils' and therefore should be a matter for 'the professional responsibility of the school'. A 13 year-old Summerhillian expressed the pupils' general bafflement in this way:

'I don't know how they did it, how they managed to miss the point so badly. Maybe subconsciously they want Summerhill to fail because they missed the chance to come here themselves. Maybe they should come and finish their childhood so they can leave everyone else to get on with theirs.'

The perspectives of staff were treated by HMI in the same dismissive way. The Inspectors' evidence base contains nothing of their views. One teacher expressed a widespread feeling that 'there was a sense that the inspectors had an agenda which was that young children had the right to compulsory knowledge and compulsory skills by certain ages, and that if they didn't have that then they were suffering, and that we didn't give them that right – we gave them the right to choose, but not the right to have it..' Indeed, where teachers' views are referred to in the inspection report, they are also discounted. Suffolk Social Services earlier noted the enduring all-round dissatisfaction with the 'stakeholder' inspection process:

'Staff, pupils and parents (...) feel that they are subjected to inspectorial scrutiny more often than other establishments and there is some understandable resentment, concern and anxiety in their response.' (1997)

## HMI judgements

OFSTED requires that 'judgements be secure, in that they are rooted in a substantial base'. OFSTED judgement criteria relate to attainment, progress, teaching quality, and pupil response. The 'substantial base' of evidence is recorded in a document called the School Profile. Normally confidential, it was made available as part of the Tribunal rules for disclosing evidence, as were prior draft reports of the HMI Report. The Profile showed very serious weaknesses. First, although HMI noted in their Report that 'some pupils have learning difficulties: a large proportion are from overseas: many having experienced little success in conventional education' they went on to make 'national comparisons' that were meaningless since they were not comparing like with like. Nor did they have any baseline evidence of individual progress within the school. In addition, their comparative conclusions about progress and attainment at Summerhill in 1999 were demonstrably wrong. Both subsequent evaluations of the school pointed this out. Worse still, the profile showed that HMI evaluations of lessons were invalid and biased in many cases. It seemed that HMI had a verdict in mind when they inspected the school and they were out to provide the 'evidence'. A few illustrations will suffice<sup>viii</sup>. HMI grade lessons 1- 7, with 1 high and 7 low. An HMI wrote '.. lowish levels for English (one is German, the other Taiwanese [scored out] Korean)'. He noted 'proficiency is variable'. Against the category of 'progress' he wrote 'hard to gauge'. Nevertheless, an unsatisfactory grade for 'progress' was awarded – '5'. An HMI observed a single Taiwanese child beginning to learn English. Comment: 'at the earliest stage'. Grade: '6' for 'attainment'. How can a beginner's 'attainment' at 'the earliest stage' be Grade 6, ie 'highly unsatisfactory'? Presumably there's nothing there to measure yet. Another HMI commented in relation to 'progress', 'must be some – but impossible to measure in one lesson'. But he managed the impossible, grading 'progress' '6', ie highly unsatisfactory. Another reached an apparently 'satisfactory' conclusion about the teaching in a lesson, 'The lesson per se was sound' but marked the teaching unsatisfactory, '5'<sup>ix</sup>.



The School Profile was full of such arbitrary verdicts, and the Nuffield evaluation found that HMI judgements were faulty in that they contained unexplicated judgements, showed a disregard for or ignorance of construct and content validity, lacked a valid basis for comparison, and offered unwarranted generalisations. The Nuffield study concluded:

'It was not their [HMI's] fault that they failed to make valid comparisons. The task was impossible. They can be criticised, however, for claiming to have succeeded.'

There were also signs of bias in the ways in which the report had been redrafted – all changes were in a negative direction:

**first draft:** 'It [the Action Plan produced by the school in response to previous criticisms by HMI] had led to some constructive debate and the development of some innovative work on planning assessment, record keeping and peer support. All these aspects are being addressed and tried out over a specified time' (School Profile)

**final draft:** 'It had led to some debate and the beginnings of some early work on planning assessment, record keeping and peer support'.

**first draft:** 'By the time they are 16, pupils attain reasonable standards'. This conclusion did not appear at all in the final version.

When Summerhill had won the tribunal case, the School lodged an official complaint to OFSTED about the quality of the inspection. It drew on the Nuffield Evaluation, the Independent Inquiry, and the school's own evidence. It appealed to the requirement in OFSTED documents that judgements must be valid, reliable, secure, consistent and impartial – manifesting a 'concern for accuracy and respect for evidence'. The Director of Inspection, having reconsidered all of the above evidence, replied:

'We stand by the grades given'

**Tribunal case, 20-23 March 2000**

Thus far, we have seen something of the tenor of the HMI 'Complaints', as well as the evidence gathered by the Nuffield evaluation and the Independent Inquiry. The question now was: how would such claims and counter-claims play out in court?

The case was scheduled for two weeks. It lasted 3 days before the DfEE agreed to a humiliating settlement whereby future inspections of Summerhill would have to be chaperoned by the school's appointed 'expert'. But interesting things emerged in those 3 days.

Counsel for Summerhill, Mr Geoffrey Robertson QC, argued that the school remained exemplary<sup>x</sup>:

'Our evidence in this appeal will prove [that Neill's] legacy is a living one, that the system he devised to nurture humanity in children so that they could fulfil their real potential in life, works as well as it ever did, and is for some children the best education that they could possibly have. Just as it was necessary in the last century that Summerhill should survive as a reproach to the cruelty of formal education in those days; regular beatings of children, group learning, tyranny of exam results, so it is even more necessary that it should flourish as an alternative today, an alternative both to state and to independent systems that have not found ways of combating racism, bullying, sexual abuse and which are strait-jacketed by a narrow National Curriculum and undermined by large classes, and where the tyranny of examination results is worse than ever.' (court transcript)

He went on criticise the actions of OFSTED.

'The evidence in this case will show its behaviour is frequently in breach of its own proclaimed standards, its inspectors have demonstrated a lack of

professionalism, basic errors in methodology and a degree, I am sorry to say, of persecution in the demands they have made of Summerhill as a school.’

Geoffrey Robertson was clear that ‘OFSTED wants to close this school, whatever the spin doctors now say about the thinking behind the issuing of this [...] Complaint’. OFSTED’s attempts to distance themselves from criticism of Neill’s ‘philosophy’ [see Move 1/Move 4] mistook Neill’s philosophy as something ‘airy fairy’. On the contrary it was

‘...a system. He had a school. His school was a living exemplar of what he believed education should be about. [...] That school system is Summerhill. It has not changed fundamentally and it never will. It cannot. It is freedom or nothing because if it is less than freedom it is not Summerhill [...] freedom is not negotiable. If you insist that it is, as OFSTED wants to make it, then that is the end of Summerhill.’ (court transcript)

The first witness for the Secretary of State was Mr Phipps of the DfEE. He was Registrar for Independent Schools in England and Wales. He agreed that OFSTED’s initial demand had been that ‘[a]ttendance at lessons should be made compulsory’. The Secretary of State, however, had a more nuanced view. Voluntary attendance was in principle acceptable, but the ‘school must ensure that all pupils engage regularly in learning’. Pursued by Summerhill’s Counsel, Phipps first claimed that the redress of ‘prescribed self-study’ did not mean compulsion and then defined ‘ensure’ as meaning to ‘secure that outcome’ and ‘make certain’. At the same time Phipps agreed with Geoffrey Robertson, that ‘no procedure should be required which removes the essential freedom [of pupils] to decide for themselves’. The problem, as his witness statement attested, seemed to be that the school had departed from Neill’s principles and was now ‘advocating non-attendance’ and shifting both to a ‘policy’ and ‘culture’ of non-attendance. Thus, it seemed, the Secretary of State was upholding Neill’s philosophy against an unfortunate ‘drift’ towards something quite different. Phipps’ uneasy journeying through Moves 1 to 4 was taking him to some unusual destinations.

The notion that the Secretary of State was intervening in order to uphold Neill's philosophy against subsequent 'drift' illustrates, in extremity perhaps, the shifting arguments of the DfEE witness in the face of cross-examination. Such was the DfEE's determination not to confront Neill's philosophy, and presumably avoid taking on the school's 80-year-old philosophy directly, that Phipps was quite unable to respond to his **own** Counsel's attempt to rescue him. Counsel for the DfEE tried to shore up the DfEE's case by implying that the DfEE could have recommended compulsory lessons if it had wanted, but had not done so. Their approach, it was implied, had been moderate and constructive. Such was the strength of the taboo against such a recommendation that Mr Phipps floundered instructively:

**Counsel:** 'You have told us that you rejected OFSTED's recommendation that compulsory lessons should be imposed. We have heard that. Now, if you had wanted to say that compulsory lessons should be imposed, would you have said it?

**Phipps:** I don't think so, no.

**Counsel:** If you wanted to say it?

**Phipps:** I am sorry. I am sorry.

**Counsel:** That may be your answer, but my question, which I think you misheard, was: if you had wanted to say "I want compulsory lessons. I, the Secretary of State, want to make you go to lessons", could you have said that?'

**Phipps:** Er...'

(court transcript)

Thus the one thing that Phipps could not express even as a hypothesis when invited to do so by his own counsel, was the admission that the Ministry was out to destroy the 'free' nature of Summerhill. OFSTED, as we saw, was happy to make a frontal assault on compulsory lessons. The Ministry could not bring itself to such honesty: Summerhill, as it were, had to be stabbed in the back while being assured that its philosophy was safe in the Inspectors' hands.

A further revelation during this questioning was that, unknown to itself, Summerhill was on a special list of schools 'to be watched'. The file marking 'TBW' indicated much more frequent inspections than would normally be the case. HMI explicitly denied any 'special' categorisation of the school and stated in a letter to Summerhill's headteacher, Zoe Readhead:

'I am sorry to hear that you feel that Summerhill is being singled out for special treatment and I can assure you that this is not the case'.

Geoffrey Robertson asked Phipps: 'That is a lie, is it not?'

**Phipps:** I don't think it is a lie.'

Judge Wroath expressed his 'astonishment' that the school was not informed of its 'TBW' status. He explored with Phipps what the difference between routine and special inspection treatment was:

**Judge Wroath:** '..so why do you use the word 'routine' in your letter because it is not the same, is it? 'Routine' implies that this is what always happens. What was happening at Summerhill was not in the least routine, was it? It was special.

**Phipps:** It is routine for schools where the Secretary of State has a concern that the school may be in danger of failing to meet the minimum standards.

**Judge Wroath:** And that is the answer you would like us to accept?

**Phipps:** Yes.

(court transcript)

The case never really went beyond Phipps' sophistries. The counsel for the DfEE was concerned that the case was 'going nowhere', apparently, and so negotiations opened between the two sides. The result was very much in Summerhill's favour. The Notices of Complaint were dropped. It was agreed that future inspections of the school would themselves be monitored by an

independent expert appointed by the school, the DfEE also insisting that they too should have an expert present – further undermining the integrity of the OFSTED inspection process<sup>xi</sup>. The school would ‘continue to provide a stimulating learning environment’. Note the word ‘continue’. HMI agreed in future to take full account of the aims of the school and the views of its stakeholders.

The DfEE immediately misrepresented the nature of this agreement in its press release, implying that the school had **now** agreed to encourage pupils to attend lessons. Secretary of State Blunkett also tried to interpret the government climb-down as a victory, claiming that the school had agreed to encourage lesson attendance and to improve teaching and assessment. In fact the DfEE signed up to the following statement: ‘The freedom of children to attend lessons or not in accordance with Neill’s philosophy is acknowledged.’ When David Blunkett (now Home Secretary) claimed that the phrase ‘will continue to provide a stimulating learning environment’ meant ‘will encourage pupils to attend lessons’ he was trying to obfuscate precisely what the case had been about, and he was failing to acknowledge the agreement the DfEE had been forced to subscribe to only weeks before. In this way, the DfEE tried to snatch victory from defeat. But the DfEE and OFSTED had a victory that they did not want to talk about as well. Because the Tribunal case had ended early the Tribunal would not now hear all the evidence on the inspection process and so would not pronounce on the quality of the 1999 inspection, nor indeed more generally on the relevance or otherwise of OFSTED’s inspection ‘framework’ and procedures for progressive schools. Summerhill, therefore, could only pursue justice in regard to the overall inspection process, as distinct from the Tribunal agreement, via OFSTED’s complaints procedures.

### **Summerhill’s Complaint, OFSTED’s Response and the findings of the Official Complaints’ Adjudicator**

The Summerhill Complaint about the quality of the 1999 HMI Inspection Report repeated many of the objections noted above. It also offered to HMI for the first time research evidence on Summerhill leavers' perceptions of the school, as well as the Independent Inquiry and Nuffield evaluation evidence about outcomes of a Summerhill education, including 'national comparisons'. All of these had been highly favourable to the School. Summerhillians showed 'self-confidence, interpersonal skills, caring about and respect for others, sense of responsibility, ability to take own decisions'. Their life chances, according to the survey of ex-Summerhillians, were good. The therapeutic aspects of the school were highly positive and unusual:

'I'd just like to add that Summerhill was and remains hugely important to me. It is still the place I return to in my dreams during periods of stress in my life!'

The examination results were found by the Independent Inquiry to be better than the national average, despite the intake being largely non-UK, and comprising higher than average Special Needs pupils and indeed those with school phobias of one sort or another<sup>xii</sup>. Finally, a survey of ex-Summerhillians had been conducted by the school's solicitors. There was overwhelming support for voluntary attendance at lessons (92.3%). At last, HMI concerns about the future 'attainments' of Summerhillians had a substantial evidence base. Mr David Taylor, Director of Inspection, reviewed this new evidence. His remit, he explained, was to make an 'even-handed' examination of the School's complaints in the light of 'all the papers you [Summerhill] have supplied'. After a 'necessarily long and detailed' investigation, he concluded:

'We have reviewed the statements carefully, but can find no additional evidence which suggests that HMI missed important aspects of the school's work' (letter 15.2.02).

It was as if the findings reported in the Nuffield Evaluation and the Independent Inquiry had somehow evaporated in his mind, even though the Director of Inspection admitted reading them. He was unable to absorb conclusions that contradicted HMI beliefs. In the absence of 'additional

evidence', accordingly, HMI stood by their lesson grades. They stood by the Report's focus. 'A review of the record of evidence indicates that this statement [ that HMI had neglected out-of-lesson learning] is not accurate'. As earlier noted, 1 of the 54 Observation Forms in the record of evidence was about such learning. Further, the Director of Inspection concluded: 'It is not clear that there is any evidence that HMI missed some important views of students'. The Director of Inspection seemed unable to find things that were there (like new evidence on attainment and school outcomes) and able to find things that were not there (like evidence of out-of-lesson learning, or due attention to pupil perspectives). He concluded that the 1999 Inspection Report 'derives clearly from the observations made'.

'We stand by the Report as the best professional judgement of a highly experienced and non-partisan team of Inspectors.'

As 'independent expert' for Summerhill School, I produced a 28 page critique of that document. I concluded that the OFSTED Response to Summerhill's Complaint was 'a cover-up for an inspection process that has been shown, in the light of further evidence, to be quite wrong. As such it reflects very badly indeed on the integrity and competence of OFSTED's own Complaints' procedures. There can be no doubt that the Director of Inspection, as author of the OFSTED Response, should consider his own position in the light of such a verdict.' There was no reply. A critical summary of these processes of complaint and response was sent to a number of MPs and to the press. There was no press coverage. There were no questions in parliament. MPs simply forwarded the criticisms to the DfEE and sent back the Ministry's denial without comment. In this way, a poorly conducted Inspection was whitewashed by an internal 'Complaints' Procedure' and a necessary sequence of malice, dishonesty and incompetence went unremarked, and unpunished.

There was one further recourse. The School appealed to the Official Complaints' Adjudicator (OCA). The OCA is a further 'independent' check on inspection quality, although appointed by the DfEE<sup>xiii</sup>. It was not, she said,



'within [her] remit to comment on issues of inspectors' professional judgement'. Nor indeed was she an 'education specialist', being a lawyer and a mediator. Having declared herself impotent and incompetent, the OCA nevertheless rejected claims by OFSTED that the school policy had 'drifted' towards 'the pursuit of idleness'. On the other hand she was happy with the OFSTED Response to Summerhill's complaint, believing that the additional evidence on school outcomes was 'not relevant'. The question was whether OFSTED had followed its procedures correctly. By and large she felt it had<sup>xiv</sup>, and so she concluded that OFSTED's Director of Inspection had 'evaluated fully and fairly the evidence that was available at the time of the inspection'. An important point of principle was promoted here by the OCA. Basically, she was arguing that where HMI could point to no evidence for their verdicts they ought to retract. But she was also arguing that any subsequent evidence that disproved the conclusions OFSTED came to was irrelevant. In this appeal process 'new evidence' was inadmissible. In which case why have an appeal procedure at all, since it must rely on testing the 'security' of the OFSTED verdict with the best available evidence and argument, as all legal appeals do? At any rate this convenient lacuna allowed the OCA to conclude that OFSTED had made a 'reasonable attempt to provide a balanced response'.

In short, the OCA added a second coat of whitewash.

## **Conclusions**

It had cost Summerhill around £150,000 to defend itself against the DFEE's attempt to close it down. Around 70 complaints are made annually about OFSTED's activities. Very few other schools could generate the support to make such a defence. Summerhill was successful, although the discredited 1999 Report, disgracefully, remains on OFSTED's website. There can be little doubt, as well, that HMI and OFSTED will return to the subject of the school's 'shortcomings' when they feel it is safe to do so. Such a return, after all, has become a tradition. At heart, their opposition stems from an anti-progressive and increasingly authoritarian *zeitgeist* that has long regarded the freedoms of Summerhill as an affront to more coercive notions of schooling, certainly held

by the then HMCI, Woodhead, who may well have instigated and/or encouraged the whole business. This is of course speculative, but it certainly seemed from an examination of OFSTED documentation that there had been an initiative launched from within the senior management team of OFSTED to 'deregister,' ie close down, the school. It was, for example, an unusual feature of the Inspection that one of the 1999 inspectors, Mr Chris Gould, was an SMT member.

The evaluative strategy of OFSTED/DfEE in the Summerhill affair is worth some further comment (Stronach 2002c). As we saw, when parents claimed outcomes, OFSTED replied in terms of aims. When evidence of attainment was produced, OFSTED said that wasn't everything – there were broader aims. When the school invoked those broader aims, OFSTED said attainment was at the heart of education. When the school pointed to OFSTED's undertaking to evaluate its aims, OFSTED addressed the 'Framework'. When the school claimed healthy 'national comparisons', OFSTED first denied that that was the case (HMI Grenyer, witness statement), then changed the subject. When the School produced comprehensive and longitudinal evidence of beneficial outcomes, OFSTED said that Inspectors could only judge on what they saw at the time. Where OFSTED made concessions, they were simultaneously withdrawn elsewhere<sup>xv</sup>. What was going on?

*'.. doctrines are so numerous, varied and plastic that a man [sic] can always find in them an element to serve his interests in any given situation. He does not deny the doctrines, but he selects from them what is most to his advantage in each situation and excludes the rest'* (Evans-Pritchard 1937: 133)

As we have seen, OFSTED tended to make four different moves in response to criticisms. These allowed it - rhetorically - to gloss over some obvious contradictions between its values, aims and methods and those of the school. Phipps' testimony illustrates these shifting grounds rather well: 'special' becomes 'routine'; aims are admissible and then not; the Report reveals continuity and then drift. And so on.

This characteristic is very clear in terms of the OFSTED Response to Summerhill's Complaints. On 18 occasions the Director of Inspection reassures Summerhill that OFSTED was not judging the aims of the school. At the same time, the HMI Report, which he comprehensively vindicates, made 40 criticisms that either directly undermined that philosophy or placed impossible constraints on it. Similarly, because both sides of the contradiction are presented in the Report and in the Response, the OFSTED authors are always able to portray in their texts where they have attended to Summerhill's aims. Personal development, for example, is said to have been addressed by HMI at paras 8, 30, 32, 51, 52. A positive concern for the Schools' aims is indicated at 57- 62, 8, 51, 52. These atomistic attributions disguise the dynamics of an overall contradiction. They hide, for example, the subordinate nature of these features in the Framework. Yet the first sentence of the Response confirms that subordination, even as a grammatical feature:

'A central feature of a national inspection system is that it must follow standard features in order to ensure maximum fairness and consistency, **while** (my stress) displaying sensitivity to the aims and characteristics of the individual establishment'

Such a statement does a number of things. It privileges an imperative to standardise ('must'). It transfers the notion of fairness from the individual situation (the child, the school) to a systemic location where it marks the place of the child or the school within national comparisons. In this way individual 'aims and characteristics' are subordinated to measures of average national attainment. And 'fairness' becomes a technical rather than a moral requirement. A further indication of priority is carried by the peculiar oxymoron 'display sensitivity' (If I offer to '**display** sensitivity ' to your needs, you would do well to doubt my sincerity.)

The further, contradictory claim is then made that the school's philosophy is not at stake, only its 'effects', 'results' or 'effectiveness. Yet when evidence of

these outcomes is produced it is ignored, or in the case of the OCA, deemed 'not relevant'. Again, we see that suspect traffic between Moves 1 – 4.

*'Contradictions between their beliefs are not noticed [...] because the beliefs are not all present at the same time but function in different situations. They are therefore not brought into opposition'* (ibid: 475)

Just as the contradiction between judging the philosophy/not judging the philosophy was much fudged, so too was the issue of regular attendance at lessons/ voluntary attendance. The DfEE and OFSTED argued – in court and out – that they supported Summerhill's philosophy provided it offered 'compelling advocacy' to ensure regular attendance at lessons or self-study. The DfEE's expert witness, Professor John MacBeath, had suggested that 'strenuous encouragement' was admissible, and these formulae were used by the Director of Inspection to conclude that 'HMI have been careful not to come down in favour of either enforced or voluntary attendance. They always look at the effect, and the case'. Nor could it ever be spelled out how 'compelling advocacy' was to equate with voluntary attendance – it was a necessary fudge. There was a further contradiction. Elsewhere, Phipps had agreed that HMI/OFSTED had demanded compulsory attendance at lessons; it was the DfEE that had shied away from such a direct strategy. Yet, as we saw, the beneficial 'effects' of such a policy of voluntary attendance were ruled out of court by both the OFSTED Response and the OCA - and, as we saw, out of the draft 1999 Inspection Report. The circulation of these notions served as rhetorical devices to hide the contradiction rather than solve the problem.

*'..each situation demands the particular pattern of thought appropriate to it. Hence an individual in one situation will employ a notion he excludes in a different situation'* (ibid.: 349)

OFSTED are explicit about their theories of teaching and learning - they don't have any. Therefore there is no possibility of conflict or contradiction between Summerhill's approach and their own: 'It is important to stress that the work of HMI is not based on any particular school of theory' (Director of Inspection).

But such 'openness' is demolished by constructs such as 'national expectations', Framework 'requirements', 'minimum standards', notions of 'progression' and 'attainment' etc. These concepts constitute an implicit theory of 'efficient and suitable' education (the legal requirement), but one which is not based on evidence. Instead it is a set of interlocking inspectorial axioms. It seems that the Framework is regarded as non-theoretical by its operators, who forget that its axioms are unproven. They therefore take evidence that points to Framework shortcomings for schools such as Summerhill as proof of school shortcomings in terms of the Framework. Facts cannot correct a theory that does not acknowledge its own existence:

*'Facts which are not described by the theory create no difficulty for the theory, for it regards them as irrelevant to itself'* (Polanyi 1958: 47)

It can readily be seen that such forms of argument, capable of displacing unwanted evidence, suppressing rival interpretations, able to shift justification from one locus to another, happy to invoke one criterion on one occasion and a quite different one on another, are essentially circular in nature. They are in Polanyi's terms 'complete' conceptual frameworks that obviate the possibility of their contradiction, despite the contradictions that beset them internally. When confronted with contradictory evidence, they set off on a series of digressions, which Polanyi called 'epicyclical elaborations'. Combined with the circularities in the discourse, these logics prevent the emergence of any new theory of the case – 'suppressed nucleation'. Polanyi summed up such a system of 'knowledge' in these terms:

*'Circularity, combined with a readily available reserve of epicyclical elaborations and the consequent suppression in the germ of any rival conceptual development, lends a degree of stability to a conceptual framework which we may describe as the measure of its completeness. We may acknowledge the completeness or comprehensiveness of a language and the system of conceptions conveyed by it [...] without in any way implying that the system is correct'* (1958: 292)

In the above quotation, and the ones that precede it, Polanyi and Evans-Pritchard were not addressing OFSTED belief systems. They were explaining how Azande sustained belief in witchcraft.

Finally, the case of HMI *versus* Summerhill is far from over. In 2003 the Government set out to strengthen its legal hold over what went on in independent schools in England. 'We have updated them [the Standards] and extended them to cover further areas where we have in the past lacked the power to take action as a result of critical inspection reports'. One of these 'standards' addresses the 'quality of education'. Such quality now legally requires 'full-time supervised education'. The threat to 'voluntary lessons' and Summerhill freedom is plain. The Government Inspectors will return to the school with their clipboards and additional law on their side, although probably only by breaching Human Rights legislation. A six-year cycle of 'routine' inspection is set and so Summerhill can expect a visitation in 2005.

More broadly, this form of authoritarianism in education in England threatens progressive education everywhere. The attack on Summerhill is symbolic in nature, and something that all educators must fight. It combines a kind of centralised microfascism with, as we've seen, a strong undercurrent of inspectorial farce (Stronach 2002b; Stronach 2004). So we should remember to laugh at, as well as to criticise, a government department and agency that acts as a bully while insisting that all institutions must have anti-bullying policies.

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<sup>i</sup> In November 1999 I was asked by the school to provide an evaluation of the inspection process conducted by HMI in March. I put together a team of educational evaluation specialists (Professors Harry Torrance, Saville Kushner, Barry MacDonald, and a Special Needs/Inclusion specialist, Julie Allan). The Nuffield Foundation supported the evaluation with a small grant. The team made it clear to Summerhill School that its report was independent and might not be favourable to the defence of the school. The Nuffield team spent 24 field days researching the school, and two months looking at OFSTED inspection processes in general and in relation to Summerhill in order to produce a report that the School could lodge in its defence at the Tribunal case in March 2000. That 100 page report informs this chapter. In addition, the School subsequently produced a Complaint which drew on the Nuffield Report and the Independent Inquiry. The OFSTED Response (Taylor February 2002) to that Complaint was referred to me since I had been nominated by the School as their 'independent expert'. The Tribunal required future OFSTED inspections of Summerhill to be 'chaperoned'. In June of that year I produced a 28 page critique of the OFSTED Response to Summerhill's Complaint (Stronach 2002a ), subsequently also accompanying HMI in their one-day re-inspection of the School. That last outcome, perhaps unsurprisingly, was favourable to the school (TES, July 12<sup>th</sup> 2002).

<sup>ii</sup> The Independent Inquiry comprised 8 senior educationalists, including OFSTED-trained inspectors and independent school headteachers: Drs Ian Cunningham, Harry Gray, Peter Honey, Michael Rosen; Stuart Ainsworth, Derry Hannan, Jill Horsburgh and Colin Read.. Between them, they spent 17 days at the school between September 1999 and January 2000.

<sup>iii</sup> These are reports written by HMI in the course of their observation activities. Collectively, they are called the School Profile. The Nuffield evaluation had access to these draft reports and to their subsequent redrafting. They comprise the evidence base for the HMI Report (see later for criticisms).

<sup>iv</sup> The Framework is a document which specifies the foci, categories, criteria and methods that Inspection must adopt. The key document in relation to the 1999 inspection was a 1997 document which adapted state school inspection procedures to private, ie 'independent', schools.

<sup>v</sup> The recurrence can be seen in previous HMI/OFSTED inspections of Summerhill, in the 1999 HMI Report, and in the subsequent Response to Summerhill's Complaint about the poor quality of its OFSTED inspection. The illustrations of each of these moves are mainly drawn from 40 criticisms (implicit or explicit) that HMI made in 1999 regarding the philosophy of the school. These are listed in Stronach 2002a, p9, footnote 9.

<sup>vi</sup> These positive response rates were far higher than the averages HMI were used to, as the Independent Inquiry, which included OFSTED-trained inspectors, pointed out.

<sup>vii</sup> This is in stark contrast with research findings on OFSTED inspections elsewhere. Ouston & Klenowski found that 97% of their parent sample (n=610) felt that inspectors were interested in their views (1995:34). That sample was based on a very low response rate (6.4%). The Summerhill Independent Inquiry reported that 47.69% of parents nationally registered significant levels of parental dissatisfaction with the schooling offered, an alarming challenge to the HMIs' conclusions about the



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quality of education at the Summerhill, where reported dissatisfaction levels were zero. It was a 'national comparison' that they failed to draw.

<sup>ix</sup> There was one instance of HMI judgement which was indefensible but positive and therefore an indication that 'bias' may not always have been the problem. An HMI, who did not speak the language concerned, observed a lesson conducted in Japanese. He awarded the lesson a satisfactory '3', commenting, 'student is already conversing in Japanese, with some confidence'. Astonishingly, OFSTED have previously defended the ability of its Inspectors to comment on the quality of lessons conducted in languages they do not understand (see OFSTED evaluation of a Hebrew school, Summary of Inspector Evidence, OFSTED, 1997).

<sup>x</sup> These quotations come from the official transcript of the proceedings of the Tribunal. I have corrected the occasional spelling and punctuation error. Edited sections are marked [...].

<sup>xi</sup> The DfEE expert was Paul Hirst, Summerhill's was Ian Stronach. Both attended the 2002 inspection of the school. Paul Hirst later expressed his concern that a narrow interpretation of the new regulations (2003) might make Summerhill's philosophy inadmissible.

<sup>xii</sup> The Nuffield Evaluation concluded that such comparisons were impossible to make, but concluded that there did not seem to be any problem with the GCSE results, and so agreed with the school about the effectiveness of the 'catch-up' period in terms of 'attainment' - which as we've seen lies at 'the heart of education'. In OFSTED's Response, no comment was made on the nature of the additional evidence concerning examination outcomes. Instead Mr David Taylor commented that examination results 'are not the only goals, and inspection looks at wider aims, both those set nationally and those of individual schools. HMI read leavers' forms and took note of students' views about their education'. No such notes are recorded in the HMI evidence, which constituted the only written source for Taylor's reappraisal.

<sup>xiii</sup> This was the 4<sup>th</sup> degree of independence invoked by OFSTED. First, their HMI inspection was 'objective' and independent. Second the Director of Inspection was 'independent'. Third, his investigation was scrutinised by the 'Compliance team' in OFSTED's Corporate Management Division. Fourth, there was the scrutiny of the Official Complaints' Adjudicator. All, in the last analysis, were appointees of the DfEE or its agency OFSTED. Independence seems to be something of a Russian doll in government circles.

<sup>xiv</sup> Criticisms were also made of the neglect of pupil and parental perspectives, the absence of out-of-lesson evidence, and a number of weaknesses in HMI 'scrutiny' in the Observation Forms. The 1997 Framework was criticised implicitly for being too narrow, but its 2001 replacement was 'fit for purpose' if administered with care and sensitivity.

<sup>xv</sup> For example, HMI accepted that they could have done more to record pupil perspectives. At the same time, they affirmed that there was nothing that they had 'missed' in relation to such evidence. HMI accepted that there were lessons to be learned from the critique of their observation and recording practices. At the same time, they stood by their grades.