

Research Briefing

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Children's Wellbeing and Schools Bill 2024-25



Summary

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Summary

The [Children's Wellbeing and Schools Bill 2024-25](#) was introduced on 17 December 2024. It is bill 151 of the 2024-25 parliamentary session. The bill is listed for second reading on 8 January 2025.

The government intends the bill to improve the safeguarding of children (such as in care institutions and schools) and to raise educational standards.

This briefing does not provide an exhaustive guide to every clause of the bill. Analysis focuses on clauses that have legally or politically significant effects. See the bill's [explanatory notes](#) for further detail on other clauses.

The government has also published a [policy summary for the bill](#), which provides detailed information on its proposals.

Children social care and schools are devolved policy issues. Most of the bill's provisions extend to England and Wales and would apply in England only. Clause 10 (on deprivation of liberty orders) also extends to Scotland as it makes consequential amendments to Scottish legislation.

Children's social care policy

Many of the bill's children's social care provisions build on reforms begun under the Conservative government's [children's social care reform strategy](#).

Among other things, the bill would define kinship carers in law and require local authorities to offer families a group decision-making meeting before applying to take a child into care. It would also make several changes aimed at improving child safeguarding, including allowing for the creation of a single unique identifier for children.

The bill would make a series of changes related to accommodation for looked after children (those in the care of the local authority), including:

- allowing the Secretary of State to direct local authorities to establish regional co-operation arrangements for planning and commissioning homes for looked after children.
- providing a statutory framework under which children could be deprived of their liberty in settings other than just a secure children's home
- increasing Ofsted oversight of organisations that operate multiple children's homes or independent fostering agencies and allowing Ofsted to fine unregistered children's homes

- introducing a financial oversight regime for certain independent fostering agencies and children's homes providers
- allowing the Secretary of State to cap the profits of children's homes providers and independent fostering agencies.

Many of the bill's children's social care provisions have been broadly welcomed. However, concerns have been raised, including around the proposal to cap the profits of placement providers.

Schools policy

Breakfast clubs and school uniforms

The bill would provide for breakfast clubs to be available before school begins at all state-funded primary schools in England, and ensure that the existing school food standards apply to all state-funded schools, including at breakfast.

The bill would also set limits on the number of branded items state-funded schools may require as part of their uniform, building on measures to reduce uniform costs introduced in 2021.

A register of children not in school and independent educational institutions

The bill would require children to be registered with the local authority when they are being educated outside of school for some or all of the time, such as through home education.

Similar measures have been proposed in the past, including by the previous Conservative government, and have proven controversial. Many home educating parents and campaigning organisations object to the principle of being required to register their children, as well as to the practicalities of many of the proposals that have been made.

The bill would make a series of changes to expand the regulation of independent educational institutions that provide all or a majority of a child's education. Successive governments have been concerned that the existing regime to regulate these institutions is not sufficient. It would also strengthen Ofsted's powers to investigate unregistered, and therefore illegal, independent schools.

Regulation of teachers

The bill would make changes to the regulatory regime for teachers, following concerns that some teachers may 'fall through the gaps' and be allowed to carry on teaching in the future, despite having potentially engaged in serious

misconduct or committed a relevant offence. It would extend the current law to teachers in a wider range of settings, such as further education colleges. It would also allow for teachers to be investigated regardless of whether they were employed as teachers at the time of the alleged misconduct or a relevant offence.

Academy schools

The bill would make very significant and wide-ranging changes to academy schools and the rules they have to follow. These are schools that are funded by the government but are not connected to local authority; instead they are run by an academy trust, a not-for-profit company.

In short, the bill would 'roll back' many of the freedoms these schools were given when the current academy framework was established under the coalition and conservative governments after 2010. Academies would be subject to most of the same duties as maintained schools – that is, schools funded and overseen by local authorities. The Conservatives' Schools Bill of 2022-23 also included provisions on academies; these were controversial and most were removed at Lords' report stage (before the bill was abandoned). The current government says these changes are necessary to bring more consistency and drive up standards across the school sector.

Academies would be required to teach a revised national curriculum (currently they don't have to follow the national curriculum), follow national pay and conditions rules for teachers, employ qualified teachers in most circumstances, and admit particular children if directed to do by a local authority.

Establishing new schools

The bill would also make changes to the current process for opening new schools, and to how school admissions work.

Since coalition government reforms in the early 2010s, most new schools have been required to be free schools – that is, wholly new academies. Some have been concerned that restricting local authorities' ability to open new maintained schools in most circumstances conflicts with their statutory duties to manage the local supply of school places.

The bill would restore local authorities' powers to propose new maintained schools, although opening an academy would still be an option. Schools (including academies) and local authorities would also have to cooperate more closely when taking annual decisions about school admissions criteria, and there would be new powers to challenge some admissions policy decisions by individual schools.

1 Overview of the bill

1.1 What would the bill do?

The Children's Wellbeing and Schools Bill has two parts: part one on children's social care and part two on schools.

The Department for Education (DfE) has published a [policy summary of the bill](#) and a [delegated powers memorandum](#).

Part one: Children's social care

Part one of the bill would:

Kinship care and family networks

- Require local authorities to offer a family group decision-making meeting (FGDM) before applying to take a child into care (clause 1)
- Define kinship carers in law, require local authorities to publish information about the services they offer in their area for children in kinship care and their families (a "kinship local offer"), and extend the role of Virtual School Heads to cover children in need and all children in kinship care (clauses 5 and 6)

Child protection

- Require education and childcare providers to be included in an area's safeguarding arrangements (clause 2)
- Require local authorities to establish multi-agency child protection staffed by people from education, social work, health and the police (clause 3)
- Allow for the creation of a single unique identifier for children and introduce new duties around data sharing (clause 4)

Care leavers

- Require all local authorities to offer Staying Close support to care leavers where deemed necessary and to include information on procedures to ensure a supportive transition to independent living in their published local offer for care leavers (clauses 7 and 8)

Accommodation for looked after children

- Allow the Secretary of State to direct local authorities to establish regional co-operation arrangements for planning and commissioning homes for looked after children (clause 9)
- Provide a statutory framework for children to be deprived of their liberty in accommodation other than a secure children's home (clause 10)
- Increase Ofsted oversight of organisations that operate multiple children's homes or independent fostering agencies and allow Ofsted to fine unregistered children's homes (clauses 11, 12 and 16)
- Introduce a financial oversight scheme for designated independent fostering agencies and providers of children's homes (clauses 13, 15 and 16)
- Allow the Secretary of State to cap the profits of providers of children's homes and independent fostering agencies (clauses 14 and 16)

Children's social care workers

- Allow the Secretary of State to make regulations on the use of agency workers in children's social care (clause 18)
- Extend legislation against ill-treatment or wilful neglect to children aged 16 and 17 in certain care and detention settings (clause 19)

Employment of children

- Introduce a new single set of rules for the employment of children across England which would provide more flexibility in the hours when children can work than the existing rules (clause 20)

Part two: Schools

Part two of the bill would:

Breakfast clubs and school food standards

- Require state-funded primary schools to provide free breakfast clubs (clause 21)
- Clarify the law on the application of school food standards to academies, including at breakfast (clause 22)

School uniforms

- Place statutory limits on the number of branded items of uniform state-funded schools can require (clause 23)

Children not in school

- Introduce a local authority consent mechanism for the withdrawal of certain children from school, including those at special schools (clause 24)
- Introduce a requirement for local authorities to maintain a register of children not in school, with duties for parents and related requirements for school attendance orders to be issued in some cases (clauses 25 to 29 and schedule 1)

Independent educational institutions

- Expand the regulation of independent educational institutions that provide all or most of a child's education (clauses 30 to 35)
- Strengthen Ofsted's powers to investigate unregistered, and therefore illegal, independent schools (clauses 36 to 37)
- Amend Ofsted's requirements to report on independent school inspectorates, and clarify information sharing powers (clause 38)

Teacher misconduct

- Broaden the teacher misconduct and prohibition regime to include teachers in more settings, regardless of their current teaching status or when the alleged misconduct or offence occurred (clause 39)

Changes relating to academies

- Require new teachers in academies and free schools to have or be in the process of achieving, qualified teacher status (QTS), and to go through statutory induction processes (clause 40)
- Require academies to teach a revised national curriculum (clause 41)
- Allow the Education Secretary to direct an academy trust to do (or not do) something if it isn't discharging its powers or meeting its duties properly (clause 43)
- Remove the existing duty of the Education Secretary to make an academy order (beginning the process of converting a maintained school to an academy) if a maintained school is in special measures or has serious weaknesses (clause 44)
- Bring teachers in academies within the statutory national framework for pay and conditions, which currently only applies directly to maintained schools (clause 45)

School admission arrangements

- Require schools and local authorities to cooperate to manage school admissions, and the supply of local school places; give local authorities

powers to direct academy schools to admit pupils; and give an independent body (the Schools Adjudicator) new powers around maximum admission numbers (clauses 47 to 50)

Opening new schools

- Remove the requirement for most new schools to be academies, and restore local authorities' and other bodies' powers to propose opening new maintained schools and pupil referral units (PRUs) (clauses 51 to 55)

1.2 Where will the bill's provisions apply?

Children social care and schools are devolved policy issues. Most of the bill's provisions extend to England and Wales and would apply in England only.

Clause 10 (on deprivation of liberty orders) also extends to Scotland as it makes consequential amendments to Scottish legislation.

1.3 When would the bill's provisions come into force?

Most of the provisions come into force on a day specified in regulations by the Secretary of State. However, some provisions would come into force two months after the act is passed, including (but not limited to):

- Clause 5 (on kinship local offers)
- Clause 19 (on the offence of ill-treatment or wilful neglect)
- Clause 22 (on food and drink at academies)
- Clause 42, 43 and 44 (on academies)
- Clauses 45 and 46 (on teachers' pay and conditions)
- Clause 47 (on admission arrangements)

Where the government has indicated when it would commence specific clauses, this is set out in the following sections of the briefing.

2 Background to part 1: children's social care

2.1 Local authority duties

Local authorities in England have a range of statutory functions relating to safeguarding and promoting the welfare of children, including:

- a duty to safeguard and promote the welfare of children in need in their area by providing appropriate services¹
- a duty to make enquiries to decide whether action is needed to protect a child from significant harm²
- a power in certain circumstances to apply to court for an order placing a child in the care of the local authority³
- a duty to safeguard and promote the welfare of [looked after children](#) and provide them with accommodation.⁴

Although not a legal duty, [statutory guidance](#) says local authorities should also “work with organisations and agencies to develop joined-up early help services” with the aim of reducing the chance of problems getting worse.⁵

2.2 Demand for children's social care

Data suggests demand for children's social care has increased since 2010:

- the number of children in need increased by 6.3% between 2010 and 2024, to 399,500
- the number of children on child protection plans increased 27.6% between 2010 and 2024, to 49,900⁶

¹ [Children Act 1989](#), section 17.

² As above, section 47.

³ As above, section 31.

⁴ As above, sections 22 and 22A.

⁵ HM Government, [Working Together to Safeguard Children](#), December 2023, pp44-51.

⁶ Department for Education, [Characteristics of children in need: various years](#), main text, figures are for 31 March each year.

- the number of looked after children increased by 29.7% between 2010 and 2024, to 83,639.⁷

However, these measures do not account for increases in the overall number of children. For example, while the number of children in need increased by 6.3% between 2010 and 2024, the rate of children in need (per 10,000 children) decreased from 341.3 to 332.9.⁸ In contrast, the rate of looked after children (per 10,000 children) increased from 58 in 2010 to 70 in 2024. Increases in the number of looked after children since 2010 cannot, therefore, be explained solely by growth in the overall population of children.⁹

2.3 Local authority expenditure

Local authority net current expenditure on children's social care increased by 80% in cash terms between 2014/15 and 2023/24, from £8.1 billion to £14.6 billion. This represents a real-terms, or inflation-corrected, increase of 38.5% (in 2023/24 prices).¹⁰ Over the same period, total local authority net current expenditure fell by 6% in real terms.¹¹

2.4 Policy development

Stable Homes, Built on Love reform strategy

On 2 February 2023, the Conservative government published a strategy and consultation on reforming children's social care in England: [Stable Homes, Built on Love](#).¹² This was, in part, a response to three reports published in 2022:

- the [final report of the Independent Review of Children's Social Care](#), published in May 2022¹³
- the [final report of the Competition and Markets Authority's market study into the children's social care market](#), published in March 2022¹⁴

⁷ Department for Education, [Children looked after in England including adoptions](#), 14 November 2024.

⁸ Department for Education, [Characteristics of children in need: various years](#).

⁹ Department for Education, [Children looked after in England including adoptions](#), 16 November 2024.

¹⁰ Ministry of Housing, Communities and Local Government, [Local authority revenue expenditure and financing](#); HM Treasury, [GDP deflators at market prices, and money GDP December 2023](#) (Quarterly National Accounts), January 2024.

¹¹ From 2014/15, local authority expenditure on 'services to young people' was moved from education services to children's social care services in the local authority expenditure statistics. As a result, expenditure on children's social care cannot be tracked back to 2010/11 on a consistent basis.

¹² Department for Education, [Stable Homes, Built on Love: Implementation Strategy and Consultation](#), February 2023.

¹³ The Independent Review of Children's Social Care, [Final Report](#), May 2022.

¹⁴ Competition and Markets Authority, [Children's social care market study final report](#), 10 March 2022.

- the Child Safeguarding Practice Review Panel [review into the deaths of Star Hobson and Arthur Labinjo-Hughes](#), published in May 2022.¹⁵

The strategy set out reforms across “six pillars”:

1. family help
2. child protection
3. family networks
4. improving care for children in care and care leavers
5. children’s social care workforce
6. system reform

The government said implementation of the reforms would happen in phases:

- over the following two years, the government would invest £200 million “laying the foundations for whole system reform and setting national direction for change”
- after two years, the government would refresh the strategy, scale up the approaches tested and bring forward new legislation, subject to parliamentary time.¹⁶

Families First For Children Pathfinders

Among other things, the strategy said the government would provide over £45 million to launch a Families First for Children Pathfinder programme in up to 12 local areas over the following two years to test (among other things):

- a new Family Help service, which “removes the distinction between ‘targeted early help’ and children in need” and provides “intensive multi-disciplinary support” to families facing significant challenges in a “non-stigmatising way”
- changes to front-line child protection practice, including some child protection functions being led by a group of multi-agency staff from local authorities, police and health working as a team on a day-to-day basis
- how to implement family group decision making at an early stage.¹⁷

¹⁵ Child Safeguarding Practice Review Panel, [National review into the murders of Arthur Labinjo-Hughes and Star Hobson](#), 26 May 2022.

¹⁶ Department for Education, [Stable Homes, Built on Love: Implementation Strategy and Consultation: Children’s Social Care Reform 2023](#), February 2023, pp16 and 142.

¹⁷ As above, pp17 and 43-45.

The first wave of pathfinders launched in July 2023 and the current government had said it will continue them.¹⁸ As of October 2024, pilots were taking place in 10 local authorities, with interim findings from an independent evaluation expected in spring 2025.¹⁹

Further information on children's social care reform up to the 2024 general election is provided in the [Library briefing on reforming children's social care in England](#).²⁰

Developments under the current government

In its manifesto for the 2024 general election, the Labour Party said it would “work with local government to support children in care, including through kinship, foster care, and adoption, as well as strengthening regulation of the children's social care sector.” It added that families too often fall “through the cracks of public services” and the party would “improve data sharing across services, with a single unique identifier, to better support children and families.”²¹

Autumn Budget 2024

The [Autumn Budget 2024](#) said the government would provide “over £250 million in 2025/26 to continue to test innovative measures to support children and reduce costs for local authorities”.²² The local government finance policy statement 2025 to 2026 said this funding would be provided to local authorities via a new Children's Social Care Prevention Grant.²³

2.5

Keeping Children Safe, Helping Families Thrive policy paper

On 18 November 2024, the current government published a policy paper on children's social care reform: [Keeping children safe, helping families thrive](#).²⁴

The policy paper outlined some of the challenges facing children social care:

¹⁸ Department for Education, [Families first for children \(FFC\) pathfinder programme and family networks pilot \(FNP\)](#), 26 July 2023; Department for Education, [Keeping children safe, helping families thrive](#), 18 November 2024, p39.

¹⁹ [PQ 7889 \[on children and families: protection\]](#), 14 October 2024.

²⁰ Commons Library briefing CBP-9818, [Reform of children's social care in England](#).

²¹ Labour Party, [Change: Labour Party manifesto 2024](#), June 2024, p81.

²² HM Treasury, [Autumn Budget 2024](#), HC 295, para 4.12.

²³ Ministry of Housing, Communities and Local Government, [Local government finance policy statement 2025 to 2026](#), 28 November 2024.

²⁴ Department for Education, [Keeping children safe, helping families thrive](#), 18 November 2024; [HC Deb 18 November 2024, cc23-25](#).

- too many children “grow up in poverty and in households that struggle to afford the basic necessities which provide a secure home environment”
- the external landscape has “fundamentally changed” with several factors which “might mean children are unable to grow up in a safe and loving home.” This includes an increase in online harms and rising mental health challenges
- there is “significant variation in the outcomes and support children and families receive”. An “increasing proportion of funding” is being spent “on statutory acute services – at the expense of investment in early intervention.”²⁵

The paper then outlined four principles that would guide reform:

1. where possible, children should remain with their families and be prevented from entering the care system in the first place
2. where children cannot remain at home they should be supported to live with kinship carers or in fostering families, rather than in residential care, where this is in their best interests
3. fixing “the broken care market”
4. investing in “key enablers”, including the workforce, better data and information sharing²⁶

The remainder of the policy paper provided more detail on the legislative measures the government expected to take, most of which now form part one of the Children’s Wellbeing and Schools Bill.

The government has said it expects the legislative framework for children’s social care will need to change further in the future, including to account for the Law Commission’s reviews into [legislation for disabled children](#) and [kinship care](#).²⁷

²⁵ Department for Education, [Keeping children safe, helping families thrive](#), 18 November 2024, pp4-5.

²⁶ As above, pp5-6.

²⁷ As above, p6; Law Commission, [Disabled Children’s Social Care](#); Law Commission, [Kinship Care](#).

3 Kinship care and family group decision making

3.1 Background

This section provides brief background to the clauses of the bill related to kinship carers and family group decision making (clauses 1, 5 and 6). More detailed information is provided in the [Library briefing on kinship carers in England](#).²⁸

There is currently no legislative definition of kinship care in England. However, [statutory guidance published by the Department for Education](#) (DfE) defines it as “any situation in which a child is being raised in the care of a friend or family member who is not their parent. The arrangement may be temporary or longer.”²⁹

The 2021 Census estimated around 141,000 children were living in kinship care in England and Wales (1.1% of all children; the proportion increases with age).³⁰ This figure does not include an estimated 24,000 children living with kinship carers they are not related to, such as family friends.³¹

Several common themes emerge from recent reports on kinship care, including:

- children growing up in kinship care do better on average than children in unrelated foster care, but worse than children in the general population. This applies to emotional, behavioural and education outcomes
- kinship care does not get the recognition it deserves
- not enough is done to involve and support a child’s wider family network before they enter local authority care

²⁸ Commons Library briefing CBP-2967, [Kinship carers in England](#).

²⁹ Department for Education, [Kinship Care: Statutory guidance for local authorities](#), October 2024, p7.

³⁰ The number of children in kinship care in households of six or more people was not recorded in the Census but was estimated based on the proportion of children in kinship care in smaller households.

³¹ ONS, [Kinship care in England and Wales: Census 2021](#), 26 September 2023; Family Rights Group, [164,000 children are growing up in kinship care in England and Wales](#), 26 September 2023.

- the support provided to kinship carers, including financial, legal, practical and emotional, is not sufficient. There is also considerable variation between areas in the support available.³²

Policy context

Kinship care has been a focus of government policy in recent years and the bill's measures sit within this broader policy context.

Following a commitment made in its Stable Homes, Built on Love Policy paper, in December 2023 the Conservative government published a [national kinship care strategy](#). This committed £20 million in 2024/25 to improve the lives of children in kinship care and set out several commitments, including piloting an allowance for certain kinship carers.³³

The pilots were not launched before the 2024 general election. However, in October 2024, the current Labour government [announced it would provide £40 million to trial a new kinship allowance](#) in up to 10 local authorities. The programme is planned to begin in 2025.³⁴

3.2

Clause 1: Family Group Decision Making

Clause 1 would require local authorities to offer a family group decision-making meeting before applying to take a child into care.

Background

Statutory guidance on kinship care describes family group decision making (FGDM) as “an umbrella term for a family-led forum where parents and the family network make a plan in response to concerns about a child’s safety and wellbeing.” While the DfE does not prescribe a specific model of FGDM,

³² Joan Hunt, [Two decades of UK research on kinship care: an overview](#), December 2020, p10; Coram Voice and University of Oxford, [10,000 voices: The views of children and young people in kinship foster care on their well-being](#), March 2023, pp36-38; Parliamentary Taskforce on Kinship Care, *First Thought Not Afterthought: Report of the Parliamentary Taskforce on Kinship Care*, September 2020, [Executive Summary](#), pp4-6; Nuffield Foundation, [The lifelong health and wellbeing trajectories of people who have been in care](#) (PDF), July 2021; Department for Education, [Championing kinship care: national kinship care strategy](#), 15 December 2023, p9; The Independent Review of Children’s Social Care, [Final Report](#), May 2022, pp94-96.

³³ Department for Education, [Championing kinship care: national kinship care strategy](#), 15 December 2023; Department for Education, [England’s first ever kinship care strategy launches](#), 15 December 2023.

³⁴ Department for Education, [Government protects education priorities in face of inherited £22 billion blackhole](#), 27 October 2024; [PQ 901024 \[on carers\]](#), 4 November 2024; HM Treasury, [Autumn Budget 2024](#), HC 295, para 4.12.

the guidance encourages local authorities to “[consider the evidence](#) for the [family group conference](#) (FGC) model”.³⁵

In June 2023, [Foundations – What Works Centre for Children and Families](#) published research on FGCs, based on 2,500 children in 21 local authorities. It found that, compared to those not referred, children whose families were referred to a FGC:

- were less likely to be in care one year later
- had spent significantly less time in care six months later
- were less likely to have had care proceedings issued.³⁶

Encouraging use of family group decision making

The statutory guidance on kinship care notes that the Children Act 1989 “reflects the principle that all children, including looked after children, should be cared for within their family network wherever possible.”³⁷ It adds that, before applying for a care order, local authorities should:

take steps as soon as possible, through a family group conference or other method of family group decision making, to explore whether care for the child can be safely provided by a relative or friend. This should also assess the suitability of these arrangements and the most appropriate legal status for them.³⁸

Several reports have, however, suggested not enough is currently done to involve and support the wider family network when a child is in need.³⁹

Policy development

The final report of the independent review of children’s social care recommended the government should introduce a legal right to FGDM before a local authority applies to court for a care order.⁴⁰ It added that a “Family Network Plan” should detail any practical and financial support to be provided if a family-led alternative to local authority care is agreed.⁴¹

The Conservative government’s Stable Homes, Built on Love policy paper set out reforms aimed at “unlock[ing] the potential of family networks” and said

³⁵ Department for Education, [Kinship Care: Statutory guidance for local authorities](#), October 2024, p45; Family Rights Group, [What is a Family Group Conference?](#)

³⁶ Foundations – What Works Centre for Children and Families, [Family Group Conferencing at Pre-Proceedings Stage](#), June 2023.

³⁷ Department for Education, [Kinship Care: Statutory guidance for local authorities](#), October 2024, pp19-20; Children Act 1989, section 17(1); Children Act 1989, section 22C.

³⁸ Department for Education, [Kinship Care: Statutory guidance for local authorities](#), October 2024, p15.

³⁹ Parliamentary Taskforce on Kinship Care, *First Thought Not Afterthought: Report of the Parliamentary Taskforce on Kinship Care*, September 2020, [Executive Summary](#), pp4-6; Joan Hunt, [Two decades of UK research on kinship care: an overview](#), December 2020, p12.

⁴⁰ The Independent Review of Children’s Social Care, [Final Report](#), May 2022, pp9 and 99.

⁴¹ As above, pp101-103.

family-led alternatives should “be considered for all children prior to entering the care system, or at the earliest opportunity thereafter.”⁴²

Among other things, the pathfinders launched in July 2023 (see section 2.4 above), are currently testing how to implement family group decision-making and family network support packages (a re-naming of the care review’s suggested family network plans).⁴³

Clause 1

Clause 1 would insert a new section 31ZA into the Children Act 1989 requiring a local authority to offer a family group decision-making meeting (FGDM) to the child’s parents (or any other person with parental responsibility) before applying to the court for a care or supervision order. The offer would have to be included in the letter that local authorities are required to send as part of the [pre-proceedings process](#).

These duties would not apply where the local authority “considers that it would not be in the best interests of the child for a family group-decision-making meeting to be offered...or held.” The government has said it will “work with the sector and other government departments on examples of these exceptional circumstances for accompanying guidance.”⁴⁴

The clause defines a FGDM as a meeting held for the purpose of enabling the child’s family network to:

- discuss the welfare needs of the child, and
- make a proposal in response to concerns about the child’s welfare.

The clause also defines “family network” for these purposes.

The local authority would be required to seek the views of the child in relation to a FGDM “unless it considers that it would not be appropriate to do so.” A child would be able to attend a FGDM where the local authority considers it appropriate.

The bill would leave flexibility around the specific model of FGDM but the government has said statutory guidance will set out an expectation that local authorities “should consider using the well-evidenced Family Group Conferencing model.”⁴⁵

⁴² Department for Education, [Stable Homes, Built on Love: Implementation Strategy and Consultation: Children’s Social Care Reform 2023](#), February 2023, pp18 and 75-77.

⁴³ As above, pp44-45; Department for Education, [Families first for children \(FFC\) pathfinder programme and family networks pilot \(FNP\)](#), 10 April 2024.

⁴⁴ Department for Education, [Children’s Wellbeing and Schools Bill 2024: policy summary](#), 18 December 2024, p8.

⁴⁵ Department for Education, [Explanatory Notes to the Children’s Wellbeing and Schools Bill 2024-25](#), para 6.

The government states that creating a new legal duty to offer FGDM will “bring consistency to the approach and will encourage a family-first culture.”⁴⁶ It also suggests it will “reduce applications for court proceedings as well as prevent children from entering the care system”, which will create “significant savings for local government.”⁴⁷

In response to possible concerns that mandating FGDM may put victims of domestic abuse at risk, the government has highlighted that local authorities would have discretion over whether it is in the child’s best interest to offer a FGDM and that participation in the meetings would be voluntary.⁴⁸

3.3 Clause 5: kinship local offers and definition of kinship care

Clause 5 would define kinship carers in law and require local authorities to publish a kinship local offer.

Background

The [statutory guidance on kinship care](#) says every local authority must publish information “about services they offer in their area for children in kinship care and their families, and their approach towards meeting the needs of children in these arrangements.” This is referred to as a “kinship local offer.” This requirement was also set out in the previous version of the guidance, published in 2011, but was referred to as a “local family and friends care policy”.⁴⁹

While the detail of the offer is to be determined locally, the current guidance outlines matters that should be addressed.⁵⁰

Based on responses to a Freedom of Information request sent to all local authorities in England in 2019, the Parliamentary Taskforce on Kinship Care⁵¹ found 16% of local authorities either did not have a kinship care policy at all or had a very outdated policy. It also found the quality and consistency of policies was “extremely variable”.⁵²

⁴⁶ Department for Education, [Children's Wellbeing and Schools Bill 2024: policy summary](#), 18 December 2024, p7.

⁴⁷ Department for Education, [Keeping children safe, helping families thrive](#), 18 November 2024, pp7-8.

⁴⁸ Department for Education, [Children's Wellbeing and Schools Bill 2024: policy summary](#), 18 December 2024, p9.

⁴⁹ Department for Education, [Kinship Care: Statutory guidance for local authorities](#), October 2024, p36.

⁵⁰ As above, pp36-7 & 40-47.

⁵¹ The Taskforce was established in December 2018 by former parliamentarian Anna Turley in conjunction with Family Rights Group charity.

⁵² Kinship Care Parliamentary Taskforce, [First Thought Not Afterthought: Report of the Parliamentary Taskforce on Kinship Care](#), September 2020, pp50-51.

Definition of kinship care

It has been suggested that difficulties faced by some kinship carers in accessing support stem in part from the lack of a statutory definition of kinship care.⁵³

In January 2023, the Family Rights Group charity called on the government to define kinship care in law and [published a draft definition](#).⁵⁴ The independent review of children's social care also recommended the government should develop a legal definition of kinship care.⁵⁵

The Conservative government's Kinship Care Strategy, published in December 2023, set out a definition of kinship care and this was used in the updated statutory guidance on kinship care published by the Labour government in October 2024.⁵⁶

Clause 5

Clause 5 would insert a new section 22H into the Children Act 1989 requiring local authorities to publish a "kinship local offer". This would be required to include:

- information about the authority's general approach to supporting children in kinship care and kinship carers
- information about the financial support which may be available
- information about services that may assist them, including relating to health and wellbeing, relationships, education and training, and accommodation

The clause would also insert a new section 22I into the Children Act 1989 providing definitions of a child living in kinship care, and kinship carers, for the purposes of the new section 22H.

Broadly, a child would be defined as living in kinship care if they live with a relative, friend or other connected person for all or part of the time and that person provides all or most of the care and support for the child. This would cover both informal and formal kinship care arrangements.⁵⁷ Legal parents, local authority foster parents who were not previously connected to the child, and people caring for the child in a professional capacity would be excluded from the definition.

⁵³ All Party Parliamentary Group on Kinship Care, [Legal labyrinth: how a lack of legal aid and advice is undermining kinship care](#), May 2022, p15; Family Rights Group, [Time to Define Kinship Care](#).

⁵⁴ Family Rights Group, [How kinship care could be defined](#), January 2023.

⁵⁵ The Independent Review of Children's Social Care, [Final Report](#), May 2022, p108.

⁵⁶ Department for Education, [Championing kinship care: national kinship care strategy](#), 15 December 2023, p44.

⁵⁷ Department for Education, [Explanatory Notes to the Children's Wellbeing and Schools Bill 2024-25](#), para 110.

The clause would come into force two months after the Act is passed (clause 59).

The government says it wants to replace the current statutory guidance expectation to publish a kinship local offer with a legal duty “because recently published analysis revealed inconsistent compliance with the expectation.” It has also said the DfE will “be putting in place a programme of work to improve the quality of kinship local offers.”⁵⁸

3.4

Clause 6: Virtual School Heads

Clause 6 would extend the role of Virtual School Heads to cover children in need and all children in kinship care.

Background

Local authorities must appoint a person – referred to as the Virtual School Head (VSH) – to carry out the following duties under the Children Act 1989:

- to promote the educational achievement of looked after children (section 22).⁵⁹
- to promote the educational achievement of all children who left care through adoption, special guardianship and child arrangements orders, through the provision of information and advice – for example, to their parents or their school (section 23ZZA).⁶⁰

Further information on the role of the VSH is available in statutory guidance published by the DfE, [Promoting the education of looked-after and previously looked-after children](#).⁶¹

Following the 2019 [Children in Need Review](#), the role of the VSH was extended on a non-statutory basis from September 2021 to include strategic oversight of the educational outcomes of children with a social worker in the local authority’s area.⁶²

In its Kinship Care strategy, the Conservative government said it would provide £3.8 million in 2024/25 to expand the role of VSHs to cover the

⁵⁸ Department for Education, [Explanatory Notes to the Children’s Wellbeing and Schools Bill 2024-25](#), para 11.

⁵⁹ [Children Act 1989](#), section 22.

⁶⁰ As above, section 23ZZA.

⁶¹ Department for Education, [Promoting the education of looked-after and previously looked-after children](#), February 2018.

⁶² Department for Education, [Review of children in need](#), June 2019.

education of all children in kinship care.⁶³ The role extension came into effect from September 2024.⁶⁴

Clause 6

Clause 6 would require a local authority to take “such steps it considers appropriate for the purpose of promoting the educational achievement” of children in need and children living in kinship care.

The local authority would be required to appoint at least one person for the purpose of discharging this duty. This is a strategic duty that does not extend to the educational outcomes of individual children. The explanatory notes to the bill say the VSH would usually be appointed to discharge this duty.⁶⁵

The clause would also amend section 23ZZA of the Children Act 1989 to extend the duty of local authorities to promote the educational achievement of children through the provision of information and advice to all children subject to a special guardianship order, and children living in kinship care under a child arrangements order.

The government says providing a statutory basis for the extension of the role of VSHs will put it “on the same footing as their duties towards looked after and previously looked-after children” and will provide VSHs with “a stronger legal basis to effectively champion the educational progress of these children.”⁶⁶

3.5

Comment

Stakeholders have broadly welcomed the bill’s measures on kinship care and family networks, but have also highlighted specific concerns and called for more action to support kinship carers.⁶⁷

Ofsted welcomed the proposed statutory extension of the role of VSHs and the proposal for mandatory FGDMs. It said, however, that FGDMs should be part of early engagement with families and that there “may be an unintended consequence of plans to mandate this relatively late in the process.” It

⁶³ Department for Education, [Championing kinship care: national kinship care strategy](#), 15 December 2023, pp32-33.

⁶⁴ [PQ 26804 \[on carers\]](#), 21 May 2024; Department for Education, [Children’s social care: virtual school head role extension](#), 15 December 2023.

⁶⁵ Department for Education, [Explanatory Notes to the Children’s Wellbeing and Schools Bill 2024-25](#), para 112.

⁶⁶ Department for Education, [Children’s Wellbeing and Schools Bill 2024: policy summary](#), 18 December 2024, pp22-23.

⁶⁷ Centre for Young Lives, [Our response to the Children’s Wellbeing and Schools Bill](#), 17 December 2024; Education Committee, [Oral evidence: Children’s Social Care](#), HC 430, 17 December 2024, Q322.

expressed hope that statutory guidance “will be clear about the benefits of early opportunities for family-led meetings to make a difference.”⁶⁸

While welcoming the strengthening of requirements around local offers and the statutory extension of the role of VSHs, the charity Kinship said the government must “urgently take further steps to ensure that all kinship families, regardless of the type of kinship arrangement, have access to the financial, practical and emotional support they need and deserve.”⁶⁹

The Family Rights Group charity welcomed the government’s “bold intention” to mandate FGDM and said it was “delighted” about the proposal to define kinship care in primary legislation.⁷⁰ However, the charity also said the measures were not enough and that, among other things, “too many kinship carers are forced out of the labour market and into hardship.”⁷¹

The children’s rights charity, Article 39, welcomed the proposal to mandate FGDMs. However, it said it was “alarmed” the bill does not require the local authority and family networks to “give due consideration to the child’s wishes and feelings when making decisions”, but only to “seek the views of the child” where appropriate. It also called for the provision allowing children to attend a FGDM to be strengthened by providing children with an entitlement to attend, with the assistance of an independent advocate.⁷²

⁶⁸ Education Committee, [Children’s Social Care: Written evidence from Ofsted \(CSC 132\)](#) (PDF), 17 December 2024.

⁶⁹ Kinship, [Kinship responds to Children’s Wellbeing and Schools Bill](#), 17 December 2024.

⁷⁰ Family Rights Group, [Family Rights Group welcomes bold Children’s Wellbeing and Schools Bill](#), 17 December 2024. Kinship, [Kinship responds to children’s social care reform announcement](#), 18 November 2024.

⁷¹ Family Rights Group, [Bold steps to reform children’s social care](#), 18 November 2024.

⁷² Article 39, [Children’s Wellbeing and Schools Bill - Article 39’s initial analysis](#), 18 December 2024.

4 Child protection and safeguarding

4.1 Background

This section provides brief background to the clauses of the bill related to child protection (clauses 2-4). More detailed information is provided in the Library briefing on [child protection legislation in England](#).⁷³

Section 47 inquiries

Under section 47 of the Children Act 1989 local authorities must make enquiries to decide whether they should act to safeguard or promote a child's welfare where they:

- have “reasonable cause to suspect” that a child “is suffering, or is likely to suffer, significant harm”; or
- are informed a child is the subject of an emergency protection order or is in police protection.⁷⁴

The [Working Together to Safeguard Children](#) statutory guidance says local authority social workers should lead section 47 enquiries and “police, health practitioners, teachers and school staff and other relevant practitioners should help the local authority in undertaking its enquiries.”⁷⁵

Around 250,000 section 47 enquiries were undertaken in the year to 31 March 2024, an increase of 77% since 2013. The number of assessments per 10,000 children increased from 111.5 to 187.1 over the period.⁷⁶

Safeguarding partners and relevant agencies

Under section 16E of the Children Act 2004, three safeguarding partners – the local authority, NHS integrated care boards and the chief officer of police – are responsible for determining how safeguarding arrangements should work in their area for them and relevant agencies.⁷⁷

“Relevant agencies” is a term used for all bodies and groups in an area which play a crucial role in coordinating the safeguarding and welfare of children.

⁷³ Commons Library briefing CBP-6787, [An overview of child protection legislation in England](#).

⁷⁴ [Children Act 1989](#), section 47.

⁷⁵ HM Government, [Working Together to Safeguard Children](#), December 2023, pp89-90.

⁷⁶ Department for Education, [Children in need](#), 31 October 2024, [custom table](#)

⁷⁷ [Children Act 2004](#), section 16E.

Regulations specify the relevant agencies that safeguarding partners may choose to work with. This includes education and childcare settings.⁷⁸

Section 11 of the Children Act 2004 additionally places a duty on a [range of agencies](#) to ensure they consider the need to safeguard and promote the welfare of children when carrying out their functions.⁷⁹

Policy development

Independent review of children's social care

The final report of the independent review of children's social care said "poor multi-agency working...is a perennial issue that has been raised in every recent review that has considered child protection."⁸⁰

The report also stated that "challenges with information sharing are well documented". It added that the barriers to successful information sharing - knowledge and culture, perceived regulatory barriers and technological barriers - are difficult to address and there "is no single simple answer".⁸¹

The report made several recommendations aimed at improving child protection work, including:

- all cases involving significant harm should be co-worked by an expert child protection practitioner⁸²
- there should be more regular and direct involvement of a multi-agency workforce, in child protection work⁸³
- the government should set a target of achieving "frictionless sharing of information between local authority and partner systems" by 2027. To enable this, the government must "make an imminent decision" on whether to adopt the NHS number as a consistent child identifier⁸⁴

Safeguarding Practice Review Panel report

On 26 May 2022, the [Child Safeguarding Practice Review Panel](#) published the report of its review into the murders of Arthur Labinjo-Hughes and Star Hobson.⁸⁵ The report said that:

- multi-agency arrangements for protecting children are more fractured and fragmented than they should be. This can prevent professionals from

⁷⁸ [The Child Practice Review and Relevant Agency \(England\) Regulations 2018](#), SI 2018/789

⁷⁹ [Children Act 2004](#), section 11.

⁸⁰ The Independent Review of Children's Social Care, [Final Report](#), May 2022, p72.

⁸¹ As above, p80.

⁸² As above, pp69-72.

⁸³ As above, p72.

⁸⁴ As above, pp83-84.

⁸⁵ The Child Safeguarding Practice Review Panel, [Child Protection in England: National review into the murders of Arthur Labinjo-Hughes and Star Hobson](#), 26 May 2022.

having a clear picture of what is happening to a child and their family, as their story is held by multiple people in multiple places

- there has been insufficient attention to, and investment in, securing the specialist multi-agency expertise required for undertaking child protection investigations.⁸⁶

The report recommended multi-agency child protection units should be established in every local authority area. It added that this “will see the key child protection agencies of the police, health and social care working together seamlessly as a single team.”⁸⁷

The report also said there “is a compelling argument” for the inclusion of education as a fourth safeguarding partner. While recognising this poses challenges, the report suggested these were “not insurmountable.”⁸⁸

Stable homes, Built on Love strategy

The Conservative government’s Stable Homes, Built on Love strategy said the Families First for Children Pathfinders (see section 2.4 above) would be used to test changes to front-line child protection practice, including:

- a new child protection lead practitioner role, under which social workers with greater expertise and experience carry out front-line child protection work⁸⁹
- specific child protection functions, such as section 47 enquiries, being led by a group of multi-agency practitioners from local authorities, police and health working as a team on a day-to-day basis.⁹⁰

The government published a report on [Improving multi-agency information sharing](#) in July 2023. The report included a commitment to “further investigate the use of the NHS ID as a [consistent child identifier] and to seek out legislative opportunities to mandate this as needed.”⁹¹

Following a consultation, in December 2023 the government published an updated version of the Working Together to Safeguard Children statutory guidance which, among other things, set out new national multi-agency child protection standards.⁹²

⁸⁶ The Child Safeguarding Practice Review Panel, [Child Protection in England: National review into the murders of Arthur Labinjo-Hughes and Star Hobson](#), 26 May 2022, pp9-10 and 98.

⁸⁷ As above, p11.

⁸⁸ As above, p110.

⁸⁹ As above, p64.

⁹⁰ Department for Education, [Stable Homes, Built on Love: Implementation Strategy and Consultation: Children’s Social Care Reform 2023](#), February 2023, p64.

⁹¹ Department for Education, [Improving multi-agency information sharing](#), p11.

⁹² Department for Education, [Stable Homes, Built on Love: Implementation Strategy and Consultation: Children’s Social Care Reform 2023](#), February 2023, pp18 and 66; Department for Education,

As part of the consultation on the updated guidance, the government explored how to strengthen the role of education in multi-agency safeguarding arrangements, including whether it should be made a fourth safeguarding partner. In its response, the government said it planned “to test out how a strengthened role of education would look in practice through the Families First for Children Pathfinder.”⁹³

4.2 Clause 2: education in safeguarding arrangements

Clause 2 would amend section 16E of the Children Act 2004 to require the three safeguarding partners to automatically include “designated education and childcare agencies” in their safeguarding arrangements.

A setting would count as a “designated childcare or education agency” if it has functions relating to childcare or education and is designated as such in regulations to be made by the Secretary of State (subject to the affirmative procedure).

In its Keeping Children Safe, Helping Families Thrive policy paper the government said schools were the second largest referrer of cases (after the police) into children’s social care in 2023/24, but that too often “the contribution and voice of education is missing.”⁹⁴ It added that the government has a good understanding of different ways of including education effectively in safeguarding arrangements and would “look to share this...through guidance and support documents.”⁹⁵

The government argues that education should not be a fourth safeguarding partner because, unlike for the other safeguarding partners, there is not currently an organisation or individual that can be a single point of accountability for organisations across the education sector.⁹⁶

[Working together to safeguard children: changes to statutory guidance](#), June 2023; Department for Education, [Working together to safeguard children](#), December 2023; Department for Education, [Working Together to Safeguard Children 2023: Summary of Changes](#) (PDF), December 2023.

⁹³ Department for Education, [Changes to statutory guidance: Working Together to Safeguard Children: Government consultation response](#), December 2023, p34;

⁹⁴ Department for Education, [Keeping children safe, helping families thrive](#), 18 November 2024, p11.

⁹⁵ Department for Education, [Children's Wellbeing and Schools Bill 2024: policy summary](#), 18 December 2024, p8; Department for Education, [Keeping children safe, helping families thrive](#), 18 November 2024, p11.

⁹⁶ Department for Education, [Explanatory Notes to the Children's Wellbeing and Schools Bill 2024-25](#), para 7.

4.3

Clause 3: multi-agency child protection teams

Clause 3 would insert a new section 16EA into the Children Act 2004 to require the safeguarding partners for an area to establish one or more multi-agency child protection teams. The main purpose of the teams would be to support the local authority in delivering its child protection duties under section 47 of the Children Act 1989.⁹⁷ The Secretary of State would have the power to make regulations (subject to the affirmative procedure) setting out more detail about the support the multi-agency team is to provide.

Multi-agency teams would be required to comprise:

- a person nominated by the local authority with experience in education
- a social worker nominated by the local authority with experience in social work related to children
- a registered health professional, nominated by an integrated care board for the area, with experience in the provision of healthcare relating to children
- a police officer, nominated by the chief officer of police for the area, and
- other people that the local authority considers appropriate

The Secretary of State would have the power to make regulations (subject to the affirmative procedure) setting out the requirements for people nominated to the multi-agency team, including, for example, relating to experience or qualifications. The regulations would be subject to consultation.

The clause would also insert a new section 16EB into the Children Act 2004 that would allow the safeguarding partners for an area to require a designated relevant agency to enter into a memorandum setting out how it will work with them to facilitate the operation of the multi-agency child protection team.⁹⁸ The safeguarding partners and the relevant agencies would be required to act in accordance with the memorandum as part of the area's safeguarding arrangements. The Secretary of State would have the power to make regulations (subject to the affirmative procedure) designating relevant agencies for these purposes.

The clause also makes provision for two or more local authorities to be able to work together to deliver multi-agency child protection teams. The explanatory notes to the bill state that this would enable police and health

⁹⁷ Department for Education, [Explanatory Notes to the Children's Wellbeing and Schools Bill 2024-25](#), para 83.

⁹⁸ Department for Education, [Children's Wellbeing and Schools Bill 2024: policy summary](#), 18 December 2024, p13.

services, which do not always work within local authority boundaries, “to make best use of their resources.”⁹⁹

The government has said the purpose of the multi-agency teams would be “to ensure an expert, multi-agency response to child protection concerns, addressing the current lack of joint working across agencies that often leads to missed opportunities to protect children in a timely way.”¹⁰⁰

It has stated that it intends clause 3 and associated regulations “to come into force in 2027” and that delaying commencement will allow:

- “learning and evaluation” from the Families First for Children Pathfinders to inform the legislation and regulations¹⁰¹
- “more time to secure funding and resources and workforces will have more time to engage and prepare for change.”¹⁰²

4.4

Clause 4: information sharing and consistent child identifier

Duty to share information

Clause 4 would insert a new section 16LA into the Children Act 2004 which would require certain agencies (referred to as “relevant persons”) to disclose information to other agencies where they consider it may be relevant to safeguarding or promoting the welfare of children. This duty would also apply where an agency receives a request for information from another agency.

A “relevant person” would be defined as a [person listed in section 11\(1\) of the Children Act 2004](#) or who is a designated childcare or education agency (see section 4.2 above).

The duty to share information would not apply where the person considers that disclosing it would be more detrimental to the child than not.

The clause provides that a disclosure of information would not breach any obligation of confidentiality (for example, between patients and healthcare professionals).

Persons discharging a duty under the clause would be required to have regard to guidance issued by the Secretary of State.

⁹⁹ Department for Education, [Explanatory Notes to the Children's Wellbeing and Schools Bill 2024-25](#), para 8.

¹⁰⁰ As above, para 83.

¹⁰¹ As above, para 8.

¹⁰² Department for Education, [Children's Wellbeing and Schools Bill 2024: policy summary](#), 18 December 2024, pp15-16.

In its Keeping Children Safe, Helping Families Thrive policy paper, the government noted the perceived regulatory barriers faced by practitioners when sharing information, including that agencies often only feel confident sharing information where there are serious child protection concerns. It suggested the new duty would provide “absolute clarity on the legal basis to share information for the purposes of safeguarding children” and would “ensure a focus on safeguarding and provide the impetus for culture change around information sharing.”¹⁰³

Single unique identifier

Clause 4 would also insert a new section 16LB into the Children Act 2004 which would allow the Secretary of State to make regulations (subject to the negative procedure) specifying a consistent identifier for children, referred to as a “single unique identifier” (SUI). The government has said this is likely to be a child’s NHS number.¹⁰⁴

A “designated person” would be required to use the SUI when they process information about a child. However, this would only apply where the person thinks including the identifier would be likely to facilitate a function relating to safeguarding or promoting the welfare of children. The clause provides that “facilitate a function” in this regard means facilitate directly “rather than by means of a trial, study, audit or any other indirect means.”

“Designated person” would mean a [person listed in section 11\(1\) of the Children Act 2004](#) or a designated childcare or education agency (see section 4.2) who has been designated in regulations (subject to the negative procedure) by the Secretary of State.

The duty would not apply where:

- the person thinks including the identifier would be more detrimental to the child than not including it
- the person does not know the identifier and considers that finding it out would “cause unreasonable delay to the processing of information.”

A designated person would be required to have regard to guidance issued by the Secretary of State.

The government’s Keeping Children Safe, Helping Families Thrive policy paper suggested a SUI “has potential to increase confidence that practitioners from different agencies are talking about the same child and increase the ease and possibility of linking data across datasets.” However, it also accepted that “there are broader cultural changes that need to be tackled for it to have sufficient impact”, including confusion about when to share information and “sector capacity and resource”.

¹⁰³ Department for Education, [Keeping children safe, helping families thrive](#), 18 November 2024, p10.

¹⁰⁴ As above, p9.

In light of this, the policy paper said the government would pilot implementation of the SUI to “establish what works to resolve these challenges for each sector” and introduce it nationally “at a later point.”¹⁰⁵

4.5

Comment

The bill’s child protection provisions have been broadly welcomed by stakeholders, including Ofsted¹⁰⁶, the British Association of Social Workers¹⁰⁷, the Children’s Commissioner¹⁰⁸, and The Royal College of Paediatrics and Child Health.¹⁰⁹

The Local Government Association (LGA) said the proposed consistent identifier for children should be “accompanied by wider reform to facilitate better information sharing including investment in systems and administrative support.” The LGA also said it would like education providers to be named as a statutory safeguarding partner.¹¹⁰

The Children’s Charities Coalition (Action for Children, Barnardo’s, the National Children’s Bureau, and NSPCC) said it was encouraging that the bill aimed to tackle “many of the issues” the coalition had campaigned for, including a unique identifier number for children. It added, however, that “sustained investment” was needed in “early help services, mental health support and children’s social care”, underpinned by “an ambitious strategy to tackle child poverty.”¹¹¹

¹⁰⁵ Department for Education, [Keeping children safe, helping families thrive](#), 18 November 2024, pp9-10.

¹⁰⁶ Education Committee, [Children’s Social Care: Written evidence from Ofsted \(CSC 132\)](#) (PDF), 17 December 2024.

¹⁰⁷ British Association of Social Workers, [Children’s Social Care Reforms | BASW England Response](#), 18 November 2024.

¹⁰⁸ Children’s Commissioner, [Statement from the Children’s Commissioner on the Children’s Wellbeing and Schools Bill](#), 17 December 2024.

¹⁰⁹ Royal College of Paediatrics and Child Health, [RCPCH responds to Children’s Wellbeing and Schools Bill](#), 18 December 2024.

¹¹⁰ Local Government Association, [Children’s Wellbeing and Schools Bill – LGA response](#), 17 December 2024.

¹¹¹ [Children’s Charities Coalition responds to the Children’s Wellbeing Bill announcement](#), undated.

5 Children in care and care leavers

5.1 Background

This section provides brief background to the clauses of the bill related to care leavers (clauses 7 and 8). More detailed information is provided in the [Library briefing on support for care leavers](#).¹¹²

A care leaver can be broadly defined as a person aged 16 or over who was previously looked after by a local authority for some period after they turned 16.

Research suggests care leavers generally experience worse outcomes than their peers across several areas.¹¹³ For example, research published by the Ministry of Housing, Communities and Local Government in 2020 identified care leavers as facing barriers to securing and maintaining affordable housing, with a third becoming homeless within two years of leaving care.¹¹⁴

Local authorities are required to provide various forms of advice, assistance and guidance to care leavers. The precise duties vary depending on the [category of care leaver](#).

Local offer for care leavers

Under section 2 of the [Children and Social Work Act 2017](#), local authorities in England are required to publish information about the services they offer to care leavers.¹¹⁵ The Department for Education (DfE) has said the purpose of the local offer is to “set out in one place the full range of services that the whole of the LA [local authority] provides, which will be of benefit to care leavers [...] not just the support provided by the Children’s Services Department”.¹¹⁶

¹¹² Commons Library briefing CBP-8429, [Support for care leavers](#).

¹¹³ Department for Education, [Keep on caring: supporting young people from care to independence](#), July 2016.

¹¹⁴ Ministry of Housing, Communities and Local Government, [Understanding the Multiple Vulnerabilities, Support Needs and Experiences of People who Sleep Rough in England: Initial findings from the Rough Sleeping Questionnaire](#) (PDF), December 2020; see also, Sanders M; Whelan E: Centre for Homelessness Impact, [Homelessness and Children’s Social Care in England](#) (PDF), September 2022.

¹¹⁵ [Children and Social Work Act 2017](#), section 2

¹¹⁶ Department for Education, [Guidance on the corporate parenting principles, the local offer and extending Personal Adviser \(PA\) support to all care leavers to age 25 – Government consultation response](#), February 2018, p9.

Further information is available in [statutory guidance on the local offer](#) published by the DfE.¹¹⁷

In July 2024, the British Association of Social Workers published a [review of the local offer for care leavers in England](#). This said local authorities could be clearer about the rights and entitlements of care leavers, and any additional services they can access. It also found “huge variation” in how authorities communicated the offer, but noted “some emerging areas of good practice and innovative provision that could be adopted more widely”.¹¹⁸

Staying Close

“Staying Put” was introduced under the [Children and Families Act 2014](#).¹¹⁹ It allows young people in foster care (subject to certain conditions) to choose to remain with their former foster carers until they reach the age of 21, where both parties want it. In turn, carers continue to receive financial support.¹²⁰

In July 2016, the government announced a “Staying Close” programme for those leaving residential care, alongside the Staying Put arrangements for children in foster care.¹²¹ The scheme enables young people previously in residential care “to live independently, in a location close to their children’s home with ongoing support.”¹²²

Staying Close was initially piloted in eight sites from 2018.¹²³ The government’s Keeping Children Safe, Helping Families Thrive policy paper stated evaluation of the initial pilots showed “promising evidence the programme can support better outcomes for care leavers”.¹²⁴

Since 2018, Staying Close has been expanded and the previous Conservative government committed to roll out the programme nationally.¹²⁵ At the Spring Budget 2023, the government announced an additional £8.1 million in each of the next two years to expand Staying Close to around half of local authorities by March 2025.¹²⁶

¹¹⁷ Department for Education, [Local offer guidance](#), February 2018

¹¹⁸ British Association of Social Workers, [A Review of the Local Offer for Care Leavers](#), 29 July 2024, p2

¹¹⁹ The [Children and Families Act 2014](#) inserted new section 23CZA into the Children Act 1989.

¹²⁰ Department for Education, [Staying put: arrangements for care leavers aged 18 years and above](#), May 2013.

¹²¹ [HCWS 57 4 July 2016](#)

¹²² Department for Education, [Putting children first: Delivering our vision for excellent children’s social care](#) (PDF) July 2016, para 59.

¹²³ PQ 172579 [[on Care Leavers](#)], 10 September 2018

¹²⁴ Department for Education, [Keeping children safe, helping families thrive](#), 18 November 2024, p17.

¹²⁵ Department for Education, [Vital new support for young people leaving care](#), 23 October 2019; PQ 91946 [[on Care Leavers](#)], 13 November 2020; PQ HL15271, [[on Care leavers: Social services](#)], 29 April 2021; Department for Education, [£51 million for councils to support care leavers](#), 24 May 2021; Department for Education, [Infants, children and families to benefit from boost in support](#), 2 April 2022.

¹²⁶ HM Treasury, [Spring Budget 2023](#), March 2023, para 3.27.

The programme is currently run in 47 local authorities.¹²⁷

Independent Review of Children's Social Care

The final report of the independent review of children's social care described the disadvantage faced by children in care and care leavers as "the civil rights issue of our time" and set "five ambitious missions" to "focus collective effort to achieve dramatic change" for the care experienced community. This included several recommendations aimed at "reducing care leaver homelessness", before "ending it entirely."¹²⁸

The report described Staying Put and Staying Close as "some of the most positive developments in the care system in recent years." It added, however, that funding for these arrangements ends at 21, "which can be before young people feel ready to live independently and is two years before the average age young people leave home at a population level." The report said early outcomes of Staying Close "should give enough confidence to local authorities and policy makers to expand its use nationally." It recommended that Staying Close should be a legal entitlement up to age of 23.¹²⁹

Stable Homes, Built on Love

The Conservative government's Stable Homes, Built on Love strategy included actions planned for the following two years under six key "missions" related to children in care and care leavers.¹³⁰ This included a mission that by 2027 there will be "an increase in the number of care leavers in safe, suitable accommodation and a reduction in care leaver homelessness."¹³¹

Among other things, the strategy said the government would "uphold and strengthen" the Staying Close offer and would bring forward legislation to make it a national entitlement.¹³²

5.2

Clause 7: Staying Close support

Clause 7 would introduce a new section 23CZAA into the Children Act 1989 to place the Staying Close offer on a statutory footing.

¹²⁷ Department for Education, [Children's social care reform accelerates with more support for care leavers](#), 21 September 2023; Department for Education, [Keeping children safe, helping families thrive](#), 18 November 2024, p17.

¹²⁸ The Independent Review of Children's Social Care, [Final Report](#), May 2022, pp144-145, and 164-170.

¹²⁹ As above, pp165-166

¹³⁰ Department for Education, [Stable Homes, Built on Love: Implementation Strategy and Consultation: Children's Social Care Reform 2023](#), February 2023, p92; PQ 193999 [[on care leavers: departmental coordination](#)], 13 July 2023

¹³¹ Department for Education, [Stable Homes, Built on Love: Implementation Strategy and Consultation: Children's Social Care Reform 2023](#), February 2023, p112.

¹³² As above, February 2023, pp20 and 112-113

Under the clause, local authorities would be required to assess whether certain care leavers ([former relevant children](#)) aged under 25 require the provision of Staying Close support. Where an authority assesses such support is required, it would be under a duty to provide it.

Staying Close support is defined as support provided for the purpose of helping the young person:

- find and keep suitable accommodation; and
- access services related to:
 - health and wellbeing
 - relationships
 - education and training
 - employment
 - participation in society.

Support is defined as giving advice or information to the young person, and making representations on their behalf.

The government intends to issue guidance to local authorities to aid “the set up and delivery of this support offer.”¹³³

The government has said it recognises local authorities will need time to establish Staying Close in their areas and so proposes the provisions will not come into effect until “three years after the legislation is made.” It adds that it will support local authorities to set up the programme in their areas during this period, “with both practical and financial support.”¹³⁴

5.3

Clause 8: local offer for care leavers

Clause 8 would amend section 2 of the Children and Social Work Act 2017 to require a local authority to publish its arrangements for supporting and assisting care leavers in their transition to adulthood and independent living, as part of its local offer. This would be required to include information about arrangements for:

- anticipating the future needs of care leavers for accommodation

¹³³ Department for Education, [Explanatory Notes to the Children's Wellbeing and Schools Bill 2024-25](#), para 13.

¹³⁴ Department for Education, [Keeping children safe, helping families thrive](#), 18 November 2024, p18.

- co-operating with local housing authorities in assisting eligible care leavers ([former relevant children](#)) under the age of 25 to find and keep suitable accommodation
- providing assistance to eligible care leavers at risk of homelessness.

The government states that, despite being encouraged to do so in guidance, housing and children's services departments are not consistently working together to plan and provide appropriate accommodation for care leavers. It adds that the clause aims to "enable better joined up planning and support for care leavers."¹³⁵

1 Extending corporate parenting responsibilities

Section 1 of the Children and Social Work Act 2017 requires local authorities to have regard to seven corporate parenting principles when exercising their functions in relation to looked after children and care leavers.¹³⁶ Further information is provided in [statutory guidance published by the Department for Education](#).¹³⁷

In its Keeping Children Safe, Helping Families Thrive policy paper, published in November 2024, the government set out an intention to extend corporate parenting responsibilities to government departments and other relevant public bodies, with the "list of corporate parents named in legislation, following agreement from other government departments."¹³⁸

The previous government also said it intended to legislate to extend corporate parenting responsibilities to other public bodies.¹³⁹

However, the bill does not include provisions to this effect.

¹³⁵ Department for Education, [Children's Wellbeing and Schools Bill 2024: policy summary](#), 18 December 2024, p27.

¹³⁶ [Children and Social Work Act 2017, Section 1](#).

¹³⁷ Department for Education, [Applying corporate parenting principles to looked after children and care leavers: Statutory guidance](#) (PDF) February 2018.

¹³⁸ Department for Education, [Keeping children safe, helping families thrive](#), 18 November 2024, p14.

¹³⁹ Department for Education, [Stable Homes, Built on Love: Implementation Strategy and Consultation: Children's Social Care Reform 2023](#), February 2023, pp20 and 106-108; Department for Education, [Children's Social Care: Stable Homes, Built on Love: Government Consultation Response](#) (PDF), September 2023, pp47-48; The Independent Review of Children's Social Care, [Final Report](#), May 2022, p145.

5.4

Comment

The British Association of Social Workers and Ofsted welcomed the extension of Staying Close.¹⁴⁰

In evidence to the Education Committee on 17 December 2024, Katharine Sacks-Jones, chief executive of Become, a charity for children in care and care leavers, said the proposed extension of Staying Close was “a step in the right direction.” However, she also expressed concerns it will be for councils to assess whether a child might need support and suggested that, in the context of “the sufficiency challenges facing councils at the moment”, this could mean a lot of young people not getting the support they need.¹⁴¹

The children’s rights charity, Article 39, said the nature of Staying Close support set out in the bill was “rudimentary” and “does not take the rights of care leavers beyond what is already in law.” It also noted that the decision on whether support is required would rest with the local authority and that there is no duty on local authorities to provide assistance, including financial assistance, to maintain a Staying Close arrangement.¹⁴²

¹⁴⁰ British Association of Social Workers, [Children’s Social Care Reforms | BASW England Response](#), 18 November 2024; Education Committee, [Children’s Social Care: Written evidence from Ofsted \(CSC 132\)](#) (PDF), 17 December 2024.

¹⁴¹ Education Committee, [Oral evidence: Children’s Social Care](#), HC 430, 17 December 2024, Q348.

¹⁴² Article 39, [Children’s Wellbeing and Schools Bill - Article 39’s initial analysis](#), 18 December 2024.

6 Providing homes for looked after children

6.1 Background

This section provides brief background to the clauses of the bill related to accommodation for looked after children (clauses 9-17). More detail is available in the [Library briefing on finding homes for looked after children](#).¹⁴³

Placements for looked after children

As at 31 March 2024, there were 83,630 [looked after children](#) in England, a rate of 70 looked after children per 10,000 children. The rate of looked after children varied between local authorities; Stoke-on-Trent had 191 looked after children per 10,000 children, while Richmond-upon-Thames had 25.¹⁴⁴

Where a local authority is looking after a child who cannot live with their parents or other person with parental responsibility, it must arrange for them to live in the “most appropriate placement available.”¹⁴⁵ This could be:

- with a “relative, friend or other person connected with [the child] and who is also a local authority foster parent”
- with a local authority foster parent who is not connected to the child
- in a children’s home
- in “other arrangements” in accordance with regulations – for example, independent or semi-independent accommodation for older children. Most placements under “other arrangements” are now classed as “supported accommodation.”¹⁴⁶

¹⁴³ Commons Library briefing CBP-10045, [Finding homes for looked after children](#).

¹⁴⁴ Department for Education, [Children looked after in England including adoptions](#), 14 November 2024, [custom table](#)

¹⁴⁵ Children Act 1989, section 22C(5).

¹⁴⁶ Children Act 1989, section 22C(6); [The Care Standards Act 2000 \(Extension of the Application of Part 2 to Supported Accommodation\) \(England\) Regulations 2022 \(SI 2022/808\)](#); [The Supported Accommodation \(England\) Regulations 2023 \(SI 2023/416\)](#); Department for Education, [Providing supported accommodation for children and young people](#), March 2023; Ofsted, [Supported accommodation: registering with Ofsted](#), 4 April 2023.

Placement providers

Children's homes

Under the [Care Standards Act 2000](#), an establishment is a children's home (subject to some exceptions) if it "provides care and accommodation wholly or mainly for children".¹⁴⁷

Children's homes are required to register with Ofsted and meet quality standards set out in regulations.¹⁴⁸ Where a children's home fails to meet regulatory standards Ofsted can take enforcement action. Further information is available in [Ofsted's social care enforcement policy](#).¹⁴⁹

As at 31 March 2024, there were 3,423 children's homes in England (including 103 homes providing care exclusively for short breaks). 83% were owned by private companies; 13% were owned by local authorities. In addition, there were 13 [secure children's homes](#) and 55 residential special schools registered as children's homes.¹⁵⁰

Only one in six children's homes were owned by a single provider rather than part of the ownership chain of a larger company. The 10 largest providers owned 26% of private children's homes, a fall from 30% in 2023. The largest provider, CareTech Holdings PLC (Amalfi Topco Ltd), owned 200 children's homes.¹⁵¹

Independent fostering agencies

Independent fostering agencies (IFAs) are private or voluntary organizations that collaborate with local authorities to provide foster care services for children who cannot be placed with local authority foster carers. They are responsible for recruiting, assessing, approving, training, supervising, and supporting foster carers.

As with children's homes, IFAs must register with Ofsted and comply with standards set in regulations.¹⁵²

As at 31 March 2024, 332 IFAs were operating in England (this excludes nine IFAs owned by trusts that operate on behalf of local authorities).¹⁵³ 86% of IFAs were privately owned, of which 59% were single providers. Of 112

¹⁴⁷ [Care Standards Act 2000](#), section 1; Children Act 1989, section 105(1).

¹⁴⁸ As above, section 11; Department for Education, [Children's homes regulations, including quality standards: guide](#), 6 March 2015; Ofsted, [Introduction to children's homes](#), October 2023.

¹⁴⁹ Ofsted, [Social care enforcement policy](#), 30 April 2024.

¹⁵⁰ Ofsted, [Children's social care in England 2024](#), 9 July 2024.

¹⁵¹ Ofsted, [Largest national providers of private and voluntary social care \(March 2024\)](#), 9 October 2024.

¹⁵² Ofsted, [Introduction to independent fostering agencies](#), 24 May 2024.

¹⁵³ Ofsted, [Children's social care in England 2024](#), 9 July 2024.

privately owned IFAs that were part of a company ownership chain, 75 were owned by six large providers.¹⁵⁴

Availability of placements

Concerns have been raised about the difficulties local authorities can face finding suitable placements for looked after children, particularly those with more complex needs.¹⁵⁵ Several reasons [have been cited as contributing to this issue](#), including:

- increasing numbers of looked after children
- increasing numbers of children who require specialist provision that can support complex needs, particularly mental health needs
- a lack of secure provision for children nationally
- issues with the recruitment and retention of foster carers
- not having the right quantity and mix of provision for the children in their area.¹⁵⁶
- difficulties working in the private market, where private providers have more power and can choose which children they take.¹⁵⁷

Issues in the placements market

The shortage of suitable placements contributes, at least in part, to several issues frequently raised about the placements market.

Increased spending on placements

In the 2023/24 financial year, local authorities in England spent £5.3 billion on residential care and fostering for looked after children. Spending has increased from £2.7 billion in 2015/16, a rise of 53% when adjusted for inflation (in 2023/24 prices).¹⁵⁸

¹⁵⁴ Ofsted, [Largest national providers of private and voluntary social care \(March 2024\)](#), 9 October 2024.

¹⁵⁵ Association of Directors of Children's Services, [Children's home sufficiency and children with complex needs](#), 14 February 2024; Ofsted, [The annual report of His Majesty's Chief Inspector of Education, Children's Services and Skills 2023/24](#), 5 December 2024, p28. Further information on what local authorities mean when they refer to 'complex needs' is provided in: Ofsted, [How local authorities and children's homes can achieve stability and permanence for children with complex needs](#), 16 January 2024.

¹⁵⁶ Ofsted, [The annual report of His Majesty's Chief Inspector of Education, Children's Services and Skills 2023/24](#), 5 December 2024, p28.

¹⁵⁷ Ofsted, [How local authorities plan for sufficiency of accommodation that meets the needs of children in care and care leavers](#), November 2022.

¹⁵⁸ HM Treasury, [GDP deflators at market prices, and money GDP March 2024 \(Quarterly National Accounts\)](#), 2 April 2024.

Within this:

- spending on local authority and other public sector provision increased from £1.23 billion in 2015/16 to £1.78 billion in 2023/24, a real-terms increase of 12%
- spending on independent sector fostering increased from £701 million in 2015/16 to £1.04 billion in 2023/24, a real-terms increase of 15%
- spending on independent sector residential care increased from £737 million in 2015/16 to £2.44 billion in 2023/24, a real-terms increase of 156%.¹⁵⁹

A [September 2023 report](#) (PDF), commissioned by the Local Government Association (LGA), said the growth in spending on independent sector provision was driven by increased numbers of children placed with independent providers, the mix of services purchased, and some price increases.¹⁶⁰

Alleged profiteering of some providers

Ofsted and the Association of Directors of Children's Services (ADCS) have suggested the shortage of placements can drive up costs and lead to profiteering by some providers.¹⁶¹

Research [published by the LGA in November 2023](#) suggested:

- the number of placements costing councils more than £10,000 per week has increased from around 120 in 2018/19 to over £1,500 in 2022/23¹⁶²
- the fee income of 19 of the 20 largest independent placement providers was £1.63 billion in 2021/22, an increase of 6.5% on the previous year¹⁶³
- the average profit margin was 19%, equating to an aggregate profit of £310 million¹⁶⁴

¹⁵⁹ Department for Education, [LA and school expenditure](#), January 2024.

¹⁶⁰ Andrew Rome, [Profit making and Risk in Independent Children's Social Care Placement Providers: 4th Update Report](#) (PDF), September 2023, p5.

¹⁶¹ Ofsted, [How local authorities plan for sufficiency of accommodation that meets the needs of children in care and care leavers](#), November 2022; Association of Directors of Children's Services, [Comment on DfE children looked after statistics](#), 17 November 2023.

¹⁶² Local Government Association, [High-cost children's social care placements survey](#), 29 November 2023.

¹⁶³ Andrew Rome, [Profit making and Risk in Independent Children's Social Care Placement Providers: 4th Update Report](#) (PDF), September 2023, p4. Information was not available for one provider.

¹⁶⁴ As above, p4. The profit figures cited in the report refer to Earnings before Interest, Tax, Depreciation and Amortisation (EBITDA). Further information on the use of this measure is provided in Appendix 1, pp19-20.

- the six largest providers made up around 85% of the profit for the whole sample.¹⁶⁵ The profit levels reported by smaller providers were at “materially lower levels”.¹⁶⁶

Representatives of placement providers have challenged “harmful and unhelpful” rhetoric that “all private providers are making a large profit” and have said the sector as a whole should not be characterised in this way.¹⁶⁷

The [Children's Homes Association's state of the sector survey report 2023](#) said providers reported a wide range of financial outcomes, with 47% of providers reporting decreased profits.¹⁶⁸ The report commented that “fee escalation, even when driven by factors such as staffing and cost of living inflation, can create a flashpoint of tension between providers and purchasers” and can contribute “to a narrative including accusations of profiteering.”¹⁶⁹

The Nationwide Association of Fostering Providers (NAFP), a representative body of IFAs, has argued the “single largest consideration for IFAs when placing a child in foster care is the match between that child and the foster carer - not profit”.¹⁷⁰ It has also emphasised the importance of local authorities basing placement decisions on “a robust assessment of the child's needs and not be driven by budgetary pressures or a policy preference for a particular type of placement.”¹⁷¹

Private equity and levels of debt

Concerns have been raised about the increasing involvement of private equity companies in the provision of children's homes and the “knock-on effect” on cost and quality.¹⁷²

The [LGA's September 2023 report](#) (see section above) found that 10 of the largest 20 placement providers in 2021/22 had a majority or minority private equity or sovereign wealth fund owner.¹⁷³ In December 2023, the Observer suggested the number of children's homes backed by investment firms,

¹⁶⁵ Andrew Rome, [Profit making and Risk in Independent Children's Social Care Placement Providers: 4th Update Report](#) (PDF), September 2023, pp4 and 10.

¹⁶⁶ As above, p10.

¹⁶⁷ Children and Young People Now, [Children's care providers dispute 'harmful' profiteering rhetoric](#), 31 January 2024; Education Committee, [Oral evidence: Children's Social Care](#), HC 430, 17 December 2024, Q326.

¹⁶⁸ Children's Homes Association, [CHA "State of the Sector" survey 9: Spring 2023](#), May 2023, pp28-29 and p35.

¹⁶⁹ As above, p26.

¹⁷⁰ Nationwide Association of Fostering Providers, [Stable Homes, Built on Love: NAFP statement on Children's Social Care Implementation Strategy, 2 February 2022](#) [sic], February 2023.

¹⁷¹ Nationwide Association of Fostering Providers, [Referrals to independent fostering agencies 2019-2022](#) (PDF), February 2023.

¹⁷² Guardian, [Profiteering fears as global investment firms increase stakes in England's child social care](#), 23 December 2023.

¹⁷³ Andrew Rome, [Profit making and Risk in Independent Children's Social Care Placement Providers: 4th Update Report](#) (PDF), September 2023, p6.

including private equity, venture capital and foreign funds, had doubled in the last five years.¹⁷⁴

A particular concern has centred on the debt levels of some large providers with private equity backing.¹⁷⁵ The ADCS has said:

...some of the largest private providers carry very high levels of debt, with particularly high levels of debt seen in private equity owned providers of children's homes. There is an unacceptable level of risk in the system, should any of these providers fail, no single local authority could step in and children would suffer the greatest consequences.¹⁷⁶

The LGA has called for greater financial oversight of the largest providers and more "transparency around ownership, debt structure and profit making."¹⁷⁷

Growth in the use of unregistered provision

An establishment which meets the definition of a children's home under the Care Standards Act 2000 but is not registered with Ofsted is referred to as unregistered provision. This is illegal; it is an offence to operate a children's home without the appropriate registration.

Concerns have been raised that a shortage of suitable placements is resulting in an increasing number of children being placed in un-registered settings, with no regulatory oversight.¹⁷⁸ In 2023/24, Ofsted opened investigations into over 1,000 potential uses of unregistered children's homes. This was an increase from around 240 in 2020/21 and 880 in 2022/23.¹⁷⁹

A [December 2024 report from the Children's Commissioner](#), based on information supplied by local authorities, found that on 1 September 2024 there were 775 looked after children living in unregistered placements in England. Of these, over half (57%) had an Education, Health and Care Plan and 41% were in receipt of adolescent mental health services.

94% of the placements were supplied by private providers. The daily average cost of a placement was £1,567. 33 children were in placements that had each cost a total of over £1 million.¹⁸⁰

¹⁷⁴ Guardian, [Profiteering fears as global investment firms increase stakes in England's child social care](#), 23 December 2023.

¹⁷⁵ Children and Young People Now, [Largest private children's placement providers make £300m in annual profit](#), 23 October 2023.

¹⁷⁶ Association of Directors of Children's Services, [Children's home sufficiency and children with complex needs](#), 14 February 2024; Association of Directors of Children's Services, [Comment on placement costs](#), 19 March 2024.

¹⁷⁷ Local Government Association, [Biggest independent children's care providers made over £300 million profit last year - new LGA report reveals](#), 29 October 2023.

¹⁷⁸ Ofsted, [The annual report of His Majesty's Chief Inspector of Education, Children's Services and Skills 2023/24](#), 5 December 2024, p28.

¹⁷⁹ Ofsted, [Unregistered children's homes](#), 27 November 2024.

¹⁸⁰ Children's Commissioner, [Illegal Children's Homes](#), December 2024, pp6-7.

The report said there was a need to:

- invest in developing therapeutic children's homes with joint health and social care support that are available across the country
- strengthen the disincentives for providers and local authorities to prevent the use of unregistered children's homes.¹⁸¹

The government has said it understands that "sometimes authorities need to place a child quickly, and when there are no suitable registered places immediately available, so children are temporarily placed in unregistered accommodation." It has added, however, that "all providers of children's social care provision should register with Ofsted."¹⁸²

Competition and Markets Authority report

In March 2022, the Competition and Markets Authority (CMA) published the [final report](#) of a market study of the children's social care placements market.¹⁸³ The study covered England, Scotland and Wales.

The report echoed many of the concerns outlined above and concluded there "are significant problems in how the placements market is functioning, particularly in England and Wales". Among other things, it said the largest providers "are making materially higher profits, and charging materially higher prices" than would be expected if the market were functioning effectively.¹⁸⁴

The report's recommendations included that the government should:

- require local authorities to participate in bodies to carry out collective market shaping and procurement activities¹⁸⁵
- introduce a market oversight regime so the risk of failure of the most difficult to replace providers is actively monitored
- require all providers to have measures in place to ensure that children will not have their care disrupted in the event of business failure.¹⁸⁶

In response to suggestions that it should recommend caps be imposed on prices or profits, the CMA said this would further reduce the incentives of private providers of children's homes to invest in creating new capacity and

¹⁸¹ Children's Commissioner, [Illegal Children's Homes](#), December 2024, p9.

¹⁸² Department for Education, [Children's Wellbeing and Schools Bill 2024: policy summary](#), 18 December 2024, p44.

¹⁸³ Competition and Markets Authority, [CMA launches study of children's social care provision](#), 12 March 2021.

¹⁸⁴ Competition and Markets Authority, [Children's social care market study final report: England Summary](#), 10 March 2022, paras 4 and 25-26.

¹⁸⁵ As above, paras 31-51.

¹⁸⁶ Competition and Markets Authority, [Children's social care market study final report: England Summary](#), 10 March 2022, paras 74-85.

therefore risked “increasing the capacity shortfall.” It added that “significant political intervention” and “very significant capital investment” would be needed to ensure any shortfall was made up by increased local authority or not-for-profit provision.¹⁸⁷

The report said the best way of addressing the high levels of profit and the capacity shortfall in the sector was to address “the weak position of local authority commissioners when purchasing placements and removing unnecessary barriers to the creation of new provision.”¹⁸⁸

Independent review of children’s social care

The final report of the independent review of children’s social care identified four main problems with the operation of the placements market: weak oversight, high cost and profiteering; poor planning; and lack of coordination.¹⁸⁹

Among other things, the report recommended new regional care cooperatives (regional clusters of local authorities) should be established to take on responsibility for the creation and running of all new public sector fostering, residential and secure care in a region, as well as commissioning all not-for-profit and private sector care for children.

The report said regional care cooperatives would be “a key mechanism for reducing profiteering”. While noting profit caps had been suggested, the report said it would be “relatively easy for providers to reallocate income and expenditure to maintain profit levels.”¹⁹⁰

The review also recommended:

- Ofsted should be given new powers to oversee and intervene in the children’s social care market¹⁹¹
- the government should levy a windfall tax on the 15 largest private providers of children’s homes and independent fostering agencies.¹⁹²

Policy development

The Conservative government’s Stable Homes, Built on Love strategy set out an ambition that there will be an increase in “high-quality, stable and loving homes available for every child in care local to where they are from” by 2027.

¹⁸⁷ Competition and Markets Authority, [Children’s social care market study final report: England Summary](#), 10 March 2022, paras 52-53.

¹⁸⁸ As above, paras 55-56.

¹⁸⁹ The Independent Review of Children’s Social Care, [Final Report](#), May 2022, pp120-130.

¹⁹⁰ As above, pp10 and 129.

¹⁹¹ As above, p130.

¹⁹² As above, pp10 and 123-126.

It set out several proposals aimed at achieving this, some of which are explored in more detail below in relation to the bill's specific clauses.¹⁹³

In its manifesto for the 2024 general election, the Labour Party said it would “work with local government to support children in care, including through kinship, foster care and adoption, as well as strengthening regulation of the children's social care sector.”¹⁹⁴

Chapter 2 of the government's Keeping Children Safe, Helping Families Thrive policy paper provides more information on actions the current government intends to take regarding the placements market outside of the bill.¹⁹⁵

6.2 Clause 9: Regional Care Cooperatives

Clause 9 would allow the government to direct local authorities to establish regional co-operation arrangements for planning and commissioning homes for looked after children.

Policy background

The Conservative government's Stable Homes, Built on Love policy paper said the government would work with local authorities to test the use of regional care cooperatives (regional groupings of local authorities) to plan, commission and deliver care places in two areas. The two pathfinders would trial an approach within the current legal framework, with a view to rolling out nationally following evaluation and when parliamentary time allowed.¹⁹⁶

The government suggested that by operating on a larger scale, regional care cooperatives (RCCs) would be better able to forecast need and commission suitable placements for children, and make it easier to share best practice and information about the cost and quality of providers. As a result, they should “lead to improved placement stability and fewer out of area placements”, and reduce excess profit making.¹⁹⁷

While many stakeholders broadly welcomed plans for regional care cooperatives (RCCs), concerns were also raised, including by almost half the

¹⁹³ Department for Education, [Stable Homes, Built on Love: Implementation Strategy and Consultation: Children's Social Care Reform 2023](#), February 2023, p97.

¹⁹⁴ Labour Party, [Change: Labour Party Manifesto 2024](#), p81.

¹⁹⁵ Department for Education, [Keeping children safe, helping families thrive](#), 18 November 2024, pp19-31.

¹⁹⁶ Department for Education, [Stable Homes, Built on Love: Implementation Strategy and Consultation: Children's Social Care Reform 2023](#), February 2023, pp19 and 102-106; [PQ 196441 \[Children: Social Services\]](#), 12 September 2023.

¹⁹⁷ As above, pp19 and 102-106; [PQ 196441 \[Children: Social Services\]](#), 12 September 2023.

respondents to the consultation on the strategy.¹⁹⁸ This included about their size, the risk that they would be too removed from the child, and losing relationships with small providers. Respondents were also sceptical they would sufficiently address excessive profit making in the sector.

In its response to the consultation, the government said it had used the feedback to “refine” its approach to the pathfinders and that it planned to develop RCCs on a “staged basis”.¹⁹⁹

In September 2024, the Labour government announced that Greater Manchester and the South East had been selected to trial RCCs, with the pathfinders due to begin in summer 2025.²⁰⁰

Clause 9

Clause 9 would insert a new section 22J into the Children Act 1989 that would give the Secretary of State the power to direct two or more local authorities to establish “regional co-operation arrangements” for the purposes of carrying out their functions relating to accommodation for looked after children (referred to as “strategic accommodation functions”). These functions would include:

- assessing current and future requirements for accommodation
- developing and publishing strategies for meeting these requirements
- commissioning accommodation
- recruiting and supporting local authority foster parents
- developing, or facilitating the development of, new accommodation

The Secretary of State would be able to specify additional functions in regulations (subject to the affirmative procedure). They would have to consult local authorities before making such regulations. The government’s [delegated powers memorandum](#) notes that this is “akin to a Henry VIII power” but is not an actual Henry VIII power as it does not allow the Secretary of State to amend or remove the functions listed.²⁰¹

¹⁹⁸ Community Care, [Are regional care co-operatives the answer to care placement challenge?](#), 20 February 2023; Children and Young People Now, [Conflicted over commissioning](#), 28 February 2023; Local Government Association, [Children’s social care reform: implementation strategy and consultation](#), 3 February 2023; Association of Directors of Children’s Services, [ADCS response: Children’s social care implementation...](#), 2 February 2023.

¹⁹⁹ Department for Education, [Children’s Social Care: Stable Homes, Built on Love: Government Consultation Response](#) (PDF), September 2023, pp41-46.

²⁰⁰ Community Care, [Regional care commissioning test-bed sites selected](#), 6 September 2024.

²⁰¹ Department for Education, [Children’s Wellbeing and Schools Bill: Memorandum from the Department for Education to the Delegated Powers and Regulatory Reform Committee](#), 17 December 2024, pp9-10.

The regional co-operation arrangements could comprise:

- the local authorities carrying out the functions jointly
- one local authority carrying out the functions on behalf of the others
- a body corporate supporting the local authorities in carrying out their functions.

The Secretary of State would be able to specify which kind of arrangement local authorities would have to establish, or specify more than one arrangement and require the authorities to choose.

The government says it expects regional care co-operatives to “gain economies of scale and harness the collective buying power of individual local authorities.” It adds that they will also “develop expertise in areas such as data analysis and forecasting, as well as targeted marketing, training and support for foster carers.”²⁰²

The government’s policy summary of the bill states that many local authorities are interested in greater regional working and the government intends to “continue working in partnership with local authorities and other services.”²⁰³

6.3

Clause 10: Deprivation of Liberty

Clause 10 would provide a statutory framework for children to be deprived of their liberty in accommodation other than a secure children’s home.

Background

The use of unregistered settings (see above) has been raised as a particular concern regarding children deprived of their liberty.²⁰⁴

A person is deprived of their liberty “if they are confined in a particular place for a period of time and they do not or cannot consent to this.” Article 5 of the European Convention on Human Rights requires that any deprivation of a person’s liberty must be via a “procedure prescribed by law.”²⁰⁵

²⁰² Department for Education, [Keeping children safe, helping families thrive](#), 18 November 2024, p26.

²⁰³ Department for Education, [Children's Wellbeing and Schools Bill 2024: policy summary](#), 18 December 2024.

²⁰⁴ Ofsted, [How local authorities plan for sufficiency of accommodation that meets the needs of children in care and care leavers](#), November 2022.

²⁰⁵ Nuffield Family Justice Observatory, [Children subject to deprivation of liberty orders](#), September 2023, p1.

Under section 25 of the [Children Act 1989](#), the family court can authorise the deprivation of a looked after child's liberty on welfare grounds through their placement in a registered secure children's home, if

- the child is likely to run away from any other type of placement and would be likely to suffer significant harm if they did run away; or
- the child is likely to injure themselves or others if kept in any other form of placement.²⁰⁶

Children can also be deprived of their liberty through other statutory processes – for example, where they are admitted to hospital under the Mental Health Act 1983.²⁰⁷

The [inherent jurisdiction of the high court](#) can be used to authorise the deprivation of a child's liberty when none of the statutory mechanisms apply (for example, if there are no places available in secure children's homes or the criteria under section 25 are not met). A deprivation of liberty order (DoL) authorises the deprivation of a child's liberty in settings that are not otherwise registered to do so.²⁰⁸

[Guidance published by Ofsted](#) makes clear, however, that the DoL order only authorises the deprivation of liberty. It does not mean the provider does not need to register with Ofsted.²⁰⁹

Increase in DoL orders

In its 2023/24 annual report, Ofsted suggested a lack of appropriate provision was leading to an increase in DoL orders:

It is perhaps the most vulnerable group of children who are served least well by a lack of appropriate provision. Changes in the criminal justice and mental health systems mean that far fewer children are in custody or detained in a hospital. While this may be a welcome trend, community-based provision for children who pose a risk to themselves or others has not been created. The failure to do so is resulting in an increase in the number of children now placed in the community who are subject to court-imposed deprivation of liberty (DoL) orders. Last year, there were over 1,200 DoL applications made, similar to the previous year. The number of applications has doubled since an estimated 580 were made in 2020/21.²¹⁰

²⁰⁶ [Children Act 1989](#), section 25; [The Children \(Secure Accommodation\) Regulations 1991](#) (SI 1991/1505); Family Rights Group, [Secure accommodation order](#).

²⁰⁷ Stephen Cobb, 'Deprivation of liberty orders for young, vulnerable people: a measure of our civilised society?' A lecture to mark 130 years of law at the University of Liverpool, *Child and Family Law Quarterly*, Vol 36(1), 2024.

²⁰⁸ Nuffield Family Justice Observatory, [Children subject to deprivation of liberty orders](#), September 2023, p1.

²⁰⁹ Ofsted, [Placing children: deprivation of liberty orders](#), 14 August 2023; Ofsted, [Ofsted warns against use of unregistered children's homes](#), 14 August 2023.

²¹⁰ Ofsted, [The annual report of His Majesty's Chief Inspector of Education, Children's Services and Skills 2023/24](#), 5 December 2024, p29.

A November 2024 report by the Children's Commissioner, based on interviews with 15 children, identified several common themes in the experiences of children subject to DoL orders, including:

- a lack of stable support before a DoL order was put in place
- children feeling they had a limited say in decision making
- restrictive living conditions
- educational and social setbacks
- inconsistent mental health support

The report said “far fewer children should be deprived of their liberty” and there should be “radical investment in creating new and safe places for children to live in registered children's homes which can provide safe accommodation and therapeutic support for children living with trauma and at risk of harm.”²¹¹

The Children's Commissioner's December 2024 report on [Illegal Children's Homes](#) (see above) said that 31% of the 775 looked after children in unregistered placements on 1 September 2024 were subject to a DoL order. The report stated that, compared to the other children in unregistered settings, children subject to a DoL order:

- had higher levels of need (70% had an Education, Health and Care Plan, compared to 52% of children not subject to a DoL order)
- were almost twice as likely to be in receipt of Child and Adolescent mental health services compared (50% vs 33%)

The average cost of placements for children on DoL orders in unregistered provision was also higher than for other unregistered placements (£2,140 per day compared to £1,321 per day).²¹²

In its Keeping Children Safe, Helping Families Thrive policy paper, the government said it was seeking to amend legislation to support the development “of new forms of provision to address the need for suitable homes” for children with challenging behaviour and complex mental health needs. The policy paper also outlined other non-legislative work the government intends to undertake in this area.²¹³

²¹¹ Children's Commissioner, [Press Notice: New research reveals 'stark failures' of social care system, as the Children's Commissioner calls for urgent reform and stronger safeguards](#), 18 November 2024.

²¹² Children's Commissioner, [Illegal Children's Homes](#), December 2024, pp8-9.

²¹³ Department for Education, [Keeping children safe, helping families thrive](#), 18 November 2024, pp21-22.

Clause 10

Clause 10 would amend section 25 of the Children Act 1989 to provide for the courts to be able to authorise the deprivation of a child's liberty in accommodation other than a secure children's home (referred to as "relevant accommodation").

"Relevant accommodation" for these purposes would be defined as accommodation that:

- is provided for the purposes of the care and treatment of children; and
- is capable of being used (wholly or in part), in connection with the provision of care and treatment, for the purpose of depriving children of their liberty.

The explanatory notes to the bill explain:

A core feature of a [secure children's home] is that it should be designed for, or has as its primary purpose, prevention of a child from absconding or causing harm to his/herself or others. Other, highly therapeutic accommodation designed for a child would have as its primary purpose the care and/or treatment of the child, as opposed to prevention of absconding or harm, and so cannot currently be used to deprive a child of their liberty via section 25 of the Children Act 1989.²¹⁴

The clause would also amend current references in section 25 of the Children Act 1989 from "restricting" liberty to "depriving" children of their liberty. The government says this is to "better reflect the nature and purpose" of section 25.²¹⁵ Consequential amendments would also be made to the definition of secure accommodation in the Children's Hearings (Scotland) Act 2011.²¹⁶

6.4

Clauses 11-12: Ofsted enforcement powers

Clauses 11 and 12 would increase Ofsted oversight of placement providers at group level and allow Ofsted to fine unregistered children's homes.

Background

Ofsted's current registration and enforcement powers are limited to individual registered providers, such as the provider of an individual children's home.²¹⁷

²¹⁴ Department for Education, [Explanatory Notes to the Children's Wellbeing and Schools Bill 2024-25](#), para 17.

²¹⁵ Department for Education, [Explanatory Notes to the Children's Wellbeing and Schools Bill 2024-25](#), para 127.

²¹⁶ [Children's Hearings \(Scotland\) Act 2011](#), section 202.

²¹⁷ Department for Education, [Keeping children safe, helping families thrive](#), 18 November 2024, pp21-24.

In [response to its 'Big Listen' consultation](#), published in September 2024, Ofsted asked the government to make sure future legislation provided for better oversight at group level so that it “can regulate groups of children’s homes and other children’s social care providers.” It added:

We want our powers to include: being able to restrict growth within a group where there are systemic issues in multiple settings until they are resolved; being able to require significant persons at group level to address quality issues in a timely manner following inspection; and being able to enforce actions for providers at group level.

The consultation response also asked the government for “new enforcement powers to tackle unregistered settings.”

We need to be able to fine unregistered settings. This would act as a deterrent to those who manage these settings. Our current powers are limited to prosecution, which is costly and time-consuming. We need to act quickly to keep children safe.²¹⁸

Clause 11: oversight of ‘parent undertakings’

Clause 11 would insert new sections 23A-23D into the Care Standards Act 2000 to give Ofsted the power to issue an improvement plan notice to a provider group (referred to in the bill as a “parent undertaking”) where it reasonably suspects there are grounds for cancelling the registration of two or more of the group’s settings (referred to as “subsidiary undertakings”).

The notice would require the parent undertaking to prepare and submit an improvement plan to Ofsted setting out the actions it proposes to take to address the issues identified.

If Ofsted agrees the improvement plan, the parent undertaking would be required to implement it in full. If Ofsted rejects the improvement plan, the parent undertaking would be taken to have failed to comply with the improvement notice.

New section 23D would provide for a parent undertaking to be able to apply to the Care Standards Tribunal against Ofsted’s decision to serve an improvement notice or reject an improvement plan.

Clauses 12 and 16: monetary penalties

Clause 12 would insert new sections 30ZC and 30ZD into the Care Standards Act 2000 that would allow Ofsted to issue a monetary penalty if it is satisfied on the balance of probabilities that a parent undertaking has not complied with requirements under clause 11 – for example, failing to comply with an improvement plan notice.

²¹⁸ Ofsted, [Hearing feedback, accepting criticism and building a better Ofsted: the response to the Big Listen](#), September 2024.

Ofsted would also be able to issue a monetary penalty if satisfied beyond reasonable doubt that a person has committed an offence under Part 2 of the Care Standards Act 2000 relating to an establishment or agency required to register with Ofsted. This could, for example, relate operating an unregistered children's home.²¹⁹ The government has suggested this would "allow Ofsted to act at pace to tackle more unregistered settings, in a proportionate way (ie, a single offence may warrant a financial penalty, whilst a repeat or very serious offence may warrant prosecution)."²²⁰

Clause 16 would insert a new schedule into the Care Standards Act 2000 setting out the detailed process and procedures for the issuing of monetary penalties.

6.5 Clauses 13-15: financial oversight and profits

Clauses 13-15 would introduce a financial oversight scheme for designated independent fostering agencies and providers of children's homes, and allow the Secretary of State to cap the profits of providers of children's homes and independent fostering agencies.

Policy background

The Conservative government's Stable Homes, Built on Love strategy said the government recognised some of the concerns regarding "large providers with complex, and sometimes opaque, ownership structures." The government would, it said, work with Ofsted and the sector to develop plans for a financial oversight regime, covering the largest providers of children's homes and independent fostering agencies.²²¹

The strategy rejected the care review's recommendation for a windfall tax on profits made by the largest children's home providers and independent fostering agencies, as the government believed it would "either result in providers exiting the market or it would lead to higher prices to cover the cost of the tax." However, it said the government "recognise[d] concerns around profiteering" and was seeking to rebalance the market through its investment in foster care and capital funding for local authorities to build their own children's homes. It also suggested the proposed regional care cooperatives would give regions greater buying power and put them in a stronger position when negotiating with private providers.²²²

In its [response to its 'Big Listen' consultation](#), published in September 2024, Ofsted asked the government to make sure future legislation included

²¹⁹ Department for Education, [Keeping children safe, helping families thrive](#), 18 November 2024, p23.

²²⁰ As above, p23.

²²¹ Department for Education, [Stable Homes, Built on Love: Implementation Strategy and Consultation: Children's Social Care Reform 2023](#), February 2023, pp19 and 101.

²²² As above, p195.

“regulating profit-making by large groups that provide services for vulnerable children.”²²³

Clauses 13, 15 and 16: financial oversight

Clause 13 would insert new sections 30ZE-30ZJ into the Care Standards Act 2000 providing for a financial oversight scheme for certain non-local authority providers of children’s homes and independent fostering agencies, or their provider group (referred to below as “provider”).

Under the new sections:

- the Secretary of State would be able to set out in regulations (subject to the affirmative procedure) the conditions under which a provider would fall under the financial oversight scheme. These conditions could particularly relate to the number of establishments or agencies they run, their size, market share, or geographical concentration. When setting the conditions, the Secretary of State would be required to have regard to the public interest in ensuring providers that have a “strategic significance” are covered.
- a provider subject to the financial oversight scheme would be required to submit a “recovery and resolution plan” to the Secretary of State if instructed to do so. This plan would, among other things, set out plans to reduce adverse impacts on local authorities and looked after children if risks to financial sustainability materialise.
- the Secretary of State would have the power to require information from a provider subject to financial oversight. This would include, for example, the purpose of assessing the risks to financial sustainability of the provider and the action they could take to mitigate those risks.
- the Secretary of State would have the power to appoint a qualified person to undertake an Independent Business Review of a provider subject to financial oversight where there is a significant risk to their financial sustainability (or to a subsidiary of a provider group). This would review, for example, the nature and extent of any relevant financial sustainability risks and any risks to local authorities or looked after children if those risks materialised.
- the Secretary of State would be required to issue an “advanced warning notice” to a local authority if they considered that a provider subject to financial oversight may need to close one or more establishments or agencies because of risks to its financial sustainability, and the authority or children it looks after may be adversely impacted.

²²³ Ofsted, [Hearing feedback, accepting criticism and building a better Ofsted: the response to the Big Listen](#), September 2024.

Clause 15 would give the Secretary of State the power to issue a civil monetary penalty in the case of a breach of the financial oversight scheme or the profit cap regime (see below).

Clause 16 would insert a new schedule into the Care Standards Act 2000 setting out the procedure for the issuing of monetary penalties. A monetary penalty would be of any amount determined by the Secretary of State but a maximum amount could be set in regulations (subject to the affirmative procedure). The Secretary of State would be required to consider a range of factors when determining the penalty, including, for example, the nature and seriousness of the failure to comply, and any mitigating factors.

The explanatory notes to the bill say the financial oversight scheme will “allow for an accurate, real-time assessment of financial risk, and provide advance warning to local authorities of possible financial failure.”²²⁴

Clauses 14-16: profit cap

Clause 14 would insert a new section 30ZK into the Care Standards Act 2000 that would give the Secretary of State the power to make regulations (subject to the affirmative procedure) capping the profits of non-local authority providers of children’s homes and fostering agencies at a set level. The government says it expects to include supported accommodation within the scope of the cap in the future.²²⁵

The regulations may also make provision about how the profit of a relevant provider is to be determined, including making adjustments for disguised profit arrangements. The explanatory notes state that this is intended to refer to arrangements “which might be used by relevant providers to artificially reduce the level of profit they may report in order that they might fall within the profit cap.”²²⁶

The Secretary of State would only be able to make the regulations if satisfied they are necessary, “having regard to the public interest in securing that relevant providers are providing placements on terms which represent value for money.” They would also be required to have regard to:

- the welfare of looked after children in England
- the interests of local authorities
- the interests of relevant providers, including the opportunity to make a profit

²²⁴ Department for Education, [Explanatory Notes to the Children’s Wellbeing and Schools Bill 2024-25](#), para 21.

²²⁵ Department for Education, [Children’s Wellbeing and Schools Bill 2024: policy summary](#), 18 December 2024, p47.

²²⁶ Department for Education, [Explanatory Notes to the Children’s Wellbeing and Schools Bill 2024-25](#), para 154.

Before making the regulations, the Secretary of State would be required to consult local authorities, any persons considered to be representing the interests of relevant providers, and any other persons considered appropriate.

The clause would also insert a new section 30ZL into the Care Standards Act 2000 that would give the Secretary of State the power to make regulations (subject to the negative procedure) requiring relevant providers to make an annual return for the purposes of determining compliance with the profit cap. The government states the information to be included in these returns would “be limited to information necessary...to be able to administer the profit cap effectively.”²²⁷

As noted above, the Secretary of State would have the power to issue a civil monetary penalty in the case of a breach of the profit cap regime.

The government has said it will “allow time for [its] other market reforms to rebalance the market first and will only step in to cap profits if this does not happen.” The power to cap profits is, it says, “intended only to be used as a last resort.” The government has also said it would “further engage with the sector before any such measure is introduced.”²²⁸

6.6

Comment

Many stakeholders have broadly welcomed the bill’s provisions relating to accommodation for looked after children. However, this has not been universal or without qualification.

Parliamentary

In response to the oral statement setting out the government’s Keeping Children Safe, Helping Families Thrive policy paper, the Shadow Education Secretary, Laura Trott, said she welcomed much in the statement, including regional care co-operatives...and the enhanced role of Ofsted in the sector.” However, while welcoming the government’s focus on “profiteering”, she noted the Competition and Markets Authority and the independent review of children’s social care had not recommended a profit cap. The Shadow Secretary of State said the capacity issues in the sector needed to be solved first or there is a risk of “driving up prices and exacerbating the shortage of places.”²²⁹

²²⁷ Department for Education, [Children's Wellbeing and Schools Bill 2024: policy summary](#), 18 December 2024, p48.

²²⁸ Department for Education, [Keeping children safe, helping families thrive](#), 18 November 2024, p30; Department for Education, [Children's Wellbeing and Schools Bill 2024: policy summary](#), 18 December 2024, pp47 and 49.

²²⁹ [HC Deb 18 November 2024, c26](#).

Munira Wilson, Education, Children and Families Spokesperson for the Liberal Democrats, welcomed the steps aiming to tackle profiteering but suggested it must also be ensured that “councils can provide these services themselves.”²³⁰

Local government

The ADCS welcomed “measures around increased financial transparency and accountability for placement provider groups,” but added that “ongoing evaluation of the various pilot programmes and pathfinders plus a clear implementation strategy alongside adequate funding will be essential.”²³¹

In evidence to the Education Committee on 17 December 2024, Arooj Shah, Chair of the Children and Young People Board at the LGA, said the association welcomed the cap on profits “in principle” and that, while it “does not have an informed view” it had “long called for measures to tackle this.”²³² Arooj Shah also expressed support for regional care cooperatives.²³³

Representatives of providers

The Children’s Homes Association (CHA) welcomed the proposed new powers for Ofsted to tackle unregistered providers and the proposed new provision for children deprived of their liberty. The association said its key concern was that local authorities will need “several hundred million pounds of new funding” to deliver on the new statutory duties.²³⁴

The CHA also suggested the proposals around a possible future profit cap risked “serious unintended consequences”.²³⁵ Mark Kerr, chief executive of the association, said:

Unfortunately, if you put a cap on, these large multibillion-pound corporations will find a way of gaming it. It will be the smaller SME micro-providers that struggle because they do not have ways or international corporate structures that allow them to avoid that cap.²³⁶

He also suggested there may be a “disconnect” between regional commissioning and local accountability.²³⁷

The Nationwide Association of Fostering Providers said the measures set out in Keeping Children Safe, Helping Families Thrive were “by and large, proportionate and measured” and that it would work with Ofsted in its

²³⁰ [HC Deb 18 November 2024, c28](#).

²³¹ Association of Directors of Children’s Services, [ADCS response to the Children’s Wellbeing Bill](#), 17 December 2024; ADCS, [Profiteering in children’s social care](#), 12 December 2024; Association of Directors of Children’s Services, [Children’s social care policy paper](#), 18 November 2024.

²³² Education Committee, [Oral evidence: Children’s Social Care](#), HC 430, 17 December 2024, Q329

²³³ As above, Q331.

²³⁴ Children’s Homes Association, [CHA response to the DfE announcement of ‘Biggest overhaul in a generation to children’s social care support system’](#), 18 November 2024.

²³⁵ As above, 18 November 2024.

²³⁶ Education Committee, [Oral evidence: Children’s Social Care](#), HC 430, 17 December 2024, Q327.

²³⁷ As above, Q331.

expanded role looking at the financial basis of IFAs. However, it added that “Ofsted must also develop and improve its understanding of how local authorities work with IFAs and learn from the best relationships here.”²³⁸

Ofsted

Ofsted said there is a “clear gap” in the regulated sector for children deprived of their liberty and that it was “pleased there is an opportunity to think creatively about suitable provision for this cohort of children.”²³⁹ It also welcomed the proposed financial oversight scheme and proposals to increase its powers to hold independent provider groups to account.²⁴⁰

Charities and think tanks

The Centre for Young Lives think tank welcomed the bill’s measures “to crack down on excessive profiteering in children’s social care, including a backstop law to potentially cap profits.”²⁴¹

The National Children’s Bureau said Ofsted must have the “necessary capacity and expertise” to effectively exercise its proposed new powers. It added that “disrupting the social care ‘market’ must be carefully managed to minimise any disruption to children’s lives”.²⁴²

The children’s rights charity, Article 39, said that while it “understood the imperative to act”, it was “deeply concerned” about “the widening of statutory places of deprivation of liberty for looked after children.” It noted the description of “relevant accommodation” in the bill is set in fairly broad terms and suggested government plans “may only become clear when it introduced secondary legislation”. The charity questioned whether private providers would be allowed to operate the accommodation and said child welfare legislation had “never before...allowed profit to be made from locking up highly vulnerable children.”²⁴³

The charity welcomed the proposed power for the Secretary of State to limit profits but said this should also cover supported accommodation for looked after children.²⁴⁴

²³⁸ Nationwide Association of Fostering Providers, '[Biggest overhaul...to children's social care': NAFP response to 'Keeping children safe, helping families thrive'](#)', 18 November 2024.

²³⁹ Education Committee, [Children's Social Care: Written evidence from Ofsted \(CSC 132\)](#) (PDF), 17 December 2024.

²⁴⁰ As above

²⁴¹ Centre for Young Lives, [Our response to the Children's Wellbeing and Schools Bill](#), 17 December 2024.

²⁴² National Children's Bureau, [NCB reacts to Govt. announcement on children's social care](#), 18 November 2024.

²⁴³ Article 39, [Children's Wellbeing and Schools Bill - Article 39's initial analysis](#), 18 December 2024.

²⁴⁴ As above.

7 Children's social care workers

7.1 Clause 18: agency social care workers

Clause 18 would allow the Secretary of State to make regulations on the use of agency workers in children's social care.

Background

There were around 7,200 full-time equivalent (FTE) agency children and family social workers in post on 30 September 2023. This is an increase of 6.1% since 2022 and 34% since 2017. The agency worker rate (number of FTE agency social workers divided by the sum of FTE agency social workers and FTE social workers) has increased from 15.8% in 2017 to 17.8% in 2023. 80% of agency social workers were covering vacancies in 2023.²⁴⁵

Independent review of children's social care

The final report of the independent review of children's social care said the level of agency use in children's social care was "inexcusably high". Agency social workers cost more than a permanent social worker, the report said, and are "more likely to move around, contributing to the instability children and families experience". It added:

With limited rules and recourse to control how agency social workers are employed, local authorities are often in the position of competing with one another to fill urgent vacancies. This allows agencies to push their rates up, increasing their profit and contributing to the funding pressures that local authorities are trying to navigate.

The report recommended the government develop new national rules to tackle the overuse of agency social workers.²⁴⁶

Statutory guidance on agency social workers

The Conservative government's Stable Homes, Built on Love strategy set out several proposed measures aimed at bringing "consistency and quality assurance to the use of agency social workers." This included:

- setting clear expectations about how agency workers should be used through national rules

²⁴⁵ Department for Education, [Children's social work workforce](#), February 2024.

²⁴⁶ The Independent Review of Children's Social Care, [Final Report](#), May 2022, pp188-189.

- establishing price rates on the amount local authorities can pay per hour for an agency worker
- increasing transparency on agency usage and costs²⁴⁷

The government published a [consultation on whether to set national rules on agency usage](#), including potential price caps, alongside the strategy.²⁴⁸

In its response to the consultation, published in October 2023, the government said it would consult on draft statutory guidance to underpin national rules. The government said it would not implement national price caps, but would set out in statutory guidance that local authorities in a region should work to agree and implement price caps in their region.²⁴⁹

A technical [consultation on the proposed statutory guidance](#) was published in January 2024. The consultation closed in February 2024 and the government had not responded by the time of the 2024 general election.²⁵⁰

In September 2024, the current Labour government responded to the consultation and [published the final statutory guidance](#). The statutory guidance came into effect on 31 October 2024.²⁵¹

Intention to legislate

In its [Keeping Children Safe, Helping Families Thrive policy paper](#), the government said it intended to legislate to “allow us to go further than statutory guidance in regulating the use of agency, to drive the right conditions for children’s social work practice.”

The government also said it wanted to look at the use of agency workers across children’s social care and not just social work. It cited concerns raised in response to the 2023 consultation that limiting national rules to social workers could lead to unintended consequences – for example, an increase in agency use in other parts of the children’s social care workforce not subject to the same regulatory framework.²⁵²

²⁴⁷ Department for Education, [Stable Homes, Built on Love: Implementation Strategy and Consultation: Children’s Social Care Reform 2023](#), February 2023, p128.

²⁴⁸ Department for Education, [Child and family social worker workforce](#), 2 February 2023; Community Care, [Agency social worker pay to be capped to that of permanent staff](#), 3 February 2023.

²⁴⁹ Department for Education, [Child and family social worker workforce: Government consultation response](#), 25 October 2023; Department for Education, [Government continues children’s social care reform](#), 25 October 2023; Children and Young People Now, [DfE rows back on plans to ban agency social work teams](#), 25 October 2023.

²⁵⁰ Department for Education, [Child and family social workers: agency rules statutory guidance](#), 31 January 2024.

²⁵¹ Department for Education, [Child and family social workers: agency rules statutory guidance](#), September 2024, Department for Education, [Child and family social workers: agency rules](#), September 2024.

²⁵² Department for Education, [Keeping children safe, helping families thrive](#), 18 November 2024, pp30-31.

Clause 18

Clause 18 would allow the Secretary of State to make regulations on the use of agency workers in local authority children's services. The regulations could, in particular:

- require agency workers used by local authorities to meet specified requirements
- make provision about the way agency workers are to be managed
- make provision about the terms under which agency workers may be supplied, including the amount that may be paid

Before making the regulations, the Secretary of State would be required to consult such people as they think appropriate. The regulations would be subject to the affirmative procedure.

The government has said its intention would be to use the regulation making power "to make regulations which may apply similar provisions to those already introduced in the statutory guidance to a broader cohort of agency workers within children's social care."²⁵³ It has also said the aim of the regulatory framework "is not to prohibit the use of agency workers" but to "alleviate significant affordability and stability challenges."²⁵⁴

Comment

In the 2023 consultation on introducing national rules for agency social workers, around two-thirds (64%) of respondents agreed with the general principle of introducing national rules. While 84% of local authority employed child and family social workers agreed, only 16% of agency social workers did so. Those who disagreed had concerns around the practicalities of implementation, including the potential impacts on social workers leaving the profession. There was also a suggestion that changes should focus on improving conditions for all social workers, rather than worsening them for agency workers.²⁵⁵

Among other things, 62% of respondents agreed there should be a cap on agency fees.²⁵⁶ Further information is provided in the consultation response and in a [separate analysis published by the Department for Education](#).²⁵⁷

²⁵³ Department for Education, [Keeping children safe, helping families thrive](#), 18 November 2024, p31.

²⁵⁴ Department for Education, [Children's Wellbeing and Schools Bill 2024: policy summary](#), 18 December 2024, p51.

²⁵⁵ Department for Education, [Child and Family Social Worker Workforce Consultation Analysis](#), July 2023, pp10-11.

²⁵⁶ Department for Education, [Child and family social worker workforce](#), 2 February 2023, pp16 and 18.

²⁵⁷ Department for Education, [Child and Family Social Worker Workforce Consultation Analysis](#), July 2023.

7.2

Clause 19: Ill-treatment or wilful neglect

Clause 19 would extend legislation against ill-treatment or wilful neglect to children aged 16 and 17 in certain care and detention settings.

Background

Under [section 1 of the Children and Young Person Act 1933](#), a person aged 16 or over who has responsibility for any child under that age commits an offence if they wilfully assault, ill-treat, neglect, abandon or expose them (or cause or procure them to be treated in any of these ways) in a manner likely to cause the child unnecessary suffering or injury to health.²⁵⁸

In addition, under the [Criminal Justice and Courts Act 2015](#) it is an offence for a care worker to ill-treat or wilfully neglect a person they are caring for. Care worker is defined for these purposes as a paid worker providing health care for an adult or child, or social care for an adult.²⁵⁹

The 2015 Act also provides for an offence on the part of a care provider where ill treatment and neglect occurs as a result of a gross breach of a relevant duty of care owed by the provider to the individual. A care provider is similarly defined as a body providing health care for an adult or child, or social care for an adult.²⁶⁰

The government has said this means there is “currently a gap in the legal framework meaning it is not possible to prosecute individuals for low level abuse (ill-treatment or wilful neglect) of 16 and 17 year olds in regulated children’s social care establishments such as children’s homes, and in the youth detention accommodation.”²⁶¹

Clause 19

Clause 19 would amend the Criminal Justice and Courts Act 2015 so that the offences against ill treatment and wilful neglect in the act would apply to children aged 16 and 17 in regulated children’s social care establishments, and in youth detention accommodation.

The government’s policy summary on the bill explains that “the ‘regulated establishments’ to which this measure applies are children’s homes, residential family centres, accommodation where holiday schemes for

²⁵⁸ [Children and Young Persons Act 1933](#), section 1.

²⁵⁹ [Criminal Justice and Courts Act 2015](#), section 20.

²⁶⁰ As above, section 21.

²⁶¹ Department for Education, [Children's Wellbeing and Schools Bill 2024: policy summary](#), 18 December 2024, p54.

disabled children are provided, supported accommodation settings, and youth detention accommodation in England.”²⁶²

The clause would come into force two months after the Act is passed (clause 59).

Comment

The children's rights charity, Article 39 said the decision to extend protections against ill treatment and wilful neglect to 16 and 17 year olds by amending the Criminal Justice and Courts Act 2015 (which, as set out above, does not currently apply to children in social care) appeared to be “the further deliberate ‘adultification’ of teenagers.” It suggested an amendment to the Children and Young Persons Act 1933 would have “provided significantly greater protection for 16 and 17 year-olds, as well as kept them within the frame of child protection.”²⁶³

The charity also said it was “astonishing” that the bill did not provide for the repeal of the ‘reasonable chastisement’ defence available to parents and others when charged with the assault of a child (commonly referred to as banning smacking). It said this must be an immediate priority for amending the bill.²⁶⁴

²⁶² Department for Education, [Children's Wellbeing and Schools Bill 2024: policy summary](#), 18 December 2024, p55.

²⁶³ Article 39, [Children's Wellbeing and Schools Bill - Article 39's initial analysis](#), 18 December 2024.

²⁶⁴ As above.

8 Employment of children

8.1 Current legislation

Currently the employment of children in England and Wales is primarily regulated by the Children and Young Persons Act 1933 (CYPA 1933), as amended. Most recently this has been amended in the period 1998-2000 in particular, in response to the European Directive on the Protection of Young People at Work 94/33/EC. There are also several other pieces of legislation that relate to the employment of children, including the Education Act 1996 and various pieces of secondary legislation such as the Children (Performances) Regulations 1968.

In Scotland and Northern Ireland an entirely different set of legislation applies; primarily the Children and Young Persons (Scotland) Act 1937 and the Employment of Children Regulations (Northern Ireland) 1996.

For the purposes of all laws relating to employment of children, the term 'child' is defined by section 558 of the Education Act 1996 as anyone not over compulsory school age. A child may [not legally leave school](#) until the last Friday in June of the school year during which they reach the age of 16. Some 15/16-year-olds will therefore be covered by restrictions on the employment of children, while others will not.

Section 18 of CYPA 1933 sets out restrictions on the times, number of hours and types of work that children of various ages are permitted to do. This includes prohibitions on the employment of children:

- under the age of 14, except in limited circumstances
- before 7am or after 7pm
- on a school-day, except for up to two hours after school hours
- For more than two hours on a Sunday
- on a Saturday or school holiday for more than eight hours (or five hours if aged under 15)
- for more than 12 hours total in any school week, or 35 hours total in any non-school week (or 25 hours if aged under 15).²⁶⁵

²⁶⁵ [Children and Young Persons Act 1933, section 18](#)

However, within these general limitations, local authorities are given the power under section 18 to make bylaws with additional restrictions on the types of work children can do, the ages they can work and the hours, times or any other limits on their employment.

These bylaws are also allowed (if the local authority wishes) to relax the above rules to permit the employment of 13-year-olds (who otherwise cannot be employed at all) in certain kinds of light work, and to permit children to work for up to one hour before school on a school day.²⁶⁶

This means that the exact rules on the employment of children currently varies between local authorities across England and Wales. Many, but not all, local authorities have also used these bylaw powers to create licensing systems, so that anyone wishing to employ children must first apply to the council for a child employment permit. However, as noted by the explanatory notes to this bill, “most local authority bylaws require a child employment permit, but there is no standard approach across England.”²⁶⁷

In practice a lot of local authorities, [such as Richmond upon Thames \[PDF\]](#), adopted a set of model bylaws which were issued by the Department of Health in 1998. These contain a ‘permitted list’ of occupations in which children aged 13 may be employed and a ‘prohibited list’ of jobs in which no child of any age may be employed. The model bylaws also allow children to be employed for up to an hour before school on any day on which they are required to attend school. They also lay down a procedure for obtaining employment permits.²⁶⁸

However, not all local authorities follow the model bylaws and even among those which do, slight variations are common. For example, the bylaws of Birmingham City Council do not include the line allowing 13 year-olds to work in “car washing by hand in a private residential setting” that is present in Richmond upon Thames’ and the model bylaws.²⁶⁹

Child actors and other performers

Separately from all these restrictions, [section 37 of CYPA 1933](#) allows children of any age to earn money as a model, sports player, child actor, musician or other performer, as long as the person responsible for the performance gets a licence from their local council.

In 2014 the government consulted children and their parents about making changes to the law around paid child performances.²⁷⁰ The government

²⁶⁶ [Children and Young Persons Act 1933, section 18\(2\)\(a\)](#)

²⁶⁷ Department for Education, [Explanatory notes to the Children's Wellbeing and Schools Bill 2024-25 \[PDF\]](#), para 184

²⁶⁸ Letter from Department of Health, ‘Employment of Children’, 15 April 1998

London Borough of Richmond upon Thames Council, [Employment of Children Byelaws](#), Made 12 July 1999

²⁶⁹ Birmingham City Council, [byelaw 134 Employment of Children](#), made 31 July 1998

²⁷⁰ Department for Education, [Consultation outcome – Child performance regulations: performance hours and breaks](#), 17 December 2014,

subsequently made some changes to the law to make it easier for children to take part in paid performances and make the law easier to read.²⁷¹ These changes were made in the [Children \(Performances and Activities\) \(England\) Regulations 2014](#), along with equivalent regulations in Wales and Scotland, which now set out the detailed rules that must be followed for any child performances. These include limits on the number of hours, times of day, minimum breaks, rules for chaperones and other requirements that must be followed by anyone organising such a performance.

Nothing in this bill would change the rules for children earning money in this way as models, sports players, actors, musicians or other performers.

Clause 20

Clause 20 only substantively applies to England.

Clause 20 would insert two new sections, 17A and 17B, into CYPA 1933. These would have two main effects. Firstly, for children in England only, the current restrictions in section 18 of CYPA 1933 would be replaced with new restrictions in new section 17A CYPA 1933. These would be very similar to the existing restrictions but with the following key differences:

- children would be allowed to work until 8pm on any evening, rather than only until 7pm.
- children would automatically be allowed to work for up to an hour before school on a school day (something in practice already permitted by most local authority bylaws made under section 18, but by default prohibited by section 18).
- The two-hour limit on Sunday working for children would be lifted, so that the same rules as Saturdays and school holidays applied (working for up to eight hours, or five hours if aged under 15).

The other restrictions, including the limits on the total number of hours children can work per week, or the restrictions on children doing anything other than 'light' work, would not be changed.

The explanatory notes argue that these changes “will give children and employers more flexibility and will ensure that children have more opportunities to take up suitable employment” adding that “existing safeguards which are in place to ensure that, if a child is employed, their employment is not harmful to their health development and education will remain in place”.²⁷²

²⁷¹ [Explanatory Memorandum to the Children \(Performances and Activities\) \(England\) Regulations 2014](#) [PDF]

²⁷² Department for Education, [Explanatory notes to the Children's Wellbeing and Schools Bill 2024-25](#) [PDF], para 10

The second main effect of new section 17A would be that in England only, the current system of local authorities having the power to vary or add to these restrictions through bylaws would be entirely replaced by a new system, giving the equivalent power to the Secretary of State to vary or add to these restrictions through regulations.

The current differences in rules between local authority areas would therefore be eliminated and a new single set of rules for the employment of children would be applied across England. This would include a new standard procedure for the granting of child employment permits, to be set out in future regulations. While the permits themselves would still be granted by local authorities, the rules would be set by the Secretary of State and it would no longer be possible for local authorities to choose not to require permits in their area. The explanatory notes state that “An England-wide approach will be easier for employers and children to understand.”²⁷³

In Wales, the current system and restrictions would remain in place, unchanged – section 18 would be amended so that from now it only applied to Wales and no longer to England. Nothing in this clause would affect any legislation relating to Scotland or Northern Ireland

Nothing in this clause would affect the separate rules for children who are paid to take part in child performances contained in section 37 CYPA 1933.

New section 17B would set out further details of the regulation making power and other consequential amendments. Regulations made under this clause would be subject to the [negative procedure](#).

²⁷³ Department for Education, [Explanatory notes to the Children's Wellbeing and Schools Bill 2024-25](#) [PDF], para 10

9 Breakfast clubs and school food standards

The bill would provide for breakfast clubs to be available before school begins at all state-funded primary schools in England. The bill also includes measures to ensure that the school food standards apply to all state-funded schools, including at breakfast.

9.1 Free breakfast club provision in primary schools

Current position

Schools are not currently required to provide breakfast clubs, although many do so.

Government support is available for school breakfast club provision (see following section on funding), through the [National school breakfast club programme](#), which is delivered by the charity [Family Action](#).

The Department for Education's guidance sets out the eligibility criteria:

Schools in disadvantaged areas are eligible for the programme if they have 40% or more pupils in bands A-F of the income deprivation affecting children index (IDACI). This includes state-funded primary, secondary, special schools and alternative provision.²⁷⁴

Funding

All participating schools receive a 75% subsidy for the food and delivery costs of breakfast club provision.²⁷⁵

In March 2021, the Department for Education announced that £24 million would be provided for breakfast clubs, through to 2023. In response to a parliamentary question on 22 June 2021, then Minister Vicky Ford said that “the current contract is due to complete in July 2021, and the new procurement will enable our provision to continue seamlessly.”²⁷⁶

²⁷⁴ Department for Education, [National school breakfast club programme](#), 4 March 2024

²⁷⁵ As above

²⁷⁶ [PQ 17741 \[on Breakfast Clubs\]](#), answered 22 June 2021.

In July 2021, details were published about the programme's [funding to July 2023](#). The announcement stated that up to £24 million would be provided, and that:

All participating schools will receive a 100% subsidy for Breakfast Club Provision until 31st March 2022. The subsidy will then be reduced to 75%, allowing schools to contribute 25% from other funding streams. All pupils in participating schools are to be offered breakfast supplies at no cost to them or their parents.²⁷⁷

Funding was subsequently extended to the end of July 2025.

Department for Education guidance for schools

In March 2017, the Department for Education published a briefing for school leaders on [how to set up and sustain a breakfast club](#).²⁷⁸

The briefing was prepared by ICF Consulting and published alongside a report evaluating the impact of breakfast clubs (see following section).

Department for Education evaluation of breakfast clubs in schools with high levels of deprivation (2017)

The Department for Education published an [evaluation of the impact of breakfast clubs on schools with high deprivation levels](#) in March 2017, prepared by ICF Consulting.

The report evaluated the programme implemented by the charity Magic Breakfast and found it “was successful in terms of the numbers of schools recruited; the high proportion continuing with a breakfast club and the positive impacts which schools perceived for their pupils.”²⁷⁹

Schools in the study did not report a perceived impact of breakfast clubs on overall school attendance figures, but schools “often reported improvements in punctuality for some pupils and targeted persistent latecomers.” Schools also reported improvements in concentration and in behaviour from pupils attending breakfast clubs, which they attributed to the new routine as well as pupils not being hungry.²⁸⁰

The study raised concerns about some schools’ ability to attract children on free school meals to attend, with around a fifth of schools involved finding lower proportions attending than were on the school roll.²⁸¹

²⁷⁷ Department for Education, [Breakfast clubs programme 2021-2023](#), 9 July 2021

²⁷⁸ Department for Education, [Breakfast Clubs Setup and Implementation: Briefing for School Leaders](#), March 2017

²⁷⁹ Department for Education, [Evaluation of Breakfast Clubs in Schools with High Levels of Deprivation](#), March 2017, p7

²⁸⁰ As above, p89

²⁸¹ As above, p8

The report made a series of recommendations for any future extension of the programme, including:

- Expert involvement to select schools for inclusion and provide support on the ground during the first year
- Breakfast clubs should be free for pupils receiving free school meals, with low or no charges for others
- That any expansion should consider including schools with high free school meal eligibility who already have breakfast clubs but which could be expanded.²⁸²

A full list of recommendations is provided on pages 8-9 of the [report](#).

9.2 Government proposals and early adopters scheme

In their [manifesto](#) ahead of the 2024 General Election, the Labour Party said that if elected it would “fund free breakfast clubs in every primary school, accessible to all children,” with the aim of improving behaviour, attendance, and learning.²⁸³

In her [speech to the Labour conference](#) in September 2024, the Chancellor of the Exchequer, Rachel Reeves, announced that up to 750 state-funded schools in England will be able to take part in an early adopter scheme, to launch in April 2025.²⁸⁴

The Department for Education has published information on the [Breakfast clubs early adopters scheme](#), including how schools could express an interest in the scheme. Applications closed on 20 December 2024.

In its [policy summary for the bill](#), the government described the existing situation as “fragmented, with some children being able to access paid-for childcare before school but others not able to benefit,” and that universal provision would ensure:

- consistency and availability across England which complies with minimum requirements (that schools will have available a club of at least thirty minutes providing nutritious food)

²⁸² Department for Education, [Evaluation of Breakfast Clubs in Schools with High Levels of Deprivation](#), March 2017, p9

²⁸³ [Labour Party Manifesto 2024](#)

²⁸⁴ Labour Party, [Rachel Reeves speech at Labour Party Conference 2024](#), 23 September 2024

- accessibility: providing funding and support so that all state-funded schools in England in scope have breakfast club provision with capacity to meet demand from parents, and ensure the most in need pupils benefit
- longevity of provision and future certainty for schools: ensuring investment in and commitment to delivering this policy effectively and with impact²⁸⁵

9.3

Clause 21

Clause 21 would require state-funded schools in England to secure breakfast club provision, either on school premises or suitable premises in the school's vicinity.

The clause would insert new sections 551B, 551C and 551D into the [Education Act 1996](#).

New section 551B would require an appropriate authority²⁸⁶ in a primary school to ensure that at least 30 minutes of childcare, including the provision of breakfast, would be provided before the start of the first session on each school day. It would require the breakfast to be provided in accordance with the [school food standards](#).

All pupils on roll at a school from reception to year 6 would be eligible.

New section 551C of the 1996 act would provide the Secretary of State with powers to exempt schools from this duty, following consultation with parents and the local authority.²⁸⁷ This would only be possible if the duty would "seriously prejudice" the efficient use of resources, or if fulfilling the duty were contrary to pupils' interests.

New section 551D of the 1996 act would require the Secretary of State to issue guidance for schools in relation to discharging the duty, and about any exemptions.

²⁸⁵ Department for Education, [Children's Wellbeing and Schools Bill: Policy Summary Notes](#), December 2024, p59

²⁸⁶ The proprietor of an academy or non-maintained special school; the governing body of a maintained school; the local authority in relation to a pupil referral unit

²⁸⁷ Pupil referral units would not need to consult the local authority, as the appropriate authority to carry out consultations is the local authority which maintains the unit – see [Explanatory Notes](#) p53

9.4 School food standards: academies

School food standards in England are provided for through [the Requirements for School Food Regulations 2014](#). The regulations are made under section 114A of the [School Standards and Framework Act 1998](#).

The Department for Education's published [advice for schools on the regulations](#) was most recently updated in June 2023. The advice applies to all state-funded schools in England.

The government has identified a gap in the requirements on academies to meet the school food standards, including at breakfast, which the bill seeks to clarify:

The Children and Families Act 2014 [extended]... the school food lunch obligations to all Academy arrangements that do not already contain a provision in the funding agreement (including those with agreements entered into before 2014). This includes the duty to ensure the school food standards are complied with for lunchtime provision. The Government is now seeking to extend the statutory duty to comply with the school food standards, to ensure the Requirements for School Food Regulations 2014 apply in their entirety (including to breakfast), to all Academies (primary and secondary) and mirror the regulatory framework for maintained schools.²⁸⁸

9.5 Clause 22

Clause 22 would insert a new section 512C into the [Education Act 1996](#) to require academies to meet requirements for food standards under section 114A of the [School Standards and Framework Act 1998](#).

The clause would come into force two months after this bill was passed.

9.6 Comment

The Sutton Trust has [welcomed the bill](#), highlighting in particular its belief that “free breakfast clubs in schools will help ensure children from poorer homes are not too hungry to learn.”²⁸⁹

The school food organisation LACA [has expressed reservations](#) about the measures, noting a near-even divide between support and opposition for the

²⁸⁸ [Explanatory Notes](#), p19-20

²⁸⁹ Sutton Trust, [Sutton Trust statement on the Children's Wellbeing and Schools Bill](#), 17 December 2024

bill among its members, and raising concerns about cost and funding and who will deliver the service.²⁹⁰

9.7 Further reading

The Library briefing on [School meals and nutritional standards \(England\)](#) provides wider information in this area.

²⁹⁰ LACA, [Labour Government publishes Children's Wellbeing Bill](#), 19 December 2024

10

School uniforms: limits on branded items

The bill would set limits on the amount of branded items that can be required in school uniforms at state-funded schools in England. This would build on legislation that was passed in 2021 to restrict school uniform costs.

10.1

Current position on school uniform

Schools in England are not required to have a uniform, although the Department for Education strongly recommends that they do so. School governing bodies decide what a school's uniform policy should be.

Alongside its recommendation for schools to have a uniform, the Department for Education expects schools to take account of its [published guidance](#).

Costs and branded items

The general guidance further states that no school uniform should be so expensive as to leave pupils or their families feeling unable to apply to, or attend, a school of their choice, due to the cost of the uniform.

The rules about the cost of school uniforms were strengthened by the [Education \(Guidance about Costs of School Uniforms\) Act 2021](#), and separate [statutory guidance on uniform costs](#) has been published.

The [statutory guidance](#) applies to state-funded schools in England. It acknowledges that some schools, or year groups within them, may not have a uniform policy or dress code, although it notes that in that case schools should still consider the cost implications to parents of the decision not to have a uniform.²⁹¹

The guidance includes the following among the main points for schools to consider:

- Parents should not have to think about the cost of a school uniform when choosing which schools to apply for. Therefore, schools need to ensure that their uniform is affordable.

²⁹¹ Department for Education, [Cost of school uniforms](#), November 2021

- Schools need to think about the total cost of school uniforms, taking into account all items of uniform or clothing parents will need to provide while their child is at the school.
- Schools should keep the use of branded items to a minimum.²⁹²

There is, however, no strict limit on the number of branded items that may be required.

The guidance says that schools should keep branded items to a minimum and limit their use to low cost or long-lasting items. This may involve using sew- or iron- on labels or limiting the branded items to longer-lasting items such as ties. Schools should also avoid requiring branded versions of expensive items such as coats or trainers.²⁹³

Department for Education survey on uniform costs (2024)

In September 2024, the Department for Education published research on its [cost of school uniforms survey](#) (carried out in 2023), which it commissioned to assess whether the relative cost of school uniforms has changed since its previous study in 2015.

The survey found:

- Nearly all children were required to wear school uniforms.
- Compared with 2015 (adjusted for inflation) the cost of most items and overall average expenditure on school uniforms had decreased.
- Average expenditure on PE kit had increased since 2015. This was due, for the most part, to more expensive trainers chosen over cheaper plimsolls in primary schools.
- Compared with 2015, parents/carers were more likely to report that they were able to purchase school uniform and PE kit from somewhere other than from designated shops and/or from the school, and this had helped to bring expenditure down.
- Changes schools were making to uniform policies were not necessarily leading to a reduction in the overall number of branded items required.
- Significantly more parents/carers reported that their child's school makes second-hand school uniforms available for purchase than in 2015.

²⁹² Department for Education, [Cost of school uniforms](#), November 2021

²⁹³ As above

- Parents remained concerned about the cost of school uniforms, suggesting that “achieving significant change within schools in this area remains a work in progress.”²⁹⁴

10.2 Government policy

In its [policy summary for the bill](#), the government said that “too many schools still require pupils to have an excessive number of branded items which can only be purchased from specific suppliers,” and that “the statement in the statutory guidance that branded items should be kept to a minimum is not resulting in a significant reduction in the number of branded items schools are requiring.”²⁹⁵

10.3 Clause 23

Clause 23 would insert a new section 551ZA into the [Education Act 1996](#) to place limits on branded items of uniform:

- At primary level: no more than three different branded items of uniform for use during a school year
- At secondary level: no more than three different branded items of uniform for use during a school year, or four if one of those items is a tie

These limits include a bag and any clothing required for school or school clubs and activities. This means the limit includes PE kit and extends to optional activities.²⁹⁶

10.4 Further reading

The Library briefing on [School uniform costs in England](#) provides wider information, including other reports on cost levels.

²⁹⁴ Department for Education, [Cost of School Uniforms survey 2023: research report](#), September 2024, p71

²⁹⁵ Department for Education, [Children's Wellbeing and Schools Bill: Policy Summary Notes](#), December 2024, p63

²⁹⁶ [Explanatory Notes](#), p55

11

Register of children not in school

The bill would require children to be registered with the local authority when they are being educated outside of school for some or all of the time, such as through home education. Similar measures have been proposed in the past, and have proven controversial.

Library briefing

The Library briefing on [Home education in England](#) provides information on the legal position and debate surrounding home education, including further background and detail on many of the areas discussed in this section.

11.1

The right of parents to educate their children at home

Current position

In England, education is compulsory but schooling is not. Section 7 of the [Education Act 1996](#) states:

The parent of every child of compulsory school age shall cause him to receive efficient full-time education suitable—

- (a) to his age, ability and aptitude, and
- (b) to any special educational needs he may have,

either by regular attendance at school or otherwise.

The responsibility for children's education therefore rests with the parents or guardians, and they have the right to choose to educate their children at home.

There is currently no legislation that deals with home education as a specific approach, but it is covered by section 7 of the 1996 act as 'education otherwise than at school'.²⁹⁷

²⁹⁷ Department for Education, [Elective home education Departmental guidance for parents](#), April 2019, p6.

Children who are educated at home are not usually registered at mainstream schools or special schools.²⁹⁸

Duties to inform the local authority

Although some local authorities run voluntary registration schemes, there is currently no legal obligation for a parent to register or inform a local authority that their child is being home educated.²⁹⁹

Parents and guardians are not required to inform the school a child is being withdrawn for home education, although Department for Education guidance recommends it is sensible to do so. Schools, however, are obliged to inform the local authority of children removed from its admission register and will give home education as the reason, if notified of this by the parent.

These points apply equally to children with an Education, Health and Care (EHC) Plan attending mainstream schools. However, if the child attends a special school and this was arranged by the local authority, then the permission of the local authority is required before they can be removed from the admission register.³⁰⁰

Guidance

Updated guidance on home education was published by the Department for Education (DfE) in April 2019, following a consultation in April 2018. [Two guidance documents](#) were published, [one for local authorities \(PDF\)](#) and [one for parents \(PDF\)](#).³⁰¹

The Library briefing on [Home education in England](#) (sections 1.3-1.6) provides wider information on the responsibilities of parents and local authorities relating to home education and the safeguarding of home educated children, including funding issues and considerations for children with special educational needs.

Consultation on revised guidance 2023-24

In October 2023, under the previous Conservative government, the Department for Education published revised [draft home education guidance for consultation](#).

The consultation said that the aims of the revised guidance were to improve the clarity of the guidance for local authorities and parents, and to encourage a more collaborative approach between local authorities and

²⁹⁸ Department for Education, [Elective Home Education: Departmental guidance for local authorities](#), April 2019, p6.

²⁹⁹ PQ 47136 [[Home Education](#)], 1 November 2016

³⁰⁰ Department for Education, [Elective home education: Departmental guidance for parents](#), April 2019, p13.

³⁰¹ Department for Education, [Elective Home Education guidance](#), April 2019

home educating parents, and to focus more on available support.³⁰² The consultation closed in January 2024.

The Labour government have not yet responded to this consultation.

11.2 Children missing education

Children missing education are children of compulsory school age who are not registered pupils at a school and are not receiving suitable education otherwise than at a school. Local authorities have a duty under section 436A of the [Education Act 1996](#) to make arrangements to establish the identities of children in their area who are missing education.

Statutory guidance on [Children missing education](#) sets out duties on local authorities and others in this area, to ensure that these children are identified and supported back into education.

11.3 School Attendance Orders

As set out in section 3.1, parents or guardians have duties to ensure their school-age children are receiving a full-time education, whether at school or otherwise. There are a variety of measures that can be taken by local authorities to ensure that children are receiving a suitable education. Where a child is registered at a school, relevant measures include penalty notices (fines) for unauthorised absence, or requiring parents to attend parenting classes.

Where a child appears not to be receiving a suitable education, either at school or otherwise than at a school (such as through suitable home education), the relevant local authority is responsible for serving a notice and if necessary a school attendance order (SAO), in line with sections 437 to 442 of the [Education Act 1996](#).

An SAO will require a child's parents to register the child at a named school. Failure to comply with an SAO is an offence and parents may be prosecuted.³⁰³

³⁰² Department for Education, [Elective Home Education Guidance Review: Government consultation](#), October 2023, p5

³⁰³ Department for Education, [School attendance and absence](#); Coram child law advice, [School attendance and absence](#); Department for Education, [Working together to improve school attendance](#), August 2024

11.4

Home education trends and concerns about children not receiving a suitable education

Recent years have seen a marked rise in home education. More broadly, there have also been increasing concerns that many children are missing from the education system entirely, with consequences not only for their education but for their wider safety and wellbeing.

Why parents may choose to home educate

The departmental guidance for local authorities notes that parents may choose home education for several reasons, including:

- Ideological or philosophical views
- Religious or cultural beliefs
- Dissatisfaction with the school system, or the school which the child attends
- Bullying of the child at school
- Health reasons, particularly mental health of the child
- As a short-term intervention for a particular reason
- A child's unwillingness or inability to go to school
- Special educational needs, or a perceived lack of suitable provision in the school system for those needs
- Disputes with a school over the education, special needs or behaviour of the child, in some cases resulting in 'off-rolling'³⁰⁴
- Familial reasons which have nothing to do with schools or education (for example, using older children educated at home as carers)
- As a stop-gap while waiting for a place at a school³⁰⁵

Increasing home education levels

Recent years, in particular since the covid pandemic, have seen a rise in the number of children being home educated (see the following section). This is

³⁰⁴ Defined in the guidance as instances "where a child is withdrawn from a school by the parent as a result of pressure from the school rather than it being a purely voluntary decision."

³⁰⁵ Department for Education, [Elective Home Education: Departmental guidance for local authorities](#), April 2019, p7.

an international phenomenon,³⁰⁶ and the reasons behind the changes are likely to be complex.

Concerns have been raised about 'off-rolling' by schools of pupils who have special educational needs or low attainment, and home educating parents frequently say they have withdrawn from the school system because they do not believe their children's needs are being met. Additionally, changes in technology and parents' working patterns may make home education more appealing and practical.

In October 2019, Ofsted published a research report, [Exploring moving to home education in secondary schools](#), discussing some of these issues, also summarised in an article [Home education: a choice or last resort?](#)

The following more recent articles discuss related concerns:

- Rebecca Allen, [How the trickle into elective home education could become a stream](#), 21 January 2024
- Lucie Wheeler, [Home education: why are so many parents choosing it over mainstream school?](#), The Conversation, 30 August 2024
- Financial Times, [The boom in home schooling](#), 15 October 2024
- BBC News, [More families being 'forced' into home education](#), 14 November 2024
- BBC News, ['The school system is broken': Why more parents are home-educating their children](#), 16 December 2024

Safeguarding concerns and children missing from education

There have also been concerns that safeguarding provisions in place for children not in school are not sufficient. The government's November 2024 children's social care policy paper, [Keeping children safe, helping families thrive](#), states:

There is agreement that elective home education is not in itself a safeguarding risk. However, regular attendance at school can be a protective factor for children at risk of or experiencing harm in the home³⁰⁷

The Child Safeguarding Practice Review Panel's [Safeguarding children in elective home education](#) briefing published in May 2024, said that while:

³⁰⁶ For example, in the US nearly 6% of all school-aged children nationwide were reported as homeschooled during the 2022–23 school year, compared with 2.8% in 2019. See Education Next, [New U.S. Census Bureau Data Confirm Growth in Homeschooling Amid Pandemic](#), 10 June 2024

³⁰⁷ Department for Education, [Keeping children safe, helping families thrive](#), November 2024, p13

The Panel are of the view that there are some children [being home educated] who will require the attention of safeguarding agencies because they are at risk of harm and may not be visible to services.³⁰⁸

In September 2024, the Children's Commissioner for England, Rachel de Souza, published a report raising concerns about [children missing education](#), often for long periods. The report said that local authorities lack consistent access to the information they need to support their search for children missing education.³⁰⁹ This built on the Commissioner's February 2024 report, [Lost in Transition](#), which found that over 10,000 children had left the state education system to destinations unknown to their local authorities.³¹⁰

In December 2024, the Education Policy Institute, published a report on [Children Missing from Education](#), which compared GP registrations with school registrations and data on pupils in registered home education. It found that up to 300,000 children may have been missing entirely from education in 2023, a 40 per cent increase from 2017. The report identified higher risks for Traveller and Gypsy/Roma pupils, persistently disadvantaged pupils, excluded pupils, and care-experienced pupils in "exiting the English education system permanently."³¹¹

The murder of Sara Sharif by her father and stepmother raised high-profile concerns in this area in December 2024, after the judge said in his [sentencing remarks](#) that the case brought "into sharp relief the dangers of unsupervised homeschooling of vulnerable children."³¹² The Prime Minister said that the case highlighted the need to "overhaul children's social care" and "look again at the framework for home schooling."³¹³

11.5

How many children are home educated?

Department for Education estimates of children in home education

It is not known conclusively how many children are home educated in England. However, estimates are available for the number of registered home educated pupils.

³⁰⁸ Child Safeguarding Practice Review Panel, [Safeguarding children in elective home education](#), May 2024, p3

³⁰⁹ Children's Commissioner for England, [Children Missing Education: The Unrolled Story](#), September 2024, p7-11; local authorities' duties are set out in Department for Education, [Children missing education: statutory guidance for local authorities](#), August 2024

³¹⁰ Children's Commissioner for England, [Lost in Transition: The destinations of children who leave the state education system](#), February 2024

³¹¹ Education Policy Institute, [Children Missing from Education](#), 4 December 2024

³¹² [The King v Sharif, Batool and Malik](#), Sentencing Remarks of Mr Justice Cavanagh, para 53

³¹³ [HC Deb 18 Dec 2024 c312](#)

These estimates may underestimate the total number of home educated pupils because registration with the local authority is voluntary, as noted above.

Since autumn 2022, the Department for Education (DfE) has collected information from local authorities about home educated children known to them. Initially, submitting data to the DfE was voluntary for local authorities, but since autumn 2024 it has been mandatory (although parents do not have to share information with local authorities). Data covering any periods prior to autumn 2024 is adjusted for non-response.

The latest data is for school census day in the autumn 2024 term, when an estimated 111,700 children (or an estimated 1.4% of children aged 5 to 16) were known to be in EHE. This was an increase from 87,700 (or an estimated 1.1% of children) in the autumn term of 2023.

The estimated regional rate in autumn 2024 varied from 1.5% in the East Midlands, East of England and the South East, to less than 1% in London.³¹⁴

An estimated 153,300 children were EHE at any point during the 2023/24 academic year, compared to 126,100 in 2022/23. Increases are likely to be partly explained by better data quality and recording practices.³¹⁵

Children missing education

The Department for Education (DfE) also publishes [estimates of children missing education](#). This group is discrete from electively home educated children – it includes those known to the local authority who are not on a school roll, nor receiving suitable education at home or elsewhere. The latest data is for the autumn 2024 term, when an estimated 39,200 children across England were reported by local authorities as missing from education. This equates to around 0.5% of children.³¹⁶

The estimate for children missing education at any point in the 2023/24 academic year was 149,900. This compared to an estimated 117,100 in 2022/23, and 94,900 in 2021/22. Rates are not published for this measure, but this represents an increase of around 58% between 2021/22 and 2023/24, at a time when the number of pupils in reception to year 11 in state-funded primary and secondary schools has only increased by around 1%.³¹⁷ However, some of this increase in children known to be missing education is likely to be explained by improvements in data quality and recording by local authorities.³¹⁸

³¹⁴ Department for Education, [Elective home education, autumn term 2024/25](#) (12 December 2024), [custom table](#)

³¹⁵ Department for Education, [Elective home education, autumn term 2024/25](#) (12 December 2024), [custom table](#)

³¹⁶ Department for Education, [Children missing education](#), (12 December 2024), [custom table](#)

³¹⁷ Department for Education, [Schools, pupils and their characteristics](#), (June 2024), [custom table](#)

³¹⁸ Department for Education, [Children missing education](#), (12 December 2024), [custom table](#)

In December 2024, the education think-tank [the Education Policy Institute \(EPI\) published research](#) suggesting the number of children missing from education at any point in 2023 may have been around 2.5 times higher than the DfE estimates for England as a whole (305,000 compared to the DfE's 117,000). Unlike the DfE estimates (which are based on returns from local authorities about children known to be missing education), EPI's estimates are derived from comparing school roll data with elective home education data and GP child registrations.³¹⁹

11.6

Previous legislative proposals for a register of children not in school

There have been longstanding discussions about creating a compulsory register of children who are not in school. This section summarises some earlier legislative proposals. More information on these proposals and related developments can be found in section 3 of the Library briefing on [Home education in England](#).

Home School Education Registration and Support Bill 2024-25 [HL]

Lord Storey (LD) [introduced the Home School Education Registration and Support Bill \[HL\]](#) in the House of Lords in September 2024 to require local authorities to maintain a register of children not being educated in school, and for related support for parents.

The bill had its [second reading debate](#) in the Lords on 15 November 2024. Committee stage has not yet been scheduled.

Children Not in School (Registers, Support and Orders) Bill 2023-24

The [Children Not in School \(Registers, Support and Orders\) Bill](#) was a Private Member's Bill introduced by Flick Drummond (Con). The bill would have introduced a duty on local authorities in England to maintain registers of children of compulsory school age who are not educated full-time at schools. It also would have introduced a duty on local authorities to provide support to home educating families, should they request it.

The then Conservative government indicated that it was working with Flick Drummond on the bill.³²⁰

³¹⁹ Education Policy Institute, [Children missing from education](#), (4 December 2024), p32

³²⁰ See, for example, [PQ 17177 \[Home education\], 13 March 2024](#)

The bill passed its second reading in the Commons, which was held without debate on 15 March 2024. The bill did not advance further and fell with the dissolution of parliament for the 2024 general election.

Schools Bill 2022

In May 2022, the then Conservative government published a wide-ranging [Schools Bill](#), which included provisions to place a duty on local authorities in England to establish and maintain ‘children not In school (CNIS) registers’, and to provide support to home educators.

Had it passed, the bill would have required parents and certain providers of out-of-school education (meeting a threshold to be set out in regulations) to provide information for the register. When parents failed to comply with certain duties to provide information for a local authority’s register, local authorities would be required to start the School Attendance Order process, and require children to attend school.

The bill was scrapped later in 2022. The then Education Secretary, Gillian Keegan, cited pandemic aftershocks and the war in Ukraine as dominating the then government’s agenda.³²¹ She said however that legislating for a register remained a “priority”, but did not commit to when legislation might be brought forward:

We definitely remain committed to legislating for children who are not on the school register, and we will continue to work until we make sure that they are all receiving a safe and suitable education. I cannot commit to dates or times because there is a process that has to be gone through and I do not have full control of it, but this is as much of a commitment and a priority for me as it is for the [Education] Committee.³²²

Home Education (Duty of Local Authorities) Bill 2017-19

In June 2017, Lord Soley (Lab) introduced the [Home Education \(Duty of Local Authorities\) Bill \[HL\] 2017-19](#). The bill did not become law but was followed by reviewed government guidance and proposed legislation.

The bill would have required parents of home educated children to register the child with the local authority. Monitoring duties would have been placed on local authorities, including requiring local authorities to annually assess each child receiving home education in their area.

Responding to the second reading debate on the bill in the Lords, the then minister, Lord Agnew, noted a “significant increase” in the number of home educated children in recent years and said this “raises questions about the adequacy of the current arrangements for ensuring that these children receive a suitable education.” The government was persuaded, he said, “that the changing landscape of home education gives sufficient cause to look at

³²¹ Education Committee, [Oral evidence: Accountability hearings](#), 7 December 2022, HC 58, Q237

³²² As above, Q246

the possibility of reform.”³²³ During the bill’s subsequent committee stage debate, Lord Agnew said that the government was interested in the bill but would not “formally” support it.³²⁴

The bill completed its Lords stages on 24 July 2018, when it was introduced to the Commons. The bill never received its second reading in the Commons and fell at the end of the parliamentary session.

Children Schools and Families Bill 2009-10

In June 2009, a Review of Elective Home Education was published.³²⁵ The report had been commissioned by the then Labour government and led by Graham Badman, the former Director of Children’s Services at Kent County Council. The report’s recommendations included a compulsory annual registration scheme for home educators.

The Children, Schools and Families Bill introduced in November 2009 included a new requirement for local authorities in England to keep a register of all children of compulsory school age in their area who were entirely educated at home. Authorities would be required to monitor those children to ensure that they were safe and well and receiving a suitable education.

However, the relevant provisions were removed from the bill on 8 April 2010 because no agreement on them could be reached between the government and opposition parties before the dissolution of parliament for the 2010 general election.³²⁶ They were therefore not included in the bill that became the [Children, Schools and Families Act 2010](#).

11.7

Education Committee report (2021)

The Education Committee published a report on [Strengthening Home Education](#) in July 2021. The Committee raised concerns about the lack of reliable information about the numbers of children being home educated, saying that it is “simply not good enough that we are only able to make a best guess at the number of children receiving [Elective Home Education].”

The impact of the covid-19 pandemic had increased concerns in this area, and the committee said they were “deeply concerned that we cannot support children who may have been ‘left behind’ during the pandemic without knowing who they are and how many of them there are.”³²⁷

³²³ HL Deb 24 November 2017, [cc465](#).

³²⁴ HL Deb 27 April 2018, [cc1785-6](#).

³²⁵ Graham Badman, [The Report to the Secretary of State on the Review of Elective Home Education in England](#) [PDF], HC 610, June 2009.

³²⁶ DCSF, [Statement on the Children, Schools and Families Bill](#), 7 April 2010.

³²⁷ House of Commons Education Committee, [Strengthening Home Education](#), Third Report of Session 2021-22, HC 84, July 2021

The Committee made several main recommendations to the government, including:

- That the creation of a statutory register of children who are not educated in school is “essential”
- That an independent, neutral advocate in each local authority, with responsibility for co-ordinating all statutory special educational needs and disability (SEND) processes, and who could advise on home education choices, should be created
- The SEND Review should address the need for consistent and sufficient support for children with SEND, “no matter where they are educated”
- The Department for Education should provide local authorities with a set of clear criteria on the suitability of home education
- That the Department for Education should also commission and publish longitudinal research on the life chances and social outcomes of home educated children in England
- That a duty should be created for each local authority to ensure that home-educated children and young people have fair access to exam centres, with the government meeting the entry costs for those exams³²⁸

Government response

The [government response to the report](#) was published in November 2021. The response stated that the government remained committed to a form of local authority administered statutory registration to identify children not in school.³²⁹

11.8 Objections to a register of children not in school

Proposals to create a register of children not in school have been controversial. Many home educating parents and campaigning organisations object to the principle of being required to register their children, as well as to the practicalities of many of the proposals that have been made.

When the previous government published its proposals in the 2022 Schools Bill, for example, the home education charity Education Otherwise published a detailed briefing that was [strongly critical of the bill](#). The briefing objected

³²⁸ House of Commons Education Committee, [Strengthening Home Education](#), Third Report of Session 2021-22, HC 84, July 2021

³²⁹ House of Commons Education Committee, [Strengthening Home Education: Government Response to the Committee's Third Report](#), First Special Report of Session 2021-22, HC 823, November 2021

to the introduction of a register, and the extent of the local authority powers proposed by the bill:

By introducing a compulsory register of all home educated children, the Bill gives Local Authorities near enough unlimited powers to demand any and all information with threats of substantial fines and year-long imprisonment. Experience tells us that whilst some LAs will act reasonably, a sizeable number have demonstrated a continued propensity to abuse their existing powers, causing long lasting distress and harassment to children and parents. With no oversight the extent of abuse of power will only increase.³³⁰

Writing in Conservative Home, Jeremy Yallop, a trustee of the Home Educators' Qualifications Association also [criticised the measures](#), raising concerns about stigmatising home educating families, and the extent of the Ministerial powers in the bill.³³¹

The campaigning organisation the Counting Children Coalition also suggested any powers [that required councils to collect data on pupils' protected characteristics, such as race, religion and sexual orientation, could put families off seeking help](#) from local services.³³²

When the 2022 bill was debated in the House of Lords, Lord Wei (Con) tabled an amendment that [aimed to exempt children from registration](#) where the standard of learning meant that parents were compliant with their duties. Lord Wei said that it was “ludicrous that those who are doing a good job are put on a register in an open-ended way” and that it was necessary to find the right balance between “the right to educate children, with free speech and freedom of conscience and faith, with the right to look after children.”³³³

11.9

Government policy

In its [policy summary for the bill](#), the government summarises its reasons for introducing the measures in this section:

Education settings can be a protective factor for children, particularly those at risk of harm. Local authorities have duties to keep children in their areas safe and to make arrangements to identify those children of compulsory school age who are not in school and are not receiving a suitable education. As parents currently do not need to notify the local authority that they are home-educating, it is difficult for local authorities to fulfil these duties and take action to support and protect children where necessary.

The proposal to introduce compulsory Children Not in School registers in every local authority area in England will help local authorities to identify all

³³⁰ Education Otherwise, [The Schools Bill: Briefing Paper](#), May 2022, p1

³³¹ Conservative Home, [Home education has been a basic freedom for most of English history. Why is this Government placing it under threat?](#), 30 May 2022

³³² Schools Week, [Campaigners warn against 'dangerous' register of children not in school](#), 18 July 2022

³³³ [HL Deb 18 Jul 2022 c1767-1768](#)

children not in school in their areas. This will be bolstered by the accompanying duties on parents of eligible children and certain out-of-school education providers to provide information for the registers. Making the SAO process more efficient and broadening it to require local authorities to consider the home and other learning environment when determining suitability of education will ensure that local authorities can, where necessary, take prompt effective action to help the child access a suitable education through regular attendance at a school.³³⁴

11.10

Clauses 24-29 and Schedule 1

Clause 24 of the bill would create a requirement for local authority consent for some children to be withdrawn from school. Clauses 25-29 would create a new register of children not in school, and provide requirements for local authorities to provide support for parents whose child is on the register.

Clause 24

Clause 24 of the bill would insert a new section 434A into the [Education Act 1996](#). This would introduce a requirement for local authority consent for some children to be withdrawn from school.

This would apply to children who are:

- A pupil at a special school, whether it is a local authority maintained school, special academy, non-maintained special school or an independent school dedicated to pupils with special educational needs
- Subject to an enquiry under s47 of the Children Act 1989; or
- On a child protection plan

The clause would require that the local authority, when notified by a parent or school that a parent wishes to withdraw their child from school to home educated them, must make their decision quickly, and must refuse consent if:

- The local authority considers it would be in the child's best interests to be educated by regular attendance at school, or
- The local authority considers that no suitable arrangements have been made for the child's education otherwise than at school

The clause would provide for a mechanism for parents to appeal a local authority's decision to either grant or refuse consent to the Secretary of State.

³³⁴ Department for Education, [Children's Wellbeing and Schools Bill 2024: policy summary](#), December 2024, p66-67

The clause would also require a local authority to decide on a new application for a child where permission has previously been refused only after six months after the previous application have passed.

Clause 25

Clause 25 of the bill would insert new sections 436B to 436G and a new schedule 31A into the [Education Act 1996](#). These provisions would create duties relating to a new register of children not in school.

New section 436B would create a duty for local authorities to maintain a register of children not in school, and provides a definition of the children who would be required to be included on the register.

New section 436C would set requirements for the content of registers, including required information about the child, their parents, and the education they are providing. It would make further provision for information that may be included on the register, and for regulations to be made on how local authorities must maintain their registers.

New section 436D would create duties for parents to provide required information to local authorities within 15 days of their child becoming eligible for registration, and notify the authority of changes. It provides for exceptions, such as where a child is being educated full-time at one or a number of different institutions, such as in alternative provision.

New section 436E would create powers for local authorities to require information from educators who they believe are providing out-of-school education to a child for a prescribed amount of time. Educators would have 15 days to respond, with monetary penalties payable for failing to comply. The new clause provides for exceptions to be set in regulations.

New section 436F would set out how the information on the register may be used. This would include requirements for local authorities to provide prescribed information to the Secretary of State. The new section would also enable local authorities to provide information to Ofsted or other agencies to promote or safeguard the education or welfare of the child.

There are also powers within new section 436F for information to be shared with other local authorities where a child moves home, and where requested by local authorities in Wales, Scotland, or Northern Ireland if the local authority considers it appropriate to promote or safeguard the education or welfare of the child.

New section 436G would create duties on local authorities to provide support for parents of children on the register, through advice about the education of the child and information about sources of assistance for their education.

New schedule 31A would provide details for the monetary penalties to be imposed for failure to provide information under new section 436E, covering issues including warning notices, penalty notices, and appeals.

Clause 26

Clause 26 of the bill would insert new sections 436H to 436P into the [Education Act 1996](#). These provisions would set out requirements on local authorities to issue School Attendance Orders (SAOs), covering requirements such as preliminary notices, nomination of schools in the notice, and amendment and revocation of SAOs. An offence would also be created of failing to comply with an SAO issued under these provisions.

New section 436H would define a preliminary notice that local authorities must issue where:

- It appears a child may not be receiving a suitable education, or
- A local authority is conducting an enquiry under s47 of the Children Act 1989 about a child's welfare, or taking action under s47(8) of the 1989 act because a child is suffering or likely to suffer harm, and the child is not regularly attending school and it would be in the child's best interests to do so

A preliminary notice may also be issued where:

- A local authority has requested information from the parent for the purpose of determining if a child should be registered, and this information has not been provided or is incorrect
- A parent who is under a duty to provide information about the child within a 15 day period has not done so, or incorrect information has been provided.

New section 436I would define when a local authority must issue an SAO. Where, following a preliminary notice, a local authority has not been satisfied that the child is receiving a suitable education, or that it would be in the best interests of the child to be educated otherwise than at school (depending on the reason the preliminary notice was issued) an SAO must be issued.

New section 436I also defines matters a local authority must consider in determining whether to issue an SAO, and how the school that is named should be informed. Both maintained schools and academies would be required to admit the child.

New section 436J would define the process for issuing SAOs for a child with an education, health, and care plan (EHCP).

New section 436K would require local authorities to serve a school nomination notice in advance of issuing an SAO, to inform the recipient that they intend to issue an SAO and specifying the school that will be named. Local authorities may specify possible alternative schools if they consider it appropriate, which the recipient may choose to be named. If a parent successfully applies to another school under circumstances defined in the new section, that school must be named.

New section 436L would provide for several restrictions on school nomination notices, including that a school may not be specified if a child has been excluded from it.

New section 436M would define the procedures for school nomination notices, including consultation of the maintained school, academy, or alternative provision academy concerned.

New section 436N would define the circumstances where an SAO may, on request, be amended, except in relation to SAOs for a child with an EHCP.

New section 436O would define the procedure for revocation, on request, of an SAO. The local authority must agree if it is satisfied that, depending on the reason the SAO was issued:

- arrangements have been made for a child to receive suitable education otherwise than at school, and/or
- arrangements have been made for a child to receive education otherwise than at school that is in their best interests

The new section would also provide for appeals to be made to the Secretary of State where a local authority does not agree to revoke an order in this way, and for a different process where the child concerned has an EHCP.

Local authorities may revoke an SAO under their own initiative under s570 of the [Education Act 1996](#).³³⁵

New section 436P would create an offence for failure to comply with an SAO issued under new section 436I. It sets out possible defences and penalties, alongside other matters.

Clauses 27-29 and Schedule 1

Clause 27 would add a new clause 436Q to the [Education Act 1996](#) to define how data protection applies to the matters provided for by clauses 24-26.

Clause 28 would provide for the Secretary of State to issue statutory guidance on the register of children not in school and SAOs created by this bill.

Clause 29 and schedule 1 would make consequential amendments relating to new clause 26 on SAOs.

11.11

Comment

The [Local Government Association welcomed](#) the inclusion of children not in school registers, but said it “must be combined with powers for councils to

³³⁵ [Explanatory Notes](#), p65

meet face-to-face with children.” The LGA also supported the greater powers for local authorities in school admissions, and that failing local authority maintained schools would not automatically become academies.³³⁶

The Children’s Commissioner for England, Rachel de Souza, has said that the introduction of a register of all children not in school, as well as introducing a unique identifying number for children, “[will be of huge significance](#) for any child currently at risk of harm in this country.”³³⁷

When the bill was first announced in the [2024 King’s Speech](#), the home education charity Education Otherwise [published a briefing stating](#) that “a register is nothing more than the Government’s ‘solution’ to a problem that does not exist.”³³⁸ Since publication, Education Otherwise have published [further criticism of the bill](#), saying that it conflates “home education with safeguarding risk despite here being no evidence that home education represents a risk to children.”³³⁹

The home education organisation Educational Freedom were [strongly critical of the bill’s measures](#) to create a register of children not in school, describing it as “an impracticable mess,” and that children would be more effectively safeguarded through greater resources for social services.³⁴⁰

³³⁶ Local Government Association, [Children’s Wellbeing and Schools Bill – LGA response](#), 17 December 2024

³³⁷ Children’s Commissioner for England, [Statement from the Children’s Commissioner on the Children’s Wellbeing and Schools Bill](#), 17 December 2024

³³⁸ Education Otherwise, [The ‘R’ word: Is the Government creating a solution to a problem that does not exist?](#), 28 August 2024

³³⁹ Education Otherwise, [Children’s Wellbeing and Schools Bill](#), 29 December 2024

³⁴⁰ Educational Freedom, [Childrens Wellbeing and Schools Bill](#), 20 December 2024

12

Regulation of independent educational institutions

The bill would make a series of changes to expand the regulation of independent educational institutions that provide all or a majority of a child's education. Successive governments have been concerned that the existing regime to regulate these institutions is not sufficient. It would also strengthen Ofsted's powers to investigate unregistered, and therefore illegal, independent schools.

12.1

Independent school standards

Independent schools in England are required to register and to adhere to the [independent school standards](#). Those standards are legislated for in the [Education \(Independent School Standards\) Regulations 2014](#), made under section 94 of the [Education and Skills Act 2008](#).

Non-statutory guidance has been published by the Department for Education on the [independent school standards](#), alongside a statement on the department's [regulatory and enforcement action policy](#).

The independent school standards cover:

- Quality of education
- Spiritual, moral, social and cultural development of pupils
- Welfare, health and safety of pupils
- Suitability of staff, supply staff, and proprietors
- Premises of and accommodation at schools
- Provision of information
- Manner in which complaints are handled and
- Quality of leadership in and management of schools

A Library briefing on [Independent schools \(England\)](#) provides an overview of the requirements relating to fee-paying schools in England and how they are inspected.

Defining an independent school

An independent school is defined in law by section 463 of the [Education Act 1996](#) as:

(1) In this Act “independent school” means any school at which full-time education is provided for—

(a) five or more pupils of compulsory school age, or

(b) at least one pupil of that age for whom an EHC plan is maintained or for whom a statement is maintained under section 324 or an individual development plan is maintained, or who is looked after by a local authority (within the meaning of section 22 of the Children Act 1989 or section 74 of the Social Services and Well-being (Wales) Act 2014), and which is not a school maintained by a local authority non-maintained special school.

There is no statutory definition of full-time education.

Defining an independent educational institution

Section 92 of the [Education and Skills Act 2008](#) defines independent educational institutions in England, which includes both independent schools and institutions which provide part-time education:

(1) For the purposes of this Chapter, “an independent educational institution” means—

(a) an independent school, or

(b) an institution other than an independent school which—

(i) provides part-time education for one or more persons of compulsory school age (“part-time students”) whether or not it also provides full-time education for any person, and

(ii) would be an independent school but for the fact that the education provided for the part-time student or students is part-time rather than full-time.

(2) For the purposes of this section, an institution provides “part-time” education for a person if it provides education for the person—

(a) for at least 12.5 hours a week, for at least 28 weeks, during an academic year at the end of which the person is under the age of 12, or

(b) for at least 15 hours a week, for at least 28 weeks, during an academic year at the end of which the person is aged 12 or over,

which does not amount to full-time education.

Enforcement action

Under section 116 of the [Education and Skills Act 2008](#), the Secretary of State may take enforcement action against independent schools that are not meeting the independent school standards. This would follow previous stages of action where a school has been required to produce an action plan to meet the standards. If schools do not submit a plan, it is rejected, or a school does not comply with an action plan, they may become a candidate for enforcement action.³⁴¹

Enforcement action may involve:

- Restrictions on the proprietor of the school, for example requiring that certain premises cease to be used because they are unsafe
- Removing the institution from the register of independent schools – which has the effect of closing the school

Under sections 124 and 125 of the 2008 Act, proprietors may appeal such decisions.

Making changes to the details of registered independent institutions

Some significant changes to independent schools, such as a change in proprietor, are deemed 'material changes', which require notification to the Secretary of State before they can be made.

The process for this is currently set out in the [section 162 of the Education Act 2002](#); although the [Education and Skills Act 2008](#) contains replacement provisions, these have never been fully commenced.³⁴²

If unapproved changes are made, a school may be removed from the register. A 2020 [consultation document](#) (see section 4.3) noted that there is no right of appeal against such a decision, and no mechanism for lesser regulatory measures to deal with unapproved changes.³⁴³

³⁴¹ Department for Education, [Regulating independent educational institutions Government consultation](#), October 2020, p15

³⁴² [Education and Skills Act 2008](#) s101-105

³⁴³ Department for Education, [Regulating independent educational institutions Government consultation](#), October 2020, p20-21

12.2

Unregistered schools

As noted in section 4.1, independent schools are required to register. It is a criminal offence for a person to conduct an independent school that is not registered.³⁴⁴

The Department for Education has published a [policy statement on prosecuting unregistered independent schools](#) and advice on [Unregistered independent schools and out of school settings](#) for related collaborative working between the Department for Education, Ofsted and local authorities.

Ofsted may carry out inspections of suspected unregistered independent schools under section 97 of the [Education and Skills Act 2008](#). A team of inspectors are employed to identify, investigate and inspect any setting where there is evidence to suggest that an unregistered independent school is operating.³⁴⁵

Ofsted have published an [unregistered school inspection handbook](#) that sets out their approach.

In [Ofsted's annual report for 2023/24](#), published in December 2024, it said:

We have carried out 1,388 investigations and 879 inspections [of unregistered and suspected illegal schools] since January 2016. In the 2023/24 academic year, we carried out 192 investigations and 112 inspections.³⁴⁶

A [response to a parliamentary question](#) in December 2024 from Baroness Smith stated that five prosecutions have been initiated in the past five years against individuals suspected of conducting an unregistered school.³⁴⁷

Out-of-school education settings

In part because there is currently no legal definition of full-time education (although one would be created by this bill), there have been disagreements in the past about how some out-of-school education providers, including some community organisations or youth groups, should be regulated.

The Department for Education has published [safeguarding guidance for providers of after-school clubs, community activities and tuition](#) to help providers run safe settings to ensure the welfare of the children attending them.³⁴⁸

³⁴⁴ Section 96(2) of the [Education and Skills Act 2008](#)

³⁴⁵ [PQ HI.2588 \[Out-of-school education\], 29 November 2024](#)

³⁴⁶ Ofsted, [The annual report of His Majesty's Chief Inspector of Education, Children's Services and Skills 2023/24](#), December 2024

³⁴⁷ [PQ HI.3171 \[Out-of-school education: prosecutions\], 19 December 2024](#)

³⁴⁸ Department for Education, [After-school clubs, community activities and tuition: safeguarding guidance for providers](#), September 2023

Independent inquiry into child sexual abuse report (2021)

In 2021, the Independent Inquiry into Child Sexual Abuse's report into [Child protection in religious organisations and settings](#) identified concerns about safeguarding in supplementary or out-of-school education, as well as:

a gap in the legislation where a place that only teaches religious instruction cannot be registered as a school, even if this is the only education a child or young person receives³⁴⁹

The report made recommendations that the government should:

- change the definition of full-time education, and to bring any setting that is the pupil's primary place of education within the scope of the definition of a registered educational setting; and
- provide... [Ofsted] with sufficient powers to examine the quality of child protection when it undertakes inspections of suspected unregistered institutions.³⁵⁰

Concerns

In recent years, concerns have regularly been raised about unregistered or illegal schools.

The [first prosecution](#) for running an unregistered school took place in 2018, following an Ofsted inspection.³⁵¹

A 2021 article from Ofsted summarises some of the concerns Ofsted have about unregistered schools:

Did you know that some schools operate under the radar, with no regulation or public oversight? Many of these places are charging parents and cash-strapped local authorities thousands of pounds, and offering a woeful standard of education in return. [...]

These 'schools' intentionally operate outside the framework of regulations that protect children's welfare, safety and education standards.

Unregistered schools are rarely found in purpose-built, high-quality grounds, with all the modern facilities that we expect for our children. Often, they are badly maintained, unsafe and squalid, with poor fire safety and inadequate hygiene facilities.³⁵²

Much of the criticism that is made of unregistered schools centres around safeguarding, and there are also frequently concerns about the curriculum,

³⁴⁹ Independent Inquiry into Child Sexual Abuse, into [Child protection in religious organisations and settings](#), HC 705, September 2021, p75

³⁵⁰ As above, p118

³⁵¹ Ofsted, [Schools in the shadows: investigating and prosecuting unregistered schools](#), 25 October 2018

³⁵² Ofsted, [Investigating unregistered schools – how you can help](#), 15 November 2021

with institutions criticised for teaching extremist or conspiratorial material, and particular concerns from secular organisations about unregistered religious schools. The following articles provide an illustration of some of the concerns raised:

- Humanists UK, [‘Shameful’ negligence by Government towards illegal faith schools, says Humanists UK](#), 19 January 2024
- Times, [Exposed: the ‘illegal school’ teaching children conspiracy theories](#), 25 April 2024
- The Mirror, [Couple banned from teaching after Ofsted discovers ‘chaotic’ illegal school with 66 pupils](#), 27 April 2024
- The Week, [Why can't Ofsted stop rise in ‘illegal schools’?](#), 1 May 2024

[Humanists UK](#) and the [National Secular Society](#) both welcomed this bill’s measures relating to unregistered independent schools.³⁵³

12.3

Conservative government proposals

Consultation (2020)

In February 2020, the then Conservative government launched a [consultation on the regulation of independent education institutions](#). The consultation was first published on 14 February 2020 but was suspended on 7 May 2020 due to the covid-19 pandemic. It was relaunched on 13 October 2020 and closed on 27 November 2020.

In summary, its proposals were:

- expanding on the categories of full-time institutions that will be regulated in the same way that independent schools are currently regulated, and defining what is “full-time” education
- changing the basis for how some appeals against enforcement action, under the Education and Skills Act 2008, are determined by the court
- revision of the system for making changes to the registered details of independent educational institutions

The government published its [consultation response](#) in May 2022, and said it had received “clear, broad support for all three proposals.”³⁵⁴

³⁵³ Humanists UK, [Humanists UK welcomes Government Bill to shut illegal schools](#), 17 December 2024; National Secular Society, [NSS welcomes bill to tackle unregistered schools](#), 18 December 2024

³⁵⁴ Department for Education, [Regulating Independent Educational Institutions Government consultation response](#), May 2022, p5

Schools Bill 2022

In May 2022, the then Conservative government published a wide-ranging [Schools Bill](#). Part 4 of the bill proposed to make changes to the regulation of independent educational institutions and their associated standards. It would also have provided strengthened powers for the Chief Inspector of Schools to enter premises where the Chief Inspector has reasonable cause to believe an unregistered institution is being run.

The bill was abandoned later in 2022. The then government, however, continued to believe that improved powers would better enable effective action on unregistered schools, and continued to state that it intended to legislate.³⁵⁵

The then government published [Schools Bill: policy statements](#) alongside the 2022 bill, which provide fuller background on its proposals.

12.4

Government policy

In its [policy summary for this bill](#), the government summarises the aims of its reforms on independent education institutions. Broadly, the bill would:

- Expand the number of independent educational institutions that are regulated, and create a statutory definition of full-time education
- Enable the Secretary of State to set standards which can introduce a new fit and proper person test for proprietors of independent educational institutions
- Supplement the existing emergency power for the Secretary of State to close a registered independent educational institution for safeguarding reasons with a power to temporarily suspend institutions where closure is not considered appropriate
- Add a requirement that, where an institution is appealing against closure at tribunal, the tribunal must have due regard to whether the school will meet the independent school standards and the Early Years Foundation Stage on an ongoing basis
- Redefine what constitutes a material change to an independent educational institution, introducing three new types
- Strengthen Ofsted's powers to carry out inspections of suspected unregistered independent schools

³⁵⁵ [HL Deb 5 July 2023 c1218](#)

- Strengthen information sharing between Ofsted and the Independent School Inspectorate³⁵⁶

12.5

Clauses 30-37

Clause 30

Clause 30 would substitute a new section 92 into the [Education and Skills Act 2008](#). Section 92 defines independent educational institutions in England, and this replacement version would expand that definition, and the scope of the relevant regulation.

The bill would define independent educational institutions on the principle that institutions which are ostensibly responsible for all, or the majority, of a child's education should be regulated.³⁵⁷ These institutions would be defined as those which provide full-time education for:

- At least five children of compulsory school age, or
- At least one child of compulsory school age who is looked after by a local authority or has special educational needs

The clause would also create a definition of full-time education, defined as where a child "could be expected to receive all or a majority of the education" at an institution, with three factors listed as relevant:

- Number of hours per week children attend
- Number of weeks per academic year children attend
- Time of day that children attend

The clause would remove part-time education from the scope of being regulated under part 1, chapter 4 of the 2008 act. The explanatory notes to the bill state that part-time institutions are not, in practice, regulated since the relevant provisions have not been fully brought into effect.³⁵⁸

Clause 31

Clause 31 would amend section 94 of the [Education and Skills Act 2008](#), which requires the Secretary of state to make regulations to prescribe standards for independent educational institutions.

Clause 31 would:

³⁵⁶ Department for Education, [Children's Wellbeing and Schools Bill: Policy Summary Notes](#), December 2024, p81-97

³⁵⁷ [Explanatory Notes](#), p25

³⁵⁸ [Explanatory Notes](#), p68

- Insert a new section 94(1A) into the 2008 act to enable the prescribing of standards about whether an individual or a group are fit and proper persons to be a proprietor of an independent educational institution
- Insert a new section 99A into the 2008 act to enable the Secretary of State to direct the Chief Inspector of Education, Children's Services and Skills to inspect an institution which is the subject of an appeal against a decision not to register, and make a report on whether a relevant standard is likely to be met following registration
- Insert new sections 118A to 118F into the 2008 act. These would provide for:
 - Temporary suspension by the Secretary of State of an independent school's registration if one or more standards are not being met and students may be exposed to the risk of harm
 - The rules around the period of such a suspension, including when it might be extended or lifted, or must be lifted
 - The creation of an offence for the proprietor where an institution continues to operate during that suspension
 - The Secretary of State to be able to impose a requirement to stop providing boarding accommodation, where boarding is provided. It would also provide for the requirements for warning notices and set the parameters of when the stop boarding requirement might be extended or lifted, or must be lifted
 - The creation of an offence for the proprietor where boarding continues to be provided in breach of a stop boarding requirement
 - How a tribunal may determine appeals against deregistration when it is considering not confirming the Secretary of State's decision to deregister an institution. They would also create rights of appeal for proprietors against suspensions and stop boarding requirements

Clause 32

Clause 32 amends section 96 of the [Education and Skills Act 2008](#), and creates a new schedule A1 to that act.

The new schedule would enable courts to make a prevention order where a person is convicted of running an unregistered independent educational institution, where a court think it is appropriate to do so to protect children from the risk of harm.

The new schedule would create requirements around the duration of a prevention order, applications for variation or discharge of an order, and also create an offence of breaching a prevention order.

Clause 33

Clause 33 would make various amendments to sections 98-99 on applications for registration and, principally, sections 101-105 of the [Education and Skills Act 2008](#) to amend the rules for 'material changes' to an independent educational institution which require prior approval from the Secretary of State.

The changes made by the clause for new registration applications require:

- Information about the buildings, in particular those used for boarding and for student use
- For regulations to be made that could require an application for registering a special institution to set out the types of special educational needs the institution will cater for

The changes made by the clause relating to material changes include:

- Expanding the definition of what constitutes a material change and therefore requires the Secretary of State's approval
- Making explicit that inspections carried out relating to an application for approval can be carried out by any independent inspectorate as well as by Ofsted, as may inspections relating to appeals
- That the Secretary of State must approve a material change if they are convinced the standards are being met and this is likely to continue if the change is made
- That the Secretary of State must approve a material change if the standards are not being met but are likely to be met immediately after the change is made, and that they may approve the change if the standards are likely to be met within a reasonable period of the change being made, and that the change will benefit students in the meantime

Clause 34

Clause 34 would amend section 100 of the [Education and Skills Act 2008](#) to give the Secretary of State power to remove an institution from the register by agreement with the proprietor. Decisions to remove an institution from the register in this way would not be appealable to the First-Tier Tribunal.

Clause 35

Clause 35 would amend section 105 of the [Education and Skills Act 2008](#) to enable the Secretary of State to impose restrictions on the proprietor of an institution that makes a material change without prior approval, in addition to the existing power to deregister an institution in such a situation.

The clause would also make it a summary criminal offence for a proprietor to breach a restriction of this kind, and provide for appeals.

Clause 36

Clause 36 would repeal section 97 of the [Education and Skills Act 2008](#) which provides for Ofsted's inspections of suspected unregistered independent educational institutions. It would create in its place a new section 127A to 127F of the 2008 act, to introduce "a more intrusive inspection regime."³⁵⁹

The new sections would:

- Enable the Chief inspector to exercise powers of entry and interrogation if they believe a relevant offence is being committed, or that evidence may be found on or accessed from the premises. Relevant offences include operating an unregistered school, operating an institution despite a suspension, and failing to comply with a restriction that has been imposed
- Provide for entry into premises without a warrant, under certain circumstances and for purposes such as to inspect the premises
- Provide for entry to premises under warrant, where there is reasonable cause to believe a relevant offence is being committed, and describes relevant circumstances and parameters on this power
- Set out the powers of investigation following entry under a warrant, for example to search the premises, seize documents, or interview adults on the premises who may be able to provide information relating to a relevant offence
- Provide for the Chief Inspector to apply for a police constable to assist, using reasonable force if necessary, the entry and investigation of a premises, in defined circumstances
- "Replace and largely replicate"³⁶⁰ the existing offence of obstructing an inspector in line with the new provisions in this bill, and create new offences relating to the bill's powers of investigation under a warrant, including failing to produce a required document and refusing to be interviewed

Clause 37

Clause 37 would insert a new section 137A into the [Education and Skills Act 2008](#). The clause would give the Secretary of State the power to make regulations to apply to independent educational institutions any enactments relating to independent schools made during this session of parliament.

³⁵⁹ [Explanatory Notes](#), p78

³⁶⁰ [Explanatory Notes](#), p82

13 Inspection of schools and colleges: reports and information sharing

13.1 Overview of independent school inspection

Many independent schools in England are [inspected by Ofsted](#). The schools Ofsted inspects are known as 'non-association schools'. Inspections are carried out at the request of the Department for Education.

Section 106 of the [Education and Skills Act 2008](#) enables the Secretary of State to approve independent inspectorates to carry out inspections of registered independent educational institutions.

The [Independent Schools Inspectorate](#) (ISI) is the body responsible for the inspection of schools in membership of the Associations that make up the Independent Schools Council. The ISI's website provides information on [how its inspections work](#).

Ofsted monitors the work of the independent inspectorate on behalf of the Department for Education to ensure the quality and consistency of its inspections and reports.

The [School Inspection Service](#) previously inspected some independent schools, but ceased operations in 2019. Another inspectorate, the Bridge Schools Inspectorate, ceased operations in 2015.

Section 87A of the [Children Act 1989](#) also enables the Secretary of State to appoint inspectors of boarding provision in schools and colleges.

13.2 Government proposals for change

The bill proposes to make two changes to the relationship between Ofsted and independent inspectorates (currently, only the ISI):

- The existing obligation on Ofsted to report at least annually on the other independent inspectorates would be replaced with a more flexible obligation, which enables the Secretary of State to require such reports more or less frequently, as they consider appropriate
- To clarify the ability of Ofsted to share information with independent inspectorates

13.3

Clause 38

Clause 38 of the bill would amend section 87BA and insert a new section 87BB into the [Children Act 1989](#).

The amended section 87BA would remove the requirement for Ofsted to report annually on independent inspectorates (individually or generally), and replace this with a more flexible duty to report when required by the Secretary of State. The new section 87BB would enable the Chief Inspector to provide information to independent inspectors to facilitate their work.

Clause 38 of the bill would also, similarly, amend section 107 of the [Education and Skills Act 2008](#) to enable the Secretary of State to require a report from the Chief Inspector on independent inspectorates (individually or generally), when they decide, instead of the current requirement for such a report to be produced at least annually.

Clause 38 would also insert a new section 107A into the 2008 act to enable the Chief Inspector to provide information to independent inspectorates to enable or facilitate their inspections.

Both provisions on information sharing make clear that the information sharing is subject to data protection legislation under section 3 of the [Data Protection Act 2018](#).

The clause would come into force two months after this bill was passed.

14 Teacher misconduct

14.1 Current position

Under the Education Act 2002 the Secretary of State for Education (hereafter Education Secretary) has responsibility for regulating teachers' conduct and holding a list of teachers who have been prohibited from teaching.³⁶¹ The teacher misconduct regime is operated by the Teaching Regulation Agency (TRA). The [Teachers' Disciplinary \(England\) Regulations 2012](#) set out the detailed operation of the current regulatory regime.

The Department for Education (DfE) summarised the current regime in 2022:

- the regime applies to anyone undertaking teaching work, as defined in the 2012 regulations, in schools (including academies and free schools, local authority maintained schools, non-maintained special schools, and independent schools); 16-19 academies; sixth form colleges; relevant youth accommodation; and children's homes
- the Teaching Regulation Agency should only investigate the most serious cases of misconduct, in order to make a decision about whether a teacher should be prohibited from teaching work; other matters, including all cases of incompetence, should be dealt with locally by the employer
- Serious misconduct is defined in the legislation as being unacceptable professional conduct, conduct that may bring the teaching profession into disrepute, or a conviction (at any time) of a relevant offence.³⁶²

14.2 Previous Conservative government consultation on widening scope of existing regime

On 1 February 2022, the DfE opened [a consultation on the teacher misconduct regime in England](#).³⁶³ This outlined three main planned changes:

³⁶¹ [Part 8 of the Education Act 2002](#)

³⁶² Department for Education, [Teacher Misconduct: Schools Bill Factsheet](#), May 2022, p3

³⁶³ Department for Education, [Consultation document on regulating the teaching profession](#), 1 February 2022

- broadening the scope of the teacher misconduct provisions to include those who engage in serious misconduct or who are convicted of certain offences even if not employed as teachers at the time
- broadening the scope of the regime to include a wider range of education settings, and in particular, further education colleges, independent education providers and online providers (for example, virtual schools). Currently the provisions only apply to the following settings in England:
 - schools and sixth form colleges
 - 16-19 academies
 - Some youth accommodation settings
 - children's homes.
- enabling the investigation of cases of serious teacher misconduct regardless of how information arises – that is, information could come from internal DfE sources, investigations or regulatory activities

The [DfE published its response to the consultation](#) on 29 April 2022, confirming it would move ahead with the changes at the next legislative opportunity.³⁶⁴

The Conservative government's [Schools Bill](#) [HL] of session 2022–23 subsequently included provisions to enact these changes. The current bill's teacher misconduct provisions closely mirror those in the earlier Schools Bill.

14.3

Bill provisions (clause 39)

The clause would amend section 141A of the 2002 act, so that anyone who has ever been employed or engaged to carry out teaching work in a relevant setting, falls within the teacher regulation regime. 'Teaching work' is defined in the 2012 regulations, and includes planning, delivering, and preparing lessons for pupils, and assessing and reporting on pupils' development, progress and attainment.

The Labour government says that, where some time has elapsed since the person last worked as a teacher, "the TRA would consider the public interest and proportionality" in taking a decision on whether to investigate.³⁶⁵

³⁶⁴ Department for Education, [Teacher misconduct government consultation response](#), 29 April 2022

³⁶⁵ [Explanatory Notes to the Children's Wellbeing and Schools Bill 151 2024–25](#), para 392

The clause would also extend the range of relevant settings in scope, to cover teachers who are working, or who have previously worked in, the following types of settings in England:

- independent educational institutions
- further education institutions
- special post-16 providers
- independent training providers
- some online education providers

Clause 39(3) concerns the definition of online education providers for the purposes of the teacher regulation regime. These are settings that are either registered companies or charities in England, and provide at least one school-age or sixth-form-age student, or any student with an education, health and care (EHC) plan, with all or the majority of their education. Additionally, they would have to be set up to deliver all or the majority of their provision online. This subsection would also enable the definition of an online education provider to be amended in future, through regulations.

Subsection (4) would remove the requirement for a case to be referred by someone unconnected to the DfE (for example, the teacher's employer). It would also remove the requirement for the person to have been employed as a teacher at the time of the alleged serious misconduct or offence.

Subsection (5) would place 16-19 academies, independent educational institutions, special post-16 providers, further education providers, independent training providers and qualifying online education providers under a duty to consider relevant referring cases to the TRA. This would apply when where they have dismissed a teacher for serious misconduct, or would have done so had the teacher not resigned first. This duty already applies to schools and some other providers.

15

Provisions relating to academies

15.1

Background to academies

Academy schools in England are autonomous, but free-to-attend, schools. They are not funded or overseen by a local authority. Free schools are wholly new schools and operate as academies in law, so the term academies is used here to refer to both.

Academies have been in existence for nearly 25 years, although the intent and scope of the academies programme has changed significantly over time. Labour's [Learning and Skills Act 2000](#) first made provision for the creation of 'city academies'. These were then renamed academies under the Education Act 2002. Academies built on the concept of city technical colleges, which were introduced by the then Conservative government in the 1980s.

The Academies Act 2010 and the later Education Act 2011 greatly expanded the number of academies. These acts allowed maintained schools to voluntarily convert to academy status ('converter academies'), as well as allowing the government to require maintained schools to convert if they were underperforming ('sponsored academies'). Academies have increasingly been encouraged to join larger multi-academy trusts (MATs). These are groups of schools sharing overall governance.

[The March 2016 budget](#) committed to a fully academised school system in England. The 2017 and 2019 Conservative governments continued to support the expansion of the academies programme, but the 'every school an academy' plan was ultimately not enacted.

What proportion of schools are academies?

In January 2024:

- 43% of state-funded primary schools were academies, educating 44% of all primary pupils
- 82% of state-funded secondary schools were academies, also educating 82% of secondary pupils.³⁶⁶

³⁶⁶ Department for Education, [Schools, pupils and their characteristics: January 2024](#), 6 June 2024, [custom table 1](#) and [custom table 2](#). These figures exclude alternative provision settings, special schools, 16-19 academies and nursery schools.

Requirements for academies – an overview

Currently, many of the statutory requirements for maintained schools do not apply directly to academies. The policy aim of the coalition government and later Conservative governments, was to give schools more freedom and autonomy.

Academy funding agreements (contracts – also known as ‘arrangements’) with the Education Secretary set out rules for operation, and when an academy trust might face intervention, or lose the right to operate a school or schools.

Among other things, academies are not generally required by legislation, or by the terms of their funding agreements, to:

- teach the national curriculum
- employ teachers with qualified teacher status (QTS), except in the case of Special Educational Needs Coordinators, or SENCOs
- pay newly-appointed teachers on national pay and conditions terms

However, they can choose to do these things voluntarily.

In other areas, academies are subject to the same rules as maintained schools. Broadly, the law on special educational needs and disabilities (SEND) applies similarly across all school types. Academies also have to follow national rules on school admissions.

The mass academisation of schools has been controversial, with some arguing that it has led to a fragmented system, and questioning whether it has had a true impact on school standards. However, supporters argue that allowing or requiring schools to exit local authority control has acted to drive up standards and increase diversity in the school system. A [House of Lords Library briefing from 2023](#) summarises some of the arguments for and against academisation and multi-academy trusts.

15.2

School teachers’ qualifications and induction

Current position

Section 133 of the Education Act 2002, and subordinate regulations, require teachers in maintained schools and non-maintained special schools in England to have qualified teacher status (QTS) if they are carrying out ‘specified work’ unless an exception applies. Exceptions could include where a teacher qualified abroad, or is on an employment-based teacher training scheme.

'Specified work' has the same definition as 'teaching work' discussed in the section on misconduct above, and is defined in the [Education \(Specified Work\) \(England\) Regulations 2012](#).

Currently, these requirements do not apply to mainstream academies, although some may have older clauses in their funding agreements requiring teachers to be qualified. Separate provisions in the [Children and Families Act 2014](#) and related regulations generally require Special Educational Needs Coordinators (SENDCos) in mainstream academies to be qualified teachers.

Further background information on current teacher qualification requirements can be found in section one of the Library briefing paper, [Initial teacher training in England](#).

What use do academies make of freedoms to employ unqualified teachers?

Academies and free schools are slightly less likely to employ teachers with QTS than maintained schools, but the differences are very small.

In November 2023:

- 97.4% of full-time equivalent (FTE) teachers in primary academies had QTS, compared to 98.4% in maintained primary schools
- 96.5% of FTE teachers in secondary academies had QTS, compared to 97.3% in maintained secondary schools.³⁶⁷

Induction for new teachers

Individuals employed and paid as qualified teachers in maintained schools and non-maintained special schools must be undergoing, or have completed, a statutory induction process. The relevant provisions are in Section 135A of the [Education Act 2002](#), with related regulations setting out induction period requirements. Newly appointed SENDCos in academies must also undergo induction. At the end of the induction period, individuals are assessed to see whether they meet [the teachers' standards](#).

Teachers employed by academies are not generally required by law to be undergoing, or have undergone, a statutory induction period.

The DfE publishes [statutory guidance on induction requirements for early career teachers \(ECTs\) in England](#).³⁶⁸

³⁶⁷ Department for Education, [School workforce in England: November 2023](#), 6 June 2024, [custom table](#)

³⁶⁸ Department for Education, [Induction for early career teachers \(England\)](#), April 2024

Debate about teacher qualifications and the academies programme

In 2012, the then government [announced that all mainstream academies would be allowed to employ unqualified teachers](#), in common with free schools.

School teaching and leadership unions have long argued that academies' ability to employ unqualified teachers risks weakening the profession and eroding teaching standards.

In 2012, the National Union of Teachers (NUT – now part of the NEU) described the change as a “perverse decision by the Department for Education and a clear dereliction of duty” adding that parents and teachers would see it as a cost-cutting measure.³⁶⁹ The National Association of Head Teachers (NAHT) called the move a “significant backward step” which could damage the professionalism of teaching.³⁷⁰ However, Sir Peter Birkett, then Chief Executive of the Barnfield Federation (a MAT) said the removal of the requirement for QTS had “proven very helpful” at the trust’s free schools. He continued:

[W]e are now attracting a broader range [of teachers] and an increased number of applications from people who would have otherwise been denied the opportunity to teach.³⁷¹

Labour government case for change

In [its 2024 manifesto](#), Labour committed to updating [the existing early career framework](#) for teachers, and ensuring “any new teacher entering the classroom has, or is working towards, Qualified Teacher Status”.³⁷² In the policy summary accompanying the bill, the government argues changes to teacher qualification and induction requirements are necessary to “ensure that children benefit from well-trained and professionally qualified teachers... we know that high quality teaching is the most important in school determinant of pupil outcomes”.³⁷³

Bill provision (clause 40)

Clause 40 would amend section 133 of the Education Act 2002, to require academies to employ teachers with QTS to undertake specified work, unless an exception applied (as is the case now for maintained schools). The academies in scope would be defined in regulations.

³⁶⁹ [“Academies told they can hire unqualified teachers”](#), BBC News, 27 July 2024

³⁷⁰ As above

³⁷¹ Department for Education news story, [Academies to have same freedom as free schools over teachers](#), 27 July 2012

³⁷² [Labour Party Manifesto 2024](#)

³⁷³ Department for Education, [Children’s Wellbeing and Schools Bill, Policy Summary Notes](#), December 2024, ps112, 114

It would also introduce a requirement for academy teachers to be undertaking, or have completed, a statutory induction period.

The DfE says both measures (on requiring QTS and induction) will come into effect from September 2026. The induction provisions will not apply to any teachers gaining QTS before the provisions come into force, nor will the QTS requirements apply to any teachers employed before the date the legislation is implemented.³⁷⁴

15.3 National curriculum – current position

In line with section 80(1)(b) of the Education Act 2002, maintained schools in England must teach [the national curriculum](#) to pupils aged approximately 5 to 16 years old. It is divided into four key stages.

The table below shows the subjects currently included in the national curriculum, by key stage:

National curriculum subjects England				
	KS1	KS2	KS3	KS4
	Age approx. 5-7	Age approx. 7-11	Age approx. 11-14	Age approx. 14-16
Maths	✓	✓	✓	✓
English	✓	✓	✓	✓
Science	✓	✓	✓	✓
History	✓	✓	✓	X
Geography	✓	✓	✓	X
Art and design	✓	✓	✓	X
Physical education	✓	✓	✓	✓
Music	✓	✓	✓	X
(Modern) foreign languages	X	✓	✓	X
Computing	✓	✓	✓	✓
Design and technology	✓	✓	✓	X
Citizenship education	X	X	✓	✓

Subject content and skills are set out in statutory programmes of study:

- [National curriculum programmes of study by subject](#)

³⁷⁴ Department for Education, [Children's Wellbeing and Schools Bill, Policy Summary Notes](#), December 2024, p112

Although maintained schools must teach the national curriculum, they can organise actual subject teaching as they see fit. There is no requirement to spend a set amount of time on any one subject.

Curriculum requirements for academies

Whilst academies do not have to deliver the national curriculum, they are generally required to run national curriculum assessments (commonly known as SATs) in English reading, writing and maths at the end of primary schooling. As the name suggests, these assessments are closely allied with the national curriculum and so they are likely to shape academies' teaching. Again, at key stage four, the curriculum is shaped by GCSE exam syllabuses; although these are designed by independent exam boards, the government sets broad requirements on content and structure.

Labour's national curriculum and assessment review

There is an ongoing government-commissioned review of the national curriculum and assessment in England. The independent review panel is chaired by Professor Becky Francis. [A call for evidence](#) ran from 25 September to 22 November 2024. The final report of the review is due to be published in autumn 2025.

The DfE says the main aims of the review are to deliver:

- an excellent foundation in core subjects of reading, writing and maths
- a broader curriculum, with improved access to music, art, sport and drama, as well as vocational subjects
- a curriculum that ensures children and young people leave compulsory education ready for life and ready for work
- a curriculum that reflects the issues and diversities of our society, ensuring all children and young people are represented
- an assessment system that captures:
 - the strengths of every child and young person
 - the breadth of the curriculum³⁷⁵

Prior to this, the national curriculum was last reviewed during the Coalition government term, with new curriculum requirements gradually introduced from September 2014 onward. At the same time, there were related reforms also to national curriculum tests (SATs) and to GCSEs and A Levels.

³⁷⁵ Department for Education, [Curriculum and assessment review web page](#), undated

Further background on the curriculum review carried out under the Coalition government can be found in section three of [a Library briefing paper on the school curriculum in England](#).

Do academies use their current curriculum freedoms?

A key aim of the Coalition academies programme was to increase the freedom and autonomy schools had in many areas, including in designing and delivering the curriculum.³⁷⁶

The current government argues, conversely, that having different curriculum requirements for maintained schools and academies “leaves potential for inconsistencies in education standards, opportunities and outcomes for pupils from different types of schools.”³⁷⁷

In practice, there is mixed evidence on the extent to which academies have used their curriculum freedoms, and the addition of multi-academy trust (MAT) structures adds another layer of complexity to the picture. Some MATs may have consistent curriculum policies across their schools, whilst others have a much more decentralised approach.

A [2014 report for the DfE](#) looked at the extent to which academies used their autonomy. It found:

- There were subject differences in the degree to which academies were planning to follow the national curriculum. Maths, English and sciences were the subjects most likely to closely track the national curriculum.
- Less than half of schools said they were planning to follow national curriculum art and design, music, design and technology, RE, PSHE or Citizenship national curriculum guidance to a “great extent”.
- Across all subjects, primary academies were less likely than secondary academies follow the national curriculum to a “great extent”.³⁷⁸

In [a July 2019 report on multi-academy trusts \(MATs\)](#), schools’ inspectorate, Ofsted, found:

- There was significant variation between MATs, with some taking a very decentralised approach with minimal curricular and other oversight of schools, and some with highly centralised structures, processes and policies, including on curriculum design.

³⁷⁶ See for example, [HC Deb 20 October 2010, col 748W](#)

³⁷⁷ Department for Education, [Children’s Wellbeing and Schools Bill, Policy Summary Notes](#) (December 2024), p116

³⁷⁸ Department for Education, [Do academies make use of their autonomy?](#), July 2014, p32

- Few MATs in Ofsted's sample had standardised their curricula across all schools in the MAT, but individual schools were increasingly working together on curriculum development.³⁷⁹

Bill provisions (clause 41 and Schedule A)

Clause 41 would amend section 1A of the Academies Act 2010, to require academy schools to offer the national curriculum. It contains a provision to override any existing, conflicting curriculum-related clauses in academy arrangements (funding agreements). It would also allow the Education Secretary to disapply national curriculum requirements, to enable development work at particular academies.

New schedule 1A to the 2010 act would make detailed curriculum provisions for academies. It clarifies that academy proprietors could request national curriculum disapplication, and could disapply the curriculum for individual pupils (as can maintained schools). It would also require the Education Secretary to notify academy sector representatives before making secondary legislation (orders) prescribing curriculum structures and content.

The government says the curriculum measures will not be brought into force until the Curriculum and Assessment Review has concluded, and its findings are implemented. This is expected to take "several years" from the point the curriculum review is published (autumn 2025).³⁸⁰

15.4

Academies' powers to direct pupils offsite for improving behaviour

Maintained schools in England have specific powers in legislation to direct pupils off-site temporarily, to improve their behaviour. In practice, this usually means that a pupil will attend another setting – for example, another mainstream or alternative setting either full- or part-time. Off-site directions may be used when a pupil is at risk of being permanently excluded; a parent's consent is not required.

The relevant legislation for maintained schools is in section 29A of the Education Act 2002. The DfE publishes statutory guidance on using powers to direct pupils off-site:

- DfE, [Alternative provision](#), June 2016
- DfE, [School suspensions and permanent exclusions](#), August 2024

³⁷⁹ Ofsted, [Multi-academy trusts: benefits, challenges and functions](#), July 2019, ps 10 & 13

³⁸⁰ Department for Education, [Children's Wellbeing and Schools Bill Policy Summary Notes](#), December 2024, p107

Academies are not covered by the current statutory provisions, and instead must rely on general powers in their funding agreements with the DfE to direct pupils off-site.

Government's case for change

On why academies need new statutory off-site direction powers, the DfE said:

This measure places academy schools on the same statutory footing as maintained schools, thereby regularising the legal framework between both institutions and ensuring greater scrutiny and transparency against misconduct or malpractice.

By creating a baseline between academies and maintained schools, this amendment will reinforce that all schools are subject to the same regulatory requirements and safeguards when directing pupils off-site to improve their behaviour.³⁸¹

Bill provisions (clause 42)

Clause 42 would amend section 29A of the Education Act 2002 to allow the Education Secretary to make regulations giving academies a statutory power to direct pupils off-site, and to make academies subject to statutory rules and procedures to safeguard and monitor pupils directed off-site.

It would apply the regulations retrospectively to any off-site directions that were active when the provisions come into force. It would also mean that the parents of pupils directed off-site by academies may be committing an offence if they failed to ensure their child's regular attendance at the off-site setting – as in cases where maintained schools make a direction currently.

15.5

New intervention powers in academies

Current position

Current intervention procedures for underperforming academies and maintained schools are set out in the DfE's November 2024 statutory guidance, [Support and intervention in schools](#).

Academy trusts' funding agreements specify the circumstances where the Education Secretary can intervene in response to concerns – for example, by serving a termination warning notice (TWN). TWNs set out the areas of concern, and the actions needed to address these. Failure to adequately address the issues raised in a TWN can lead to a termination notice.

³⁸¹ Department for Education, [Children's Wellbeing and Schools Bill, Policy Summary Notes](#) (December 2024), p119-120

Schools may be transferred to another academy trust (sometimes known as re-brokering). Less frequently, schools may be closed outright.

[Termination warning notices are published on the DfE website](#), by region.

Schools Bill [HL] 49 of 2022–23

The Conservative government's Schools Bill would have introduced a wide range of new powers of intervention in and oversight of academies. It would have:

- provided powers to apply some maintained schools' legislation to academies, and a similar power to disapply specific legislation
- allowed for statutory provisions to over-write academies' funding agreements (contracts) in some cases
- amended powers of intervention in academies where there were concerns about performance, standards or governance, including directing academy proprietors to take (or not take) certain action

The academy provisions were highly controversial, and most were removed at Lords Report stage. Ultimately the bill did not proceed. A [Lords Library briefing summarises the progress of the bill](#) and reaction to the academy provisions.

Labour case for strengthening intervention powers in academies

The policy paper accompanying the Children's Wellbeing and Schools bill suggests the new powers are needed to intervene when issuing a termination warning notice is disproportionate and would ensure "academy trusts are held accountable for their responsibilities." It provides two examples where the powers may be used:

- where an academy is not complying with rules on school uniform
- where an academy has not properly dealt with a parental complaint and followed its complaints policy³⁸²

Bill provisions (clause 43)

The clauses in the current bill on intervention in academies do not exactly mirror measures in the earlier conservative Schools Bill.

Sections 496 to 497B of the Education Act 1996 provide powers for the Education Secretary to give directions to maintained school governing bodies

³⁸² Department for Education, [Children's Wellbeing and Schools Bill, Policy Summary Notes](#), December 2024, p122-3

and local authorities, about their performance and discharge of statutory duties.

Clause 43 would provide similar powers in relation to academy proprietors (trusts) by inserting new section 497C into the 1996 Act. The Education Secretary could issue a direction when:

- an academy proprietor has breached, or is likely to breach, a 'relevant duty', or
- has acted, or is likely to act, unreasonably in carrying out any such duty.

It would give similar powers of direction in cases where an academy proprietor has acted, or is likely to act, unreasonably in relation to a 'relevant power' it has. The DfE refers to these as compliance directions.³⁸³

The clause would define relevant powers and duties broadly, as any duty or power conferred on the trust either by legislation, or otherwise (for example, through a funding agreement or the trust's articles of association). Directions would follow a set procedure, and would be enforceable by [mandatory order](#).

15.6

Repeal of duty to issue academy orders

In line with Labour government policy, schools inspectorate Ofsted, no longer makes an overall summary judgement (for example, 'good' or 'inadequate') after inspecting state-funded schools. Instead, it makes four graded key judgements, and a separate judgement on whether safeguarding is effective.

Schools graded inadequate for any of the four key judgements, or where safeguarding is judged ineffective, are placed into one of two Ofsted 'categories of concern':

- Schools with serious weaknesses: those that need significant improvement.
- Schools requiring special measures: those that are failing to give their pupils an acceptable standard of education and where the persons responsible for leading, managing or governing are not demonstrating the capacity to secure the necessary improvement in the school.³⁸⁴

The criteria for deciding which of the two categories of concern to apply are explained in paragraph 190 onwards of [Ofsted's current school inspection handbook](#).

³⁸³ Department for Education, [Children's Wellbeing and Schools Bill, Policy Summary Notes](#), December 2024, p122

³⁸⁴ [Education Act 2005, section 44\(1\)](#)

Mandatory academy orders

Section 4A(1) of the Academies Act 2010 places a duty on the Education Secretary to make an academy order if a maintained school is found to have serious weaknesses or require special measures following an Ofsted inspection. This is the starting point for turning the school into an academy. The provisions were inserted into the 2010 act by the [Education and Adoption Act 2016](#).

There are also discretionary powers to make an academy order in some other circumstances, such as where a maintained school was judged 'requires improvement' (RI) or below at two or more successive historical inspections (2RI+ schools). The current government's policy is to no longer routinely exercise the discretionary power relating to 2RI+ maintained schools.

Mandatory conversion of maintained schools to academy status has sometimes been referred to as 'forced academisation'.

Number of maintained schools currently in an Ofsted category of concern

The long-standing policies of allowing schools to convert to academy status, and requiring conversion for poorly performing maintained schools, has reduced the remaining pool of maintained schools potentially in scope for mandatory conversion.

Ofsted publishes regular statistics on school inspection outcomes. The latest data is for schools inspected by 31 August 2024. At this point:

- 42 maintained primary schools were in a category of concern (32 requiring special measures, and 10 with serious weaknesses)
- 5 maintained secondary schools were in a category of concern (4 requiring special measures, and one with serious weaknesses).³⁸⁵

These figures relate to the outcome at schools' last full inspections, and so may include some schools that have converted to academy status since the inspection date.

Bill clauses (clause 44)

Clause 44 would amend the 2010 act, replacing the duty on the Education Secretary to make an academy order for maintained schools in special measures or with serious weaknesses, with a discretionary power.

It would include transitional provisions for schools subject to an academy order because they were in an Ofsted category of concern, but which have not

³⁸⁵ Ofsted, [State-funded schools: Inspections and outcomes as at 31 August 2024](#), 22 November 2024

converted, when the provisions come into force. These academy orders would remain effective.

15.7 Teachers' pay and conditions at academies

Part 8 of the Education Act 2002 sets out a statutory framework for teacher pay and conditions in maintained schools in England.

The statutory [School Teachers' Review Body \(STRB\)](#) makes annual recommendations to the government on maintained school teacher pay and conditions, after collecting evidence from stakeholders, unions, and others.

Annual arrangements are subsequently set out in secondary legislation, and in the DfE's [School Teachers Pay and Conditions Document \(STPCD\)](#).

The STPCD sets minimum and maximum salaries for qualified and unqualified teachers, school leaders, and specifies additional pay and allowances for responsibilities like subject leadership or SEND-related duties. It covers both classroom teachers and school leadership teams. It also prescribes rules about most teachers' working hours and days, and rights to planning, preparation and assessment (PPA) time, where they are not required to be in front of a class.

Within the broad framework of the STPCD, school employers have some flexibility to decide on their pay policies and pay progression.

Application of STPCD and 2002 act to academies

Currently, the pay and conditions provisions in the 2002 act, and in the STPCD, do not apply directly to academy teachers.

However, where a teacher was previously employed by a maintained school that converted to academy status, they may be entitled to protection of their terms and conditions under the [Transfer of Undertakings, Protection of Employment Regulations 2006](#), as amended.

The government says the majority of academy trusts already choose to voluntarily follow the statutory framework, but that change is necessary because:

the current system means that a teacher could expect different terms and conditions, depending on whether they work in a maintained school or academy trust – there is no guarantee of a core offer for school teachers.³⁸⁶

³⁸⁶ Department for Education, [Children's Wellbeing and Schools Bill, Policy Summary Notes](#), December 2024, p129-130

What is the pay differential between academies and maintained schools?

At the national level, the differences in average pay between staff in maintained schools and academies (on both mean and median measures), are small.

Average pay of teachers, by grade and school type				
November 2023				
	Primary		Secondary	
	Maintained	Academy	Maintained	Academy
Mean pay				
Classroom teachers	£41,052	£40,279	£44,831	£44,202
Leadership teachers	£57,120	£56,158	£68,186	£67,374
Head teachers	£73,528	£74,166	£105,066	£102,597
Median pay				
Classroom teachers	£41,333	£41,333	£44,677	£44,870
Leadership teachers	£61,042	£59,854	£68,576	£68,400
Head teachers	£71,765	£71,729	£103,738	£101,066

Note: academy figures exclude free schools, 16-19 academies, special schools and alternative provision. Maintained figures exclude maintained nursery schools, special schools, and pupil referral units.

Source: Department for Education, [School workforce in England](#), June 2024, [custom table](#)

Bill provisions (clauses 45-46)

Clause 45 would amend part 8 of the 2002 act to bring mainstream and alternative provision academy teachers and principals within the national pay and conditions framework. This would not apply to principals who are also senior executive leaders at the trust. It would also provide regulation-making powers to exclude some academy teachers from the framework. There are special provisions excluding teachers whose contracts require them to work solely in 16-19 academies, mirroring the pay situation in sixth form colleges (where the STPCD also does not apply).

Academy proprietors would also be required by the clause to have regard to government pay and conditions guidance. The STRB would have to consult academy representatives in making its recommendations, and the Education Secretary would have to do likewise when making the resulting pay order (the statutory instrument) and the STPCD.

The government says it will ask the STRB to consider what additional flexibilities could be included in the national pay and conditions framework, for all schools, before bringing academy teachers in scope.³⁸⁷

Clause 46 would repeal a redundant power for maintained schools in education action zones (EAZs) to apply to determine their own teacher pay and conditions. EAZs were discontinued in 2006.

³⁸⁷ Department for Education, [Children's Wellbeing and Schools Bill, Policy Summary Notes](#), December 2024, p129

16

School admissions

16.1

Background to admissions provisions

In law, local authorities in England have statutory duties to ensure there are sufficient primary and secondary schools, and school places, for all children of compulsory school age who require one. Local authorities have broad responsibility for coordinating admissions processes at common points of school entry, for example, to reception class, to junior or middle school, and high and secondary schools.

However, they are not always responsible for setting admissions rules such as how many pupils a school can admit each year, and how applicants will be prioritised if there are more applications than places available. Many schools, including academies (but also voluntary aided and foundation schools), are now what is known as 'own admission authority' schools – they determine their own detailed criteria.

DfE guidance on school admissions policies

The DfE's [school admissions code](#) is statutory guidance for maintained school admission authorities, and local authorities, in England. The code is made under section 84 of the School Standards and Framework Act 1998, as amended.

Current powers to direct (require) a pupil's admission to a school

Currently, a school admission authority can refuse to admit a child because it is full, because a pupil has been previously excluded, or on some limited other grounds.

Local authorities have powers to require voluntary aided and foundation schools to admit pupils. The child needs to have been refused entry or been permanently excluded from every suitable school within a reasonable distance. A local authority also has specific powers of direction under sections 97 A to C of the 1998 Act for children who are looked after.

A governing body can apply to the Schools Adjudicator if it wants to challenge a local authority admissions direction.

There is no similar power for a local authority to direct the admission of a pupil to an academy. Instead, the local authority can make a request for the

Education Secretary to make a direction. The Education Secretary can ask the Schools Adjudicator to provide advice on the case. An academy trust cannot appeal to the Schools Adjudicator if they disagree with a subsequent decision by the Education Secretary about a direction.

The table below shows who is responsible for making admissions decisions at different types of schools, and who can enforce direction.

School admissions: key responsibilities		
	Who decides admissions policies and numbers?	Who can direct the school to admit a pupil
Maintained schools		
Community mainstream	Local authority	Local authority
Voluntary controlled	Local authority	Local authority
Foundation school	Governing board	Local authority
Voluntary aided	Governing board	Local authority
Academies and free schools		
Schools in MATs	Proprietor	Secretary of State
Single academies	Proprietor	Secretary of State

Current process for challenging a school's published admissions number (PAN)

Each year, school admission authorities will set (determine) admissions criteria, including a published admissions number, or PAN, for admission at normal points of entry to the school. Usually, this means reception class for infant or through primary schools, year three for junior schools, and year seven for secondary schools. Some areas and schools may have normal points of entry at other ages – for example, in areas with first, middle and high schools, or schools such as university technical colleges which admit at age 14.

There are statutory rights to object to the Schools Adjudicator about these determined admissions arrangements.

The [School Admissions Regulations 2012](#) currently prevent local authorities from objecting about an academy, voluntary aided or foundation school³⁸⁸ decision to keep the same PAN as last year, or increase its PAN. It can only object where a PAN has been reduced.

³⁸⁸ Unless, in the case of a voluntary aided or foundation school, the objection is from the school's governors

Where the adjudicator upholds an objection, including relating to the PAN, it is for the admissions authority to implement the adjudicator's decision, although the decision is binding and enforceable.

Why do admissions policies and decisions matter?

For community and voluntary controlled schools, the local authority can choose to increase or reduce pupil intake numbers in response to demographic changes and parental demand. They have no such powers in relation to voluntary aided, trust, or academy schools. One school's admissions decisions can inadvertently impact on other schools in the local area – for example, if one school increases its PAN while a neighbouring school is struggling to recruit, the struggling school may have more spare places than it otherwise would have.

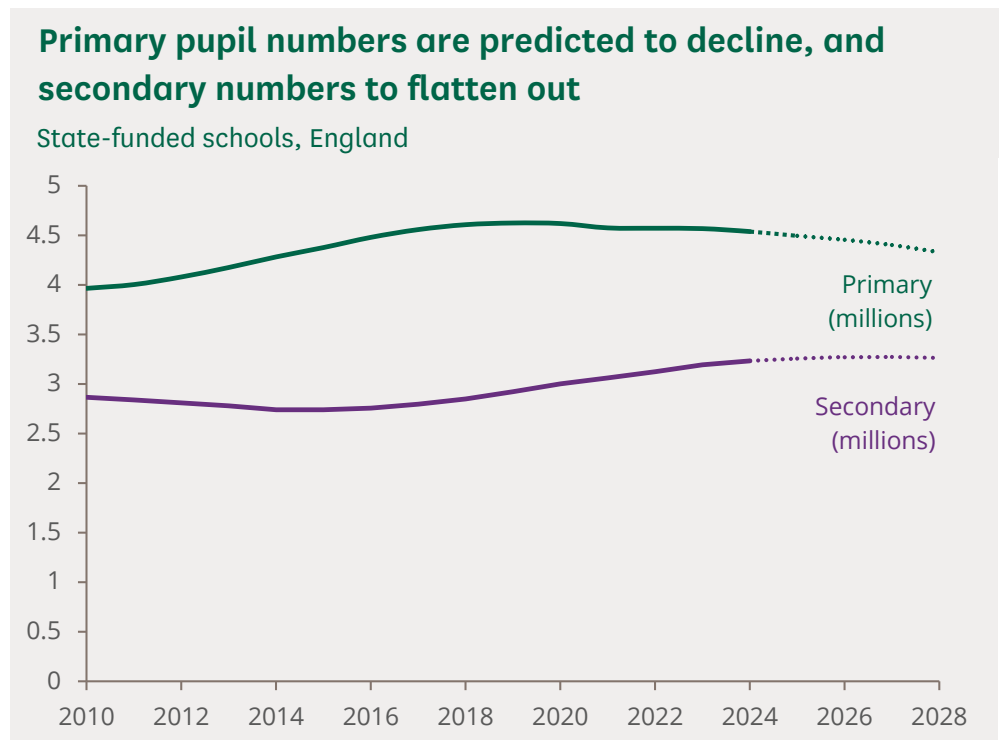
On the other hand, giving schools autonomy to set their own admission rules and numbers can mean popular schools can expand more easily, meaning a higher likelihood of parents and carers securing places there.

The number of pupils on roll is generally the most important determining factor for the size of a school's annual budget. Where a school sees reductions in pupil numbers, it may have to consider redundancies and other cost-saving measures. Some schools may be financially unviable once pupil numbers fall below a certain point.

Reductions in pupil numbers and demographic changes

Nationally, the number of pupils in state-funded primary schools has peaked and is now expected to decline in the years to 2028. The predicted number of secondary pupils is expected to peak in 2026 and then flatten out to 2028.³⁸⁹

³⁸⁹ Department for Education, [National pupil projections, reporting year 2024](#), July 2024, [Custom table](#)



Source: Department for Education, [National pupil projections: Reporting year 2024](#), 18 July 2024, [custom table](#)

Demand for school places can be very localised, with some areas having under-supplies of places and others having surplus places.

These demographic trends set the context for the bill's proposals on admissions. Explaining the rationale (in this case for the proposed changes around PANs), the DfE argues:

In some areas, local authorities are struggling to ensure that there are sufficient school places or to manage the school estate effectively in areas where there are surplus places, because the PANs set by individual admission authorities do not meet the needs of the local community.

These powers will ensure that, where agreement cannot be reached locally and the independent Schools Adjudicator upholds an objection to a school's PAN, it can be set at a level that works for the needs of the community. The views of all parties, including the admission authority, will be taken into account in these decisions.³⁹⁰

The 2024 Labour manifesto included a pledge to ensure “admissions decisions account for the needs of communities”,³⁹¹ and the policy paper accompanying the bill said this would apply “both in cases where there are insufficient

³⁹⁰ Department for Education, [Children's Wellbeing and Schools Bill, Policy Summary Notes](#), December 2024, p141

³⁹¹ [Labour Party Manifesto 2024](#), 'Break down barriers to opportunity' section

places in an area, and where a surplus of places needs to be effectively managed.”³⁹²

On coordination and cooperation around admissions, a [2022 commissioned report by ISOS Partnership for the DfE on school place planning and local authorities' role](#) [PDF] found:

- The determining factor for whether schools engaged with place planning and initiatives to support vulnerable pupils, was school leadership ethos, rather than school type. 89% of local authorities agreed ethos was more important.
- The different ways of resolving disputes about place planning and vulnerable pupils with academies and maintained schools could cause issues and delays, particularly in cases where an academy was ‘isolationist’.
- There was consensus on “the need for clarity, alignment of responsibilities and decision-making authority, for reciprocal expectations ... and a renewed, more collaborative relationship between local and central government”.³⁹³

The report also raised concerns about the ability of local authorities to effectively manage oversupplies of school places, noting they did not have any power to compel own admission authority schools to reduce their PANs.³⁹⁴

Bill provisions (clauses 47 to 50)

Clause 47 would insert a new section 85ZA into the School Standards and Framework Act 1998, to secure cooperation between maintained school governing bodies, academy trusts, and local authorities when discharging their admissions functions. These functions include determining the admissions arrangements, criteria and admission numbers that will apply to the school or schools in question.

The clause would also create a new duty for maintained school governing bodies, management committees of pupil referral units (PRUs), and academy trusts, to cooperate with local authorities, to support those local authorities' place planning duties and their duties to provide alternative provision where a child cannot attend school. The cooperation duty would apply when an admission authority could ‘reasonably foresee’ that making a decision may affect a local authority’s ability to discharge its duties. Admission authorities would have to contribute “so far as is reasonable”.

³⁹² Department for Education, [Children's Wellbeing and Schools Bill, Policy Summary Notes](#), December 2024, p139

³⁹³ ISOS Partnership for the Department for Education, [Research into how local authorities are ensuring sufficient places and supporting vulnerable children](#), March 2022, p7

³⁹⁴ As above, ps 49-50

Clause 48 would amend section 96(8) of the 1998 Act to give local authorities the power to direct admission to mainstream academies, subject to certain conditions and limitations. The local authority would need to show (as it does for directions to maintained schools) that all suitable schools within a reasonable distance had refused admission, or had permanently excluded the child.

Clause 49 would allow for amendments to the school admissions code, to provide specific direction powers for previously looked-after pupils, and those where a “relevant procedure” had been used. The explanatory notes to the bill explain this is a reference to fair access protocols.³⁹⁵

All local authorities must have a fair access protocol for hard-to-place children who need a school place in-year. This can include, for example, homeless children, or refugees. The explanatory notes also say that, for previously looked-after children, the changes expected to the admissions would allow local authorities to act more promptly for these children. That is, they will not have to demonstrate all other schools are full, or that the child has been permanently excluded from these schools, before making a direction.

Clause 50 would insert new section 88IA into the 1998 act. It would give the Schools Adjudicator the power to determine the PAN for a school, after upholding an objection, in certain cases. The government says it will also amend the School Admissions Regulations 2012, so that objections can be made where a school intends to keep the same PAN as the previous year, or increase it.³⁹⁶ The clause would also allow for regulations to specify factors the adjudicator must and must not take into account when determining a PAN in this way, and the circumstances where the adjudicator should not make such a determination.

³⁹⁵ [Explanatory notes to the Children's Wellbeing and Schools Bill 151](#), para 459

³⁹⁶ [Explanatory notes to the Children's Wellbeing and Schools Bill 151](#), para 463

17

Powers to open new schools

17.1

Existing processes for opening new schools

The current legal framework for opening new schools in England is set out in the [Education and Inspections Act 2006](#), as amended, and the [School Organisation \(Establishment and Discontinuance of Schools\) Regulations 2013](#).

The Coalition government's Education Act 2011 heralded major changes to the process for creating new schools. Previously, local authorities were required to invite proposals from potential providers for any proposed new school. The local authority could enter its own 'bid' in a competition for either a foundation or a foundation special school or (in some circumstances) a community or a community special school.

The 2011 act introduced the 'academy presumption'. This is now known as the free school presumption. This meant that local authorities were only able to open new maintained schools in very limited circumstances. New schools would mostly be free schools - that is, new provision academies.

At the time, the Coalition government said the changes would:

Enhance the role of competition in school markets and decrease barriers to entry, enabling new providers to enter the system to increase parental choice, improve efficiency and drive up standards. It will also streamline processes, resulting in less bureaucracy for both LAs and potential school providers.³⁹⁷

Since 2011 most new schools, including state-funded special schools, have consequently opened via one of two routes:

- The DfE 'central free schools route', where the DfE invites batches of bids from proposer groups, and chooses which ones will go forward.
- The 'presumption route', whereby a local authority identifies a need for a new school, invites proposals, and advises the DfE on its preferred bidder. The DfE makes the final decision, although the local authority is expected to meet the project's capital costs.

A [2022 ISOS Partnership report for the DfE](#) found:

³⁹⁷ HM Government, [The Importance of Teaching: Schools White Paper 2010](#), Impact Assessment (PDF) December 2010, p23

- Some local authorities had successfully used both the central free schools route and the presumption route to create new provision.
- All local authority leaders welcomed a greater DfE focus over time on ensuring free schools met the basic need for new places.
- Earlier research by ISOS Partnership found significant concerns about the potential for central DfE decisions on free schools to “cut across” local school place plans. However, these concerns had reduced over time.
- Some LAs said the presumption route had added additional complexity and risked or caused delays in opening new schools.
- There was a “potential risk that the misalignment of statutory responsibilities and decision making authority could result in insufficient school places being available”.³⁹⁸

17.2

Bill provisions (clauses 51 to 55)

Clause 51 would amend part two of the Education and Inspections Act 2006, which sets out requirements when a local authority decides a wholly new school, or a replacement school, is required in its area. Local authorities would no longer have to invite only proposals for academies – as such, it would remove the existing ‘free school presumption’.

Where a need for a wholly new school was identified, local authorities would still be required to publish a notice inviting proposals, but these could be for foundation or voluntary schools, as well as academies (including alternative provision academies). The clause would also allow local authorities to publish their own proposals for community or foundation (mainstream or special) schools, or pupil referral units, alongside any other proposals received. It would also allow the Education Secretary to specify, in regulations, the information that a local authority would have to include where publishing its own proposals for a school or Pupil Referral Unit (PRU).

Clause 52 would amend the existing process where a replacement maintained school or PRU is needed. In such cases, amended section 10 of the 2006 act would mean a local authority would not normally have to follow the invitation process described above – that is, it could publish its own proposals for a replacement school or PRU directly; nor would it need the Education Secretary’s consent to publish these proposals.

Clause 53 would provide that new PRUs must only be established via the provisions in the amended 2006 act.

³⁹⁸ ISOS Partnership for the Department for Education, [Research into how local authorities are ensuring sufficient places and supporting vulnerable children](#), March 2022, p49

Clause 54 would amend schedule 2 to the 2006 act. This sets out the detailed procedures for opening new or replacement schools under amended sections 7 and 10 of the 2006 act. It would remove the current requirement to consider academy proposals before any others – that is, it would require equal treatment of academy and non-academy proposals. It would also clarify who is responsible for making decisions on new school proposals in different circumstances. In some cases, the Education Secretary would have the final approval decision, or she could require a local authority to only approve proposals subject to certain conditions. In others, the local authority would be the decision-maker.

Clause 55 concerns situations where a local authority is running a school competition, or there are active school proposals awaiting decision under the existing provisions in the 2006 act, at the point the new law comes into effect. In these cases, the old legislative provisions and processes will continue to apply. Where there has been a consultation relating to those new school proposals under the previous legislation a fresh consultation would not be required.

18

Commentary

18.1

General commentary on academy provisions

At the time of publication, much of the commentary on the academy provisions has been general in nature, and discusses the legacy and merits of the academies programme overall.

Shadow Education Secretary, Laura Trott, said in a social media post that the bill was “a disaster for school standards, and will risk the progress that has been made over the last two decades, cross party from Blair to Cameron and beyond”.³⁹⁹ In an interview with ITV news, she said the academies provisions “represented an attack on school standards. It undermines the principle of academisation”, adding that the Labour government was pursuing changes for ideological reasons.⁴⁰⁰

Schools Week reported that Leora Cruddas, CEO of the Confederation of School Trusts (CST, a body representing academy trusts) said “in doing all of this, there is a risk that the loss of these [academy] freedoms makes it more difficult for trusts to do the hard work of improving schools in the most challenging circumstances in parts of the country where failure was previously endemic”. So, it is “absolutely crucial for the government to work with employers to get this right.”⁴⁰¹

Sam Freedman was a policy advisor to Education Secretary, Michael Gove, during the Coalition government term, and is now a senior fellow at the Institute for Government and an advisor to a large MAT. On the academies proposals as a whole, he said aside from independence around admissions and executive pay, the bill would leave academies with “very little freedom...beyond what other schools have...There’s nothing else left.”⁴⁰²

However, Colin Diamond, Professor of Educational Leadership at the University of Birmingham, commented on the bill in the context of the historic freedoms and autonomy enjoyed by academies that were:

permitted to set their own pay and conditions, employ non-qualified teachers and not teach the full national curriculum. Contentiously, any maintained

³⁹⁹ Laura Trott (@LauraTrottMP), [X \(Twitter\)](#), 17 December 2024 [Accessed 1 January 2025]

⁴⁰⁰ Laura Trott, [Interview on ITV Politics](#), 17 December 2024, via X

⁴⁰¹ “[Loss of academy freedoms could harm improvement of toughest schools](#)”, Schools Week, 17 December 2024

⁴⁰² Quoted in “[What freedoms will academies lose under the new schools bill?](#)”, TES, 20 December 2024

school judged “inadequate” by Ofsted could be forced into a multi-academy trust via a legal order.

He concludes that this has resulted in a “fragmented education system in England” from which “the results are decidedly mixed.” He believes that the bill “will create a level playing field for schools regardless of their status after fourteen years of championing academies and free schools at the expense of the rest.” But, he warns, “these tectonic changes will take time to embed after years of cultural separation among those who work with children.”⁴⁰³

Pepe Di’Iasio, General Secretary of the Association of School and College Leaders (ASCL), while broadly supportive of the bill, cautioned:

On the plans specific to the school system, work will be needed to get these measures right, and the government must bring all parts of the sector – academies, other types of schools, and local authorities – with them on these changes in a positive way.

He added the school sector had been through very significant structural change over the last decade, and further change “must be done with care and must not seem ideological”.⁴⁰⁴

Paul Whiteman, General Secretary of the NAHT leaders’ union, said the bill “includes a helpful attempt to start to address a school system that has become overly fragmented and unnecessarily divided”. He welcomed the fact the bill seemed to recognise academies and maintained schools had shared aspirations and were grappling with “the same challenges”.⁴⁰⁵

18.2

National curriculum in academies

The curriculum proposals in the bill have attracted mixed views. Tim Coulson, CEO of the Unity Schools Partnership MAT, said he welcomed the bill’s “commitment to ensuring all schools adhere to a baseline curriculum”, and said the measures reflected “valid concerns. Parents deserve clarity and confidence in the standards their children’s schools uphold”. He added that reforms coming from the forthcoming Francis review “must strike a delicate balance: ensuring a high-quality education for every child while preserving the flexibility”.⁴⁰⁶

⁴⁰³ Colin Diamond, “[How the children’s wellbeing and schools bill shifts power to local authorities](#)”, The Conversation, 19 December 2024

⁴⁰⁴ Association of School and College Leaders press release, [ASCL responds to Children’s Wellbeing and Schools Bill](#), 17 December 2024

⁴⁰⁵ National Association of Head Teachers press release, [NAHT responds to introduction of Children’s Wellbeing Bill](#), 17 December 2024

⁴⁰⁶ Tim Coulson, “[Labour’s plans show it gets trusts’ vital role](#)”, Schools Week, 19 December 2024

Jon Andrews, of the Education Policy Institute (EPI) think tank also observed that the actual impact of the curriculum provisions will not be known until after the ongoing curriculum review has concluded.⁴⁰⁷

David Thomas, CEO of Axiom Maths, a company providing maths enrichment programmes to schools, said he struggled to see what problem the curriculum provisions were solving, adding that he had not “seen an argument anywhere that says the curriculum in academies is problematic because it’s not exactly following the national curriculum”.⁴⁰⁸

18.3 Mandatory academy orders

The National Governance Association (NGA) represents school governing boards. It said the current system requiring the mandatory issue of academy orders was “too prescriptive”. However, it recognised that sponsored academisation had successfully improved schools in many cases, and so retaining the discretionary power to issue academy orders was appropriate.⁴⁰⁹

The NEU also welcomed the measures to end automatic academisation. General Secretary, Daniel Kebede, said that forcing schools to be part of multi-academy trusts had never been “evidence-led policy”. He said the union was “going to push during the passage of the Bill for the option for schools to leave MATs ... so that schools can join local rather than national ‘groups’”.⁴¹⁰

The Public Sector Executive publication described the bill as “landmark” and focussed on enhancing educational standards. It argued “failing schools run by local authorities will not be automatically converted to academies, allowing for a broader range of strategies to improve standards.”⁴¹¹

18.4 Teacher qualifications

Teaching and leadership unions have been supportive of the measures to require QTS for academy teachers. When the plans were confirmed in the King’s Speech in July 2024, the NAHT’s Paul Whitehead said the plans would “put an end to the degradation of the profession that happened under the

⁴⁰⁷ Quoted in “[What freedoms will academies lose under the new schools bill?](#)”, TES, 20 December 2024

⁴⁰⁸ “[What freedoms will academies lose under the new schools bill?](#)”, the TES, 20 December 2024

⁴⁰⁹ National Governance Association news story, “[NGA Comments on the Publication of the Children’s Wellbeing and Schools Bill](#)”, 17 December 2024

⁴¹⁰ National Education Union press release, [Children’s Wellbeing and Schools Bill](#), 17 December 2024

⁴¹¹ “[Landmark Children’s Bill to Protect Vulnerable Children Introduced in Parliament](#)”, Public Sector Executive, 17 December 2024

last administration and helps signal a clear reset of the government's relationship with the profession."⁴¹²

Following the introduction of the bill, Helen Osgood, Community Trade Union's National Officer for Education and Early Years, said the requirement for teachers in academies to be qualified would mean "that children will be receiving the best possible education provided by trained professionals."⁴¹³

Sir David Carter, former National Schools Commissioner at the DfE, told the TES he welcomed the QTS proposals, but there was potential for unintended consequences:

[W]e've seen more and more trusts using a broader workforce who provide tuition such as sports coaching or dance lessons and cookery classes" - and these teachers might not have QTS.

There is a whole army of people who support these things who don't have QTS, and we need to be careful about the unintended consequences of a sweeping policy like this.⁴¹⁴

18.5

Extension of statutory pay and conditions to academies

Laura Trott (Con), has criticised the academy pay proposals in the bill. Commenting on social media, she said "cutting teachers' pay in academies is unacceptable. Yet another example of education vandalism".⁴¹⁵ On the same theme, Neil O'Brien, Shadow Education Minister, also stated on social media, "the draft law published today would end academy freedoms to pay good teachers more", which he concludes is a "massive mistake."⁴¹⁶

The TES reported that Jon Coles, CEO of England's largest multi-academy trust, United Learning, had written to his staff on the proposals. His letter argued his trust's pay and conditions are "good for everyone" and said he saw "no reason for the government to intervene". This came after a pay rise for some of his staff that exceeded the national pay scale. He added:

I think that there are some reasons to be hopeful that the government is recognising that flexibility in pay and conditions is a good rather than a bad thing, and I am working with other affected trusts and the Confederation of School Trusts to make this case strongly to them.⁴¹⁷

⁴¹² National Association of Head Teachers press notice, [NAHT responds to details of Children's Wellbeing Bill outlined in King's Speech](#), 17 July 2024

⁴¹³ Community news story, "[Community welcomes landmark Children's Wellbeing and Schools Bill](#)", 17 December 2024

⁴¹⁴ "[What freedoms will academies lose under the new schools bill?](#)", the TES, 20 December 2024

⁴¹⁵ Laura Trott (@LauraTrottMP), [X \(Twitter\)](#), 17 December 2024 [Accessed 24 December 2024]

⁴¹⁶ Neil O'Brien (@NeilDotObrien), [X \(Twitter\)](#), 17 December 2024 [Accessed 24 December 2024]

⁴¹⁷ "[Children's Wellbeing and Schools Bill: All you need to know](#)", Schools Week, 18 December 2024

Teaching and leadership unions, however, have strongly welcomed the measures.

Daniel Kebede of the NEU said the proposals would “[enable] teacher mobility across the school system and is obviously fairer, by making sure all teachers work under the same protections.” The NEU also hopes the government may abolish performance-related pay. Kebede linked these changes with an improvement in teacher recruitment and retention.⁴¹⁸

He later criticised Conservative comments on the pay provisions, alleging the party had “made a mess of pay arrangements in academies” and it was “up to the current government to clean it up”. Additionally, he said, he would like the current government to also “implement mandatory national pay scales for all teachers”.⁴¹⁹

The NAHT said it supported “moves to ensure there is greater consistency between different types of school and to bring greater alignment to the system”. On pay and conditions, General Secretary Paul Whiteman said the reforms need to focus on:

[M]andatory minimum pay points and pay portability, so greater consistency in pay and conditions between different types of schools is a helpful step forward and is an important pre-requisite for beginning to tackle the recruitment and retention crisis.⁴²⁰

18.6

School admissions, and changes to process for opening new schools

Education charity, the Sutton Trust, said it welcomed local authorities being given more control over school admissions, and that if the powers were strong enough, they could be “transformational in making access to high performing schools fair for children from all backgrounds”. It said it was “absolutely right” for local government to oversee how schools serve their local communities.⁴²¹

Similarly, the Association of Directors of Children’s Services (ADCS) welcomed the proposals, saying:

Local authorities have a key role on local place planning and a statutory duty to ensure there are enough school places available for all local children and young people. This has been very challenging in an increasingly fragmented system, and until now have not had the appropriate levers meet this duty, such

⁴¹⁸ National Education Union press notice, [Children’s Wellbeing and Schools Bill](#), 17 December 2024

⁴¹⁹ National Education Union press notice, [Conservatives on teacher pay](#), 19 December 2024

⁴²⁰ NAHT press notice, [NAHT responds to introduction of Children’s Wellbeing Bill](#), 17 December 2024

⁴²¹ Sutton Trust press notice, [Sutton Trust statement on the Children’s Wellbeing and Schools Bill](#)

as influencing academy school admissions and proposing or creating new schools in the right locations to meet need.⁴²²

The NEU said the move away from an ‘academy first’ system where the need for a new school was identified, could be linked to a better supply of special school places. It said local authorities needed “the power and ability to open special schools, so we can break the unaffordable reliance on independent special schools. It’s much more cost effective to let local authorities play this fuller role.”⁴²³ Public Service Executive also welcomed the empowerment of councils to consider proposals for all types of new schools, because this would ensure “new schools are opened by the best local providers.”⁴²⁴

The National Governance Association (NGA) welcomed the proposals “in principle” to allow new maintained schools to be opened, but said it would be a “largely symbolic” move in most parts of the country, given downward trends in pupil numbers. It was more measured on the admissions coordination and cooperation clauses, arguing:

As we explained in the [mature model](#), we think admissions do need greater coordination in given localities, but care needs to be taken to avoid (real or perceived) conflicts of interest where LAs could be seen as favouring schools they maintain over those they do not.⁴²⁵

⁴²² Association of Directors of Children’s Services news story, “[ADCS comments on the publication of the Children’s Wellbeing and Schools Bill](#)”, 17 December 2024

⁴²³ National Education Union press release, [Children’s Wellbeing and Schools Bill](#), 17 December 2024

⁴²⁴ “[Landmark Children’s Bill to Protect Vulnerable Children Introduced in Parliament](#)”, Public Sector Executive, 17 December 2024

⁴²⁵ National Governance Association news story, “[NGA Comments on the Publication of the Children’s Wellbeing and Schools Bill](#)”, 17 December 2024

19

General provisions

Clauses 56-60 would make general provision for the bill's implementation and extent.

Clause 56 would enable the Secretary of State to make consequential provision relating to measures in this bill through regulations, including in other acts passed during this parliamentary session. These regulations would follow the negative procedure unless primary legislation is being amended, in which case the affirmative procedure applies.

Clause 57 makes financial provision for the bill's measures.

Clause 58 sets out the bill's territorial extent. Children social care and schools are devolved policy issues. Most of the bill's provisions extend to England and Wales and would apply in England only. Clause 10 (on deprivation of liberty orders) also extends to Scotland as it makes consequential amendments to Scottish legislation.

Clause 59 provides for the commencement of the bill's various measures.

Clause 60 provides for the bill's short title.

20

How bills go through Parliament

Bills can be introduced in either the House of Commons or the House of Lords. They can be amended but the entire text has to be agreed by both Houses before they can receive Royal Assent and become law. In both Houses, bills go through the same stages although there are slight differences in the practices of the two Houses.

20.1

Commons stages

A bill that is introduced in the House of Commons will go through the following stages.

- First reading sees the formal introduction of a bill, when a clerk reads out the name of the bill in the Commons chamber. The Children's Wellbeing and Schools Bill received its first reading on 17 December 2024. There is no debate at this stage. Bills cannot be published before their introduction. Government bills are usually published immediately after introduction.
- Second reading debate is the first time MPs debate a bill. They discuss the purpose of the bill. Debates are usually scheduled to take a full day (five to six hours). Second reading of the Children's Wellbeing and Schools Bill is scheduled to take place on 8 January 2025. At the end of the debate, MPs decide whether it should pass to the next stage. Sometimes a 'reasoned amendment', which sets out the reasons to reject a bill, is tabled. If this is agreed to, or if the bill is simply voted down, the bill cannot make any further progress. No amendments are made to the bill itself at this stage.
- Committee stage is usually conducted by a small number of MPs (usually 17) in a public bill committee but sometimes bills can be considered in detail in the Commons Chamber by all MPs in a Committee of the whole House. The committee debates and decides whether amendments should be made to the bill and whether each clause and schedule should be included.
- Report stage takes place in the Commons Chamber and involves MPs considering the bill as agreed at committee stage. MPs can also propose further amendments which can be voted on.
- Amendments at committee and report stage can leave out words, substitute words and add words, including whole clauses and schedules.

They can be proposed by backbench and frontbench MPs. The Speaker or the chair of the committee selects and groups amendments to debate.

- Third reading, usually on the same day as report stage, is the final chance for MPs to debate the contents of a bill before it goes to the House of Lords. It's usually a short debate and changes cannot be made at this stage in the Commons. At the end of the debate, the House decides whether to approve the bill and therefore pass it onto the House of Lords.

20.2 Lords stages

Bills introduced in the Lords go through the same process, completing all stages in the Lords before being sent to the Commons.

The House of Lords respects the Commons' primacy on financial matters and does not usually amend Finance Bills (those that implement the Budget) or money bills.

Members of the House of Lords debate the bill, going through the same stages as in the Commons. Key differences between the two Houses are that in the Lords, committee stage usually takes place on the floor of the House and a bill can be amended at third reading.

Most bills are considered by a committee of the whole House in the House of Lords. Some are referred to the Lords Grand Committee – which all members can attend. However, divisions (votes) are not permitted in the Grand Committee and any amendments made have to be agreed to without a division.

The Lords can also make amendments to a bill. Major points of difference should have been resolved before third reading but amendments to “tidy-up” a bill are permitted.

No party has a majority in the House of Lords and government defeats are not uncommon. For bills that have started in the House of Commons, the Lords is essentially asking MPs to think again about the subject of the amendment.

20.3 ‘Ping pong’

If the Lords amend a bill that was sent from the Commons, the amendments are returned to the Commons and MPs debate the amendments proposed by the Lords. This is potentially the start of “ping-pong”, a process whereby amendments and messages about the amendments are sent backwards and forwards between the two Houses until agreement is reached.

Once agreement has been reached, the Bill receives Royal Assent, becoming law when both Houses have been notified that Royal Assent has been granted.

20.4 Amendments

MPs can submit amendments, via the Public Bill Office (PBO), at three different stages of a bill: committee stage, report stage, and when a bill is returned from the Lords. Once the PBO accepts the amendment, it has been 'tabled'. If an MP wants to amend a bill during committee stage but is not a member of the committee, they will need a committee member to 'move' it for debate on their behalf.

In order to be debated, the amendment must be selected by the chair. Similar amendments may be grouped for debate to avoid repetition. For committee stage, selection and grouping is carried out by MPs from the panel of chairs chosen to chair the committee. If there is a Committee of the Whole House, the chair is the Chairman of Ways and Means (the principal Deputy Speaker). For report stage, it is the Speaker.

Amendments might not be selected for debate if they are, for example, outside the scope of a bill, vague, or tabled to the wrong part of a bill. The PBO can advise on whether an amendment is likely to be selected.

20.5 Further information on bill procedure

The [MPs' Guide to Procedure](#) has a [section on bills](#).

MPs who have questions about the procedure for bills or want advice on how to amend them should contact the [Public Bill Office](#).

The Library can provide information on the background and potential impact of a bill and of amendments but cannot help MPs with drafting amendments.

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